

ASSEMBLY COMMITTEE ON JUDICIARY - 56th SESSION, 1971

HEARING HELD FEBRUARY 17, 1971 REGARDING A.B. 4 -
Removes criminal penalties for abortions per-
formed by licensed doctors.

Hearing began at 2:25 p.m. Members present: Miss Foote, Messrs. Fry, Dreyer, May, Olsen, Lowman and Kean. Absent: Messrs. Torvinen and McKissick.

Mr. Fry announced a limit of one hour for proponents of the measure and one hour for opponents of the measure to speak. He requested a limit of 10 minutes for each speaker.

Proponents of the bill testified as follows:

PAUL L. WHITE, M.D., RENO, NEVADA: Stated all legal problems are not necessarily moral problems, and vice versa. He is in favor of repeal of the abortion laws for essentially the following reasons: He feels there is no such thing as a good abortion law because some of the laws represent the morals of certain people, and a certain few should not dictate to all what they should do. Repeal of the law would leave those who want to practice medicine the way they want, and those individuals who want to do what their own consciences dictate, at liberty to do so.

Mr. Fry: Do you have any feelings as to whether or not an abortion should be done in a hospital? This bill does not presently so provide.

DR. WHITE: It is a medical question to be decided by the medical profession. There are circumstances where it should be done in the hospital and one shouldn't legislate that either. It should protect the interests of the mother.

Mr. Kean: If the law provided for abortions to be done in the hospital, would it have to provide that it was an accredited hospital, or just any hospital?

DR. WHITE: It would be looked on as any other operation and if the state permits operations in an un-accredited hospital you should not be making a difference between this and any other procedure.

GEORGE J. FURMAN, M.D., RENO, NEVADA, OBSTETRICIAN AND GYNECOLOGIST: Since four years ago when the Legislature first considered changing the abortion laws, 14 states have enacted more humane abortion legislation. Most of the courts considering this question have decided in favor of more liberalization in terms of the abortion statutes. Abortion should be treated as a medical matter, not a matter of legislation or morality. The American Medical Association, the Nevada Medical Association and Washoe County Medical Association are in favor of liberalizing abortion laws, as is the American College of Obstetrics and Gynecology.

Mr. Fry repeated his question about requirements for hospitalization for abortion.

DR. FURMAN said his answer is the same as DR. WHITE'S. It should be a medical matter entirely, and there should be no requirements other than the licensing of the hospitals and the doctors. The American Medical Association and Nevada Medical Association have recommended that they be done in hospitals. There is no need for specific legislation requiring this. We don't require that tonsillectomies be done in hospitals, so why require that abortions be done there?

Mr. Fry: California has a requirement for psychiatric examinations for the mother. Do you have comments on this?

DR. FURMAN: The same thing holds true. In many cases it is ideal to have this available. In many cases where it is not required, physicians make it available to the patient. It is a medical matter and in many cases it would be done but should not be a requirement.

Mr. Kean: Regarding the woman who will need the psychiatric examination, how much more will this cost?

DR. FURMAN: There is an additional cost that would vary. About \$35 to \$50.

Mr. Kean: Do you believe it is customary in California at those rates?

DR. FURMAN: That is just for consultation. Abortions are being done in the State of California and this is increasing the cost for abortions for residents of the State of Nevada and they are not getting satisfactory follow-up care because their physician is still in California. If the abortion is to be done, it should be done here.

Mr. May: You are licensed to practice under NRS Chapter 630?

DR. FURMAN: Yes.

Mr. May: If this were enacted, would you have any reservations about including abortions as part of your general practice?

DR. FURMAN: I would probably perform these as part of my practice.

Mr. May: What is the approximate cost of an abortion?

DR. FURMAN: Cheaper than an appendectomy. I would guess that the costs of having an abortion would probably run \$150 in medical costs, plus anesthesiologist and hospitalization which runs about \$150. It would cost about a total of \$300.

Mr. Lowman: Do you have any idea of how many abortions you would expect to handle in a year if they became legal?

DR. FURMAN: They may initially be more than we might expect. In Pennsylvania about three years ago they did a study on the number of abortions performed in one particular hospital. Before the law was liberalized they did something like three or four a year. The following year they did 400 and last year they did 1400. They did approximately one abortion for every five live births. Here it would be something less than that.

MRS. DOROTHY BUTTON, R.N., CHAIRMAN OF THE NEVADA NURSES' ASSOCIATION: The association supports modification of the abortion law. Mrs. Button urged that the bill contain a definition of abortion and a statement which provides immunity from liability for hospitals, doctors and nurses for refusing to participate in the performance of abortions. The association favors modification of the abortion law because: The present law has not succeeded in eliminating illegal abortions in Nevada; the birth of an unwanted child is detrimental to the mental health of the child, his parents, and brothers and sisters; new diagnostic techniques make it possible to determine early in pregnancy the presence of certain serious fetal abnormalities.

Mr. Fry: Do you know of other states having provisions for providing immunity to hospitals and staff for refusal to participate in abortions?

MRS. BUTTON: The Hawaii law provides this immunity.

