



**Testimony of Gabriel Mann,  
Communications Manager for NARAL Pro-Choice Ohio,  
to the House Committee on Community and Family Advancement  
Opposing House Bill 69  
March 9, 2015**

Chairman Derickson, Vice Chairman Ginter, Ranking Member Howse and members of the Ohio House Community and Family Advancement Committee, my name is Gabriel Mann. I am the Communications Manager for NARAL Pro-Choice Ohio, and I was previously employed by Planned Parenthood Advocates of Ohio. I hold the dubious distinction of being only one of two people in this room who has attended every promotional event, committee hearing, and floor vote for the “heartbeat” bill since it was first introduced in 2011. I’ve heard every witness, sat through every press conference, and even come in on Saturdays to attend Faith2Action events in the Statehouse.

Let me speak with authority when I say that this bill is a stunt.

**A six-week abortion ban is unconstitutional.**

Under the 1973 Supreme Court decision in *Roe v. Wade*, as reaffirmed by the Supreme Court in 1992 in *Planned Parenthood v. Casey*, a woman has the right to end her pregnancy prior to "viability," which the Court has said is reached when, in the judgment of the attending physician on the particular facts of the case before him/her, there is a reasonable likelihood of the fetus' sustained survival outside the womb, with or without artificial support. In *Casey*, the Court confirmed that "viability marks the earliest point at which the State's interest is constitutionally adequate to justify a legislative ban on non-therapeutic abortions."<sup>1</sup> The bottom line? Only after the point of viability may states ban abortion, and Ohio did that in 2011.

Allow me to quote a witness from a previous version of this bill, who opposed a six-week ban:

**“But let's not allow emotion to blind us from reality, and let's make sure we do not do more harm than good. The argument that ‘we need to give the Court the opportunity to change their minds’ will likely backfire. When ‘handing something to the Court to decide,’ the make-up of the United States Supreme Court matters. Currently we have a pro-abortion Supreme Court which is 5 votes to 4 votes and possibly 6 votes to 3 votes. If the heartbeat bill were to pass in its current form and made it in front of the Supreme Court (which we don't think it will), neither Justice Scalia or Thomas will write the pro-life majority opinion because they are in the minority. Justice Ginsberg will probably write the majority opinion. She believes abortion is an equal rights issue. She believes in abortion on demand. And with the**

**inclusion of Justices Kagan and Sotomayor, President Obama's appointees, Ginsberg's decision would withstand any attempts to water it down.”**

That is an excerpt of 2011 testimony from Stephanie Krider of Ohio Right to Life.

Last week, Rep. Hood mentioned passage of six-week bans in Arkansas and North Dakota, but then neglected to say that both states had those bans overturned by courts. North Dakota, notably, was selected to try to fight a court battle because of that state’s current surplus budget due to oil revenue. While Ohio is seeing some fracking money come in, I don’t believe Ohio taxpayers are interested in spending it on lawyers.

**Safe, legal, and rare**

In her testimony, Rep. Hagan shared her opinion about the expression “Safe, legal, and rare.” This legislation will make abortion illegal, which makes it unsafe, but would not make it rare.

Abortions performed by skilled physicians in professional medical facilities have a lower risk to women’s health than many comparable procedures, and childbirth.<sup>2</sup> Making abortion illegal forces women to seek out unsafe alternatives, especially low-income women who cannot afford to travel to other states. Rep. Hagan referenced Kermit Gosnell. Gosnell operated outside both legal and medical professional standards. A six-week abortion ban does not prevent more tragedies like Gosnell — it creates them.

House Bill 69 contains no measures to prevent unintended pregnancies. Legislation has been proposed in past General Assemblies to enforce the availability of emergency contraception in emergency rooms. Hospitals are not required by law to provide it to rape victims or women who experienced a contraception failure like a broken condom. Ohio schools are not required to provide a comprehensive sex education curriculum, including lessons on contraception, which is proven to reduce sexual activity among teens.<sup>3</sup> Here are two proven opportunities to reduce the number of abortions sought in Ohio. This legislation ignores them.

Rep. Hagan brought up the “so-called War on Women.” NARAL Pro-Choice Ohio is also concerned with the attacks on women in Ohio. The budget proposed by Gov. John Kasich would eliminate key Medicaid optional programs for women above 138% of the federal poverty level (FPL). Included are a program to provide family planning coverage, a breast and cervical cancer program, and a program that covers pregnant women. All three programs currently cover participants to 200%. If a woman was uninsured when she became pregnant and her income was above 138% FPL, she would be unable to enroll in health insurance through the exchange outside of the open enrollment period of November through February. Pregnancy is not a qualifying event for someone to enroll in an insurance plan through the exchange. Fix that coverage gap and you’ve got another solution to prevent abortions.

**Medical standards**

Language used by six-week bans attempt to emphasize the presence of a detectable heartbeat as a point of some importance. During Senate hearings for House Bill 125 in the 129<sup>th</sup> General

Assembly, I testified about my own experience during the end of my father's life. After a failed bone marrow transplant to treat lymphoma, we were advised by doctors that they had done everything they could and that he could not be saved. As they informed me he was brain dead, I looked at his monitor and watched a strong heartbeat. Despite an artificial source of dopamine that kept his blood pumping, the drugs fighting his cancer had destroyed his liver and had poisoned his brain. A heartbeat is not a complete indicator of a body's ability to survive.

Questions about when life begins are personal, and it's just not that simple. For some it's based on faith, for others it's a matter of science or medicine. While Rep. Hagan expressed her belief about the importance of conception, a fertilized egg will fail without implantation. Members of the Jewish faith believe that life begins with the first breath. In the absence of universal agreement on this point, the Supreme Court used fetal viability as their standard. House Bill 69 does nothing to provide clarity on the idea of a beginning of life, and also works against the established legal standard for abortion law. Lawmakers should not be involved in a woman's personal medical decisions about her pregnancy.

### **Opposition to the six-week ban**

During every hearing of the House Health Committee, former Rep. John Patrick Carney uniformly asked each proponent witness which medical professionals they had discussed the bill with. No one in support of the six-week ban had sought out a physician. On the House floor, Rep. Carney asked Rep. Hagan this question through the Speaker. Her reply was echoed last week as she again said: "My door is always open." While her willingness to be approached is fine, bill sponsors have neglected the voices of physicians who oppose this bill out of concern for their patients. Ten doctors testified in 2012 that they would be forced to move their practices out of state if this ban passed.

Opposed to this bill are the American College of Obstetricians and Gynecologists, former Senate President Tom Niehaus, current Senate President Keith Faber, and the Ohio House of Representatives of the 130<sup>th</sup> General Assembly. The House voted this exact bill down just 61 days ago. Can anyone here name any other piece of legislation to be brought to a vote on the House or Senate floor that failed?

Abortion is a deeply personal and often complex decision for a woman. You can't make that decision for someone else. Ultimately, decisions about whether to choose adoption, end a pregnancy, or raise a child must be left to a woman, her family and her faith, with the counsel of her doctor or health care provider.

This bill is bad politics and it is bad policy. I urge the committee to table House Bill 69 and move on.

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<sup>1</sup> *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992)

<sup>2</sup> Weitz TA et al., Safety of aspiration abortion performed by nurse practitioners, certified nurse midwives, and physician assistants under a California legal waiver, *American Journal of Public Health*, 2013, 103(3):454-461.

<sup>3</sup> Kirby D, *Emerging Answers 2007: Research Findings on Programs to Reduce Teen Pregnancy and Sexually Transmitted Diseases*, Washington, DC: The National Campaign to Prevent Teen and Unplanned Pregnancy, 2007.