

Abortion/Informed Consent Legislation Provides Consumer Protection and Saves Lives

By Ron Johnson, Executive Director
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Well over a thousand bills are introduced in the Arizona Legislature each year, but relatively few ever make it into law. Many important, and some not so important, bills are always included in these numbers. During the last decade, however, few bills have been more significant than the attempts to require informed consent and a 24 hour waiting period be provided before abortions can be performed.

A woman's decision whether to have an abortion or not is one of the most important decisions she will ever make. While the consequences of such a decision are obvious for the unborn child, there are also serious negative consequences for the woman's physical and emotional well being. Unfortunately, however, numerous women have testified that they are not receiving proper information by abortion providers who apparently do not consider it appropriate for these women to know the relevant medical facts.

Standard medical protocol calls for doctors to provide informed consent to their patients before undergoing surgery or some other treatment. In fact, informed consent is even required under Arizona law for HIV testing, podiatry procedures, and other matters. Nonetheless, without an abortion informed consent statute in place, it appears that many women considering this procedure will continue to needlessly suffer because of a lack of medical information given by abortion providers.

The informed consent legislation that has made its way through the Legislature this year (HB 2530 and SB 1077) is an attempt to provide much needed consumer protection in this area. It merely guarantees a woman's right to know about the nature of the abortion procedure, including the associated abortion risks, alternatives, and even the medical risks associated with carrying the child to term. The approximate gestational age of the unborn child also must be disclosed to the patient.

Because of the infamous decision in *Roe v. Wade*, this legislation does not ban or prohibit a single abortion. It will, however, provide women with an informed choice before having an abortion and a brief period of time to consider the alternatives.

Previous attacks against informed consent legislation centered around the type of information provided to the patient. This year's legislation, however, gives the doctor full discretion about the type of information provided concerning the risks of each option. Additionally, the information is easily attainable and can be provided either in person or over the telephone, as long as it is given at least 24 hours in advance of the procedure.

Constitutional concerns about abortion informed consent legislation, and the 24 hour waiting period, also have all but diminished as a result of the United States Supreme Court decision in *Casey v. Planned Parenthood of Southeastern Pennsylvania*. This decision upheld a Pennsylvania statute that is virtually identical to the informed consent legislation introduced this year in the Arizona Legislature.

In fact, largely because of the *Casey* decision, which was decided in 1992, 33 states have taken the opportunity to pass abortion informed consent statutes. It should also be noted that 21 of these states include a brief waiting period, which *Casey* upheld as constitutional.

As mentioned earlier, informed consent legislation does not prohibit a single abortion but it will, nonetheless, likely reduce the number of abortions performed. According to a recent

study by the Heritage Foundation, those states that adopted informed consent laws during the 1990's, experienced statistically significant larger reductions in abortion rates than the states that did not adopt such legislation. While there are a number of factors contributing to abortion rates that also cannot be ignored, including economic and demographic factors, the Heritage Foundation study highlights the important practical impacts of this pro-life legislation on reducing the number of abortions.

In conclusion, the proposed abortion informed consent legislation debated in the Arizona Legislature this year is an extremely reasonable piece of legislation that achieves many pro-life objectives. These objectives are not only aimed at protecting unborn children, but are also very much concerned with providing consumer protection from unscrupulous doctors not interested in the health and dignity of the woman.

Regardless of one's personal or political beliefs, it is almost inconceivable that anybody would oppose a woman's right to make an informed choice on such an important matter. Perhaps for this reason, after nearly a decade of unsuccessful attempts, the Legislature is finally on the verge of passing one of the most important bills it will ever consider.

It is the fervent hope of the Arizona Catholic Conference, that both the Legislature and the Governor look past the high-powered politics surrounding abortion and make 2004 the year it enacts this common sense legislation.

Editor's Note:

On February 26th, the House of Representatives gave final approval to the abortion/informed consent legislation by a 32 - 27 vote. This bill (SB 1077) will soon be transmitted to Governor Janet Napolitano who will decide whether to veto the bill or allow it to become law.

Bishop Olmsted has issued the following statement in this regard:

**Bishop Olmsted Statement On
Abortion/Informed Consent Legislation**

After nearly a decade of previous attempts, the Arizona Legislature has finally passed important legislation (SB 1077) pertaining to abortion/informed consent. I want to extend my heartfelt gratitude to all of the legislators, regardless of their party affiliation, who voted in support of this measure.

Despite the unfortunate decision in Roe v. Wade, SB 1077 is, nonetheless, significant because it will likely reduce the number of abortions performed and give needed consumer protection to women from unscrupulous abortion providers. I believe that both of these outcomes are good public policy. Consequently, I am hopeful that Governor Janet Napolitano will allow this common sense legislation to become law.