Mr. Lowman: You stated the liberalized abortion law in this state would reduce the number of illegal abortions. Are there statistics to bear that out in the states in which the laws have been liberalized?

MRS. BUTTON: I don't know. Those statistics would be difficult to obtain.

MRS. GENEVIEVE PEERETTI, STATE LEGISLATIVE CHAIRMAN, NEVADA HOME ECONOMICS ASSOCIATION: The association approves passage of AB 4 without any restrictive amendments. She felt for the churches to impose their position upon the rest of society is a violation of the church and state requirements. She stated most people who seek abortions are married and more than half are over 21, so she did not feel a liberalized abortion law would encourage promiscuity. She felt that a child who was unwanted would have emotional scars and be more likely to be a delinquent child. She stated polls had been taken indicating a majority of the people were in favor of this.

Mr. Lowman: Have any of these polls been taken in Nevada?

MRS. PIERETTI: I don't know of any, but "Life Magazine" published such a poll nationwide, two years ago.

EILEEN HENSEN, STATE LEGISLATIVE CHAIRMAN, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN: Stated that the association, with a membership of over 600, supports the bill.

ELMA LAWLOR: Stated she had an illegal abortion more than 20 years ago because of severe illness during pregnancy, and it was a terrible experience to have this done illegally but she hoped that by talking about it to the committee it would help bring about changes in the law so other women wouldn't have to do the same thing she had done.

MRS. VIRGINIA CAIN: Urged passage of AB 4, stating that morals shouldn't be legislated, and every individual should have the right to decide for herself about abortion, and every woman should have the right to decide what to do with her body.

DONNA J. DIXON, RENO, NEVADA: Spoke in support of passage of AB 4, stating that the present abortion law is "big brother paternalism", and that women have a fundamental right to self-determination in such matters. She stated that Nevada should care for their own women, and not force them to seek illegal abortions in Nevada or legal abortions in other states.

FRANK RUECKL, M.D., RENO, NEVADA, OBSTETRICIAN AND GYNECOLOGIST: He stated their office has inquiries about abortion at the rate of three or four a week, and he would estimate that 75% of these people end up going to California for an abortion. He felt that nurses or hospital personnel should not have to participate in abortions if they did not desire to do so. He further stated that abortion on demand should be limited to the first 12 weeks of pregnancy, because during that period of time there is not enough development of the pregnancy to determine life of the fetus. The problem arises when the woman who is 5 or 6 months pregnant demands an abortion. She is too far along to have dilation and curettage, and a chemical is inserted into the abdomen which kills the infant, starts labor and expels the fetus. Many times this doesn't work, and labor begins and a live child is delivered. The nurses in the hospitals, who have been trained in the preservation of life, have to turn their backs and let the baby expire. He then emphasized that a requirement be inserted that the hospital personnel won't have to participate. He said we should settle for a realistic law for legalized abortion under strict control and justifiable medical reason.

PAT LEWIS, RENO, NEVADA: She felt an individual should be allowed the integrity of her own decisions and a doctor should be allowed to decide what is right for the well-being of his patients. She argued with the statement of opponents that Nevada would become an abortion mill, saying that the residents of Nevada are now going to California to get abortions and are doing to California what people fear would be done to Nevada. She is in favor of a limit being placed on the time the abortion could be done, to during the third or fourth month of pregnancy.

RACHEL RONSLEY, REPRESENTING STUDENTS TO OPPOSE POLLUTION, WOOSTER HIGH SCHOOL: Their group is concerned with the environment, and the environment is in danger if the population is not controlled. Abortion is not the best way, but each woman should have the right to decide if she wants to bring a child into the world. They urge a "Do Pass".

Opponents of the bill testified as follows:

KRESS WHALEN, RIGHT TO LIFE COMMITTEE: In a country priding itself on due process of law, it is irony to play judge, jury and executioner for an unborn child. She stated human life begins at the moment of conception and is continuous whether intra- or extra-uterine until death. A functioning heart beat and recordable brain wave are present in the fetus at 4 and 8 weeks, respectively. The absence of these signs of life determines when death occurs. She compared abortions to the marching to death of Jews by Adolph Hitler. She said it is not realistic to compare fetal tissue with tonsil tissue, and disagreed with those who compare abortions to tonsillectomies. She stressed that abortion is the taking of a human life, which is called "murder" under the statutes and urged defeat of the bill.

MRS. RUTH MCGROARTY, LAS VEGAS, NEVADA: If woman has a right to decide whether or not to have children, she asks only that the woman make that decision before conception, and not afterward. A woman has the right to decide what to do with her body, but abortion involves the body of another human being. She stated there was a disclosure that in New York since the liberalization of the laws there, 50,000 abortions had been performed since July 1, 1970, and 26 infants had been born alive as a result of abortions, and there were 14 reported deaths of women from legal abortions. Statistics cannot be made available on how many mothers die or aborted babies live because of the confidentiality of records at hospitals or clinics. She feels this law would open the door to allowing killing of persons born deformed, or euthanasia for the aged.

