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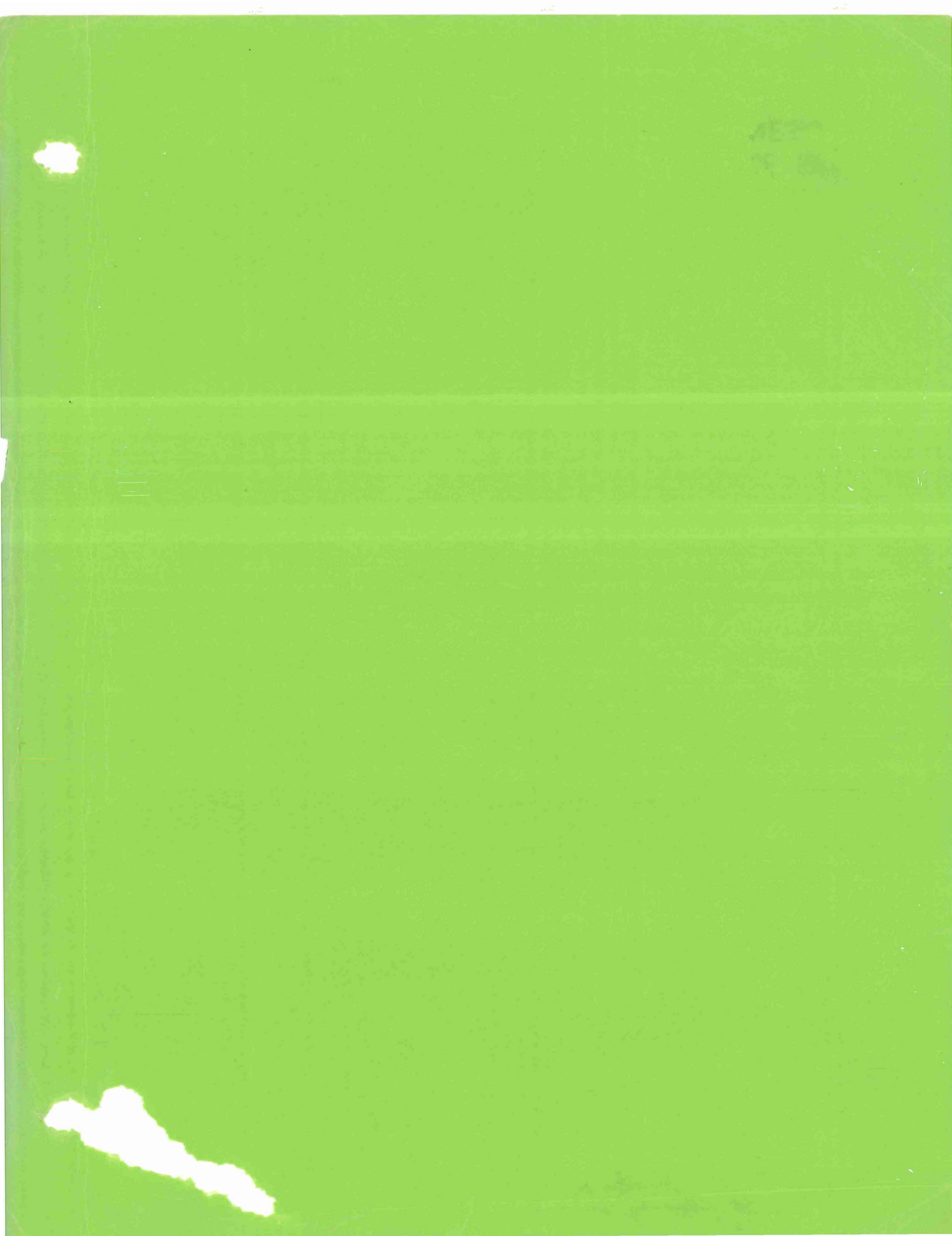
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BACKGROUND REFERENCE DOCUMENT
FOR MINNESOTA LEGISLATORS

STEPHEN M. JACKSON
JANUARY 20, 1978

STATE OF MINNESOTA
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PREFACE

As the title indicates, this document was prepared as a reference tool for Minnesota legislators on the subject of abortion. The paper answers many questions commonly asked by legislators and provides answers to an array of other concerns in order to provide straight-forward, unbiased information on the subject. There is no attempt to draw conclusions or to suggest policy directions.