DR. JOHN DE TAR, RENO, NEVADA: He stated the Association of American Physicians and Surgeons is opposed to abortion. He agreed with the statements of Mrs. McGroarty about the aborted children who are born alive, and that the killing of unborn babies could lead to the killing of the aged and infirm. He stated that either dilation and curettage, injection of saline solution, or surgical procedure, were painful and cruel methods. He said regarding a statistic that out of 69,000 abortions in New York there was a mortality rate of 12 mothers is a misleading statistic and the true mortality rate is 69,012.

JOHN BROPHY, M.D., RENO, NEVADA: He is a member of the Legislative Committee of the State Medical Association, but is not representing the association for this presentation. He is also Chief of Staff at St. Mary's Hospital in Reno. He stated the bill

does not conform to the position of the Nevada State Medical Association, in the following respects: The bill has no safeguards to the rights of the hospital, nurses or doctors if they don't want to participate in abortions. He said "human life" is not well defined. He stated the unborn human has his genetic code at conception and has a heartbeat at 4 weeks and a nervous system at 8 weeks. He does not agree with legalizing death in Nevada for anyone whose heart is beating and said that euthanasia will soon have to be at issue too. He stated the New York Legislature, at the request of the Governor, is now working to tighten up their laws, to lower the fetal age at which abortion can be done because of the large death rate due to abortions in New York. He said Nevada's proposed law is more liberal than New York's. There is one reported death in Nevada from abortion in the past 7 years, and it is not an overwhelming problem. He emphasized the bill should state where abortions should be done, that is, in hospitals. It would cost a total of \$600 for each abortion and said it would cost \$150,000 per year from state funds if 10% of the mothers are on welfare, and the state would have a fiscal responsibility.

He stated this bill is open as to standards, and women would come to Nevada for abortions when their pregnancies were too far advanced to come under the standards for abortions in other states. He concluded that liberalizing abortion in Nevada would be dangerous and not helpful. He presented the committee with a report of the New York State Department of Health on abortions performed in New York State from July 1 to October 31, 1970, information from the Medical Society of the State of New York regarding amendments to their abortion laws, and a Resolution of the Nevada State Medical Association House of Delegates dated 10/24/70.

WILLIAM O'MARA, ESQ., RENO, NEVADA: He presented the committee with documents from the International Federation of Catholic Medical Associations regarding Japan's experience with liberal abortion laws, and an editorial from "California Medicine" entitled A New Ethic for Medicine and Society. Mr. O'Mara emphasized the testimony of Dr. Brophy as to the fetus having a heartbeat and nervous system 8 weeks after conception. He spoke of high fees for abortion referral systems and said abortions should not become a money-maker for doctors. He emphasized the testimony that abortion is the taking of human life and said the problems of birth control and birth selection can be soon extended to death control and death selection.

DANIEL HANSEN, RENO, NEVADA: He argued we don't have the right to determine that unhappy conditions in the world he will be born into are grounds for murdering a child, and cited the cases of Helen Keller and Huckleberry Finn who were born with either defects or unhappy life circumstances.

PAULA GURNEY, INCLINE VILLAGE: Stated it is against the taxpayers' interests to spend tax dollars for a law like this which will put a stigma on the State of Nevada.

NORINE KROM: Echoed the sentiments that killing an unborn baby is murder. She mentioned the father has the right to the companionship of his child, so the mother and doctor shouldn't be

allowed to decide upon an abortion for the mother without the father's consent. She felt that if abortion were legalized Nevada would have a problem with under-population and schools standing empty.

SHARON HANSEN, RENO, NEVADA: She is chairman of the NEVADA COMMITTEE TO RESTORE DECENCY, and represents over 100 people opposed to AB 4. She stated that government should protect life and liberty. She echoed the sentiments that abortion is killing, which is against the law. She stated abortion is not humane. A woman has the right to do with her body what she wishes, but no law should give her the right to murder her child. She urged that the present law not be changed.

BRIAN FIRTH, CARSON CITY: He stated one's right is to pursue happiness. He states the bill purports to make a crime for certain persons to perform abortions and to license other persons to perform them. He said this goes against the principle that all men have equal rights. He said a court could overturn the law as unconstitutional if the bill is passed because the licensing doesn't give equal protection to all under the law.

Mr. Lowman: Do I understand you to say that you are against restrictions of any sort against any persons?

Mr. Firth: You understand me correctly, sir.

MRS. LYNCH: She showed newspaper clippings about the aborted baby in New York who lived and now is up for adoption, and emphasized that an unborn child can have a tremendous will to live. She said Nevada statutes now restrict unprofessional conduct of physicians and penalize doctors for aiding in criminal abortion, and she thinks these statutes should stand. She emphasized the sentiments of the other speakers that legalizing abortions could lead to legalizing mercy killings and the murder of persons who are crippled, deformed, insane or infirm.

MRS. DUNHAM, a CHRISTIAN SCIENCE PRACTITIONER: She compared this abortion law to the time of Herod when he decreed that all male children under two years of age should be killed. She stated the Legislature could not pass a law to abolish God's Law, "Thou shalt not kill."

The hearing adjourned at 5:02 p.m.

sg