The materials for the paper were gathered by Susan Woodwick, Research Assistant in House Research under the supervision of Stephen M. Jackson. Ms. Woodwick also contributed to the writing and organization of the paper. Comments and questions regarding the subject of abortion or this paper should be directed to Stephen M. Jackson, 296-8639.

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Minnesota House of Representatives
Research Department

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HOW THIS BOOK IS ORGANIZED

This book is organized in three main sections, using a question and answer format.

1. The yellow section is introductory and covers abortion law history, characteristics of Minnesota and U.S. abortion patients, the effects of abortion upon maternal health, and international trends in abortion law.
2. The white section discusses issues including abortion as a privilege and the demographic and legal effects of the legalization of abortion.

This section also concerns issues including permission to perform an abortion, and consent and notice policies.

Other issues in the section include payment sources for abortion and the effects of changing abortion financing policy.

3. The blue section concerns abortion providers, facilities and professions as well as reporting requirements. Prevention of pregnancy and abortion promotion are also discussed. The section ends with a focus on public opinion on abortion in the United States and Minnesota.

To facilitate your use of this book, the table of contents is color-coded to each appropriate section. In addition, the questions to be answered in each subsection are restated immediately before the subsection begins.

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I. BACKGROUND INFORMATION

BACKGROUND INFORMATION

History

- What is abortion?
- What are some common abortion methods?
- What was abortion's legal status before Roe v. Wade?
- How did Roe v. Wade, and its companion case, Doe v. Bolton affect abortion law?

U.S. Patient Population

How many legal abortions are performed in the U.S. each year?

How many illegal abortions are performed in the U.S. each year?

How large is the number of abortions in the U.S. compared with the number of births?

How does the abortion rate in the U.S. compare with other countries?

What is the age distribution of U.S. abortion patients?

What percentage of U.S. abortion patients are married at the time of the procedure?

What is the racial distribution of U.S. abortion patients?

What is the length of pregnancy among U.S. abortion patients?

Minnesota Patient Population

How many abortions are performed in Minnesota each year? How many abortions are performed on Minnesota residents?

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What is the racial distribution of women who obtain abortions in Minnesota and state residents who obtain abortions in Minnesota?

What is the length of pregnancy among women who obtain abortions in Minnesota and state residents who obtain abortions in Minnesota?

Health Effects

Is an abortion likely to harm a woman's health?

International Trends

What are the trends, internationally, in abortion law?

What are the trends in England and Canada?

Is abortion government-financed in other countries?

How many abortions are provided throughout the world each year?

WHAT IS ABORTION?

Minnesota Statutes define abortion as "an act, procedure or use of any instrument medicine or drug which is supplied or prescribed for or administered to a pregnant woman which results in the termination of pregnancy." (145.411, Subd. 5) Since this definition is limited to induced abortions, it does not include spontaneous abortions, or miscarriages.

WHAT ARE SOME COMMON ABORTION METHODS?

LENGTH OF PREGNANCY (from first day of last period)	METHOD	
5 to 17 days from missed period	MENSTRUAL EXTRACTION (Endometrial Aspiration) Contents of uterus removed by suction apparatus	
6 to 12 weeks	<p>VACUUM ASPIRATION (Suction Curettage) Contents of uterus removed by suction apparatus. Performed in clinic, hospital or doctor's office. Local or general anesthesia.</p>	<p>D AND C (Dilation and Curettage) Contents of uterus scraped out. Performed in clinic, hospital, or doctor's office. Local or general anesthesia.</p>
12 to 14 weeks	<p>VACUUM ASPIRATION and D AND C occasionally performed. Risks are higher during these weeks. Should be done in hospital. General anesthesia.</p>	
15 to 16 weeks	<p>No safe method in use.</p>	
16 weeks and over	<p>SALINE INJECTION (Salting Out) Some anesthetic fluid replaced by salt solution causing miscarriage. Performed in hospital. Local anesthesia.</p>	<p>HYSTEROTOMY (Mini-cesarean) Uterine contents removed by major abdominal surgery. Performed in hospital. General anesthesia.</p>

From: Vacuum Aspiration Abortion Pamphlet by Women's Health Forum, NY, 5/73.

WHAT WAS ABORTION'S LEGAL STATUS BEFORE ROE V. WADE?

Under English common law, abortion was not an indictable offense if performed before quickening, the first recognizable movement of a fetus usually occurring between the 16th and 18th weeks of pregnancy.¹ This general policy changed in 1803, with the passage of England's first criminal abortion statute. American states, before the mid-nineteenth century, generally followed the English common law. In 1828, the first legislation distinguishing between therapeutic and nontherapeutic abortions was enacted.² After the Civil War, legislation which dealt severely with abortion after quickening but was lenient with it before quickening began to replace the common law in many states. The chief purpose of enacting restrictive laws was to protect women from a dangerous medical procedure.

Gradually in the middle and late 19th century the quickening distinction disappeared from most state statutes.¹ However, the states did maintain the legality of "therapeutic" abortions. Thus, before 1967, "a pregnant woman could not legally obtain an abortion in the United States except when necessary to preserve her health or save her life."² From 1967 to 1972 several states liberalized their abortion statutes.²

¹ Roe v. Wade, 410 U.S. 113 (1973).

² American Jurisprudence, 2nd Supplement, p.22.

HOW DID ROE V. WADE AND ITS COMPANION CASE, DOE V. BOLTON, AFFECT ABORTION LAW?

In Roe v. Wade, the U.S. Supreme Court decided that any state law that permits abortion only to save the life of the mother is unconstitutional because the 14th Amendment's guarantee of the right of privacy encompasses a woman's decision to have an abortion.

The court specifically stated that a state may regulate abortions only to the following extent:

"(a) For the stage prior to approximately the end of the first trimester, the abortion decision must be left to the medical judgment of the pregnant woman's attending physician.

(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

(c) For the stage subsequent to viability, the State, in promoting its interest in the potentiality of human life, may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." ¹

Two other important facts to remember about Roe v. Wade:

1) The court did not state that a woman has a right to abortion on demand.

2) The court did not deal directly with the issue of "when life begins."

¹ Roe v. Wade, 410 U.S. 113 (1973).

In Doe v. Bolton, the Supreme Court held unconstitutional sections of the Georgia abortion law which required approval by a hospital committee, concurrence of three physicians, and performance of the abortion in an accredited hospital. The rejection of Georgia law is particularly significant because the statute was based on the American Law Institute's Model Penal Code, and as a result was similar to legislation in one-fourth of the states.¹

The Court's decision in these two cases made the laws of nearly every state in this country either entirely or partially unconstitutional. Only New York had a law that met the Supreme Court standards in every respect.

Subsequent statutory changes and court decisions will be discussed in the body of this paper.

¹ Doe v. Bolton, 410 U.S. 179 (1973).

HOW MANY LEGAL ABORTIONS ARE PERFORMED IN THE U.S. EACH YEAR?

The National Center for Disease Control keeps a tally of legal abortions reported in the U.S. The most recent figures reported by state health departments indicate that 850,000 abortions were performed legally in the U.S. during 1975. These estimates, which indicate a 12% increase in one year, may be as much as 15% too low.¹

Planned Parenthood Federation of America estimates that one million women obtained legal abortions in 1975 and that 1.1 million women obtained legal abortions in 1976.²

¹Minneapolis Star, July 30, 1977.

²Planned Parenthood Federation of America, Inc. "Legal Abortion in the United States: Facts and Highlights."

HOW MANY ILLEGAL ABORTIONS ARE PERFORMED IN THE U.S. EACH YEAR?

It is generally estimated that 1 million women had illegal abortions in the U.S. each year during the 1960's.¹ The rate by which legal abortions replace illegal abortions is influenced by many factors, all related to the nature of the new law and its implementation by the health care system. The social and financial costs, privacy and dignity issues, and public awareness of service availability are all important.² The National Abortion Rights Action League estimates that 15,000 American women obtained illegal abortions in 1975.³

¹NOW Information Release.

²Christopher Tietze. Legal Abortion in the United States, 1975-1976. Family Planning Perspectives, 9:3, May/June, 1977, p.123.

³NARAL Information Release.

HOW LARGE IS THE NUMBER OF ABORTIONS IN THE U.S. COMPARED WITH THE NUMBER OF BIRTHS?

Estimates of the number of abortions per 1,000 live births vary with the source of the estimate, but approximately 20% of all pregnancies in this country are terminated by abortion.

<u>Year</u>	<u>SOURCE</u>	
	<u>Center for Disease Control</u> ¹	<u>NOW</u> ²
1973		196
1974	242	246
1975	272	

¹Minneapolis Star, 30 July 1977.

²NOW Information Release, 28 October 1977.

HOW DOES THE ABORTION RATE IN THE U.S. COMPARE WITH OTHER COUNTRIES?

<u>Country</u>	<u>Rate of Abortions Per 1,000 Women of Reproductive Age¹</u>
Canada	10
Denmark	27
East Germany	29
England	10
Finland	21
Norway	20
Scotland	8
Sweden	20
U.S.	22

Another basis for international comparisons is the ratio of abortions to live births in a country. "In the Soviet Union, there are more than two hundred abortions each year for every 100 live births. In France, there is approximately one abortion for every live birth. Brazil, Italy, Japan, Portugal, Spain, Sweden and Yugoslavia are all quite similar. In those countries there are 30-70 abortions for every 100 births. In the U.S. in 1975 there were approximately 27 abortions for every 100 live births. For every 100 live births in England, there is approximately 17 abortions."²

¹Planned Parenthood Annual Survey Results Reported in the Minneapolis Star 31 May 1977.

²St. Paul Dispatch, 27 July 1977.

WHAT IS THE AGE DISTRIBUTION OF U.S. ABORTION PATIENTS?

19 years and under ----- 1/3 of all abortions

20-24 years ----- 1/3 of all abortions

25 years and older ----- 1/3 of all abortions

WHAT PERCENTAGE OF U.S. ABORTION PATIENTS ARE MARRIED AT THE TIME OF THE
PROCEDURE?

<u>Year</u>	<u>% Married</u>
1972	29.7%
1973	27.4%
1974	27.4%
1975	26.1%

WHAT IS THE RACIAL DISTRIBUTION OF U.S. ABORTION PATIENTS?

	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>
White	77.0	72.5	69.7	67.8
Black and Others	23.0	27.5	30.3	32.2

WHAT IS THE LENGTH OF PREGNANCY AMONG U.S. ABORTION PATIENTS?

<u>Weeks of Gestation</u>	<u>Percent Distribution</u>			
	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>
5-8	34.0	36.7	42.6	44.6
9-10	30.7	29.4	28.7	28.4
11-12	17.5	17.9	15.4	14.9
13-15	8.4	6.9	5.5	5.0
16-20	8.2	8.0	6.5	6.1
21 and Over	1.3	1.7	1.2	1.0

HOW MANY ABORTIONS ARE PERFORMED IN MINNESOTA EACH YEAR? HOW MANY ABORTIONS ARE PERFORMED ON MINNESOTA RESIDENTS?

The Minnesota Center for Health Statistics gathers data on abortion procedures from providers who voluntarily supply that information. The Center's second annual report on the Minnesota Abortion Surveillance was the source of the estimate below.

	<u>1975</u>	<u>1976</u>	<u>Change</u>
Total Reported Abortions	10,565	14,124	+33.7%
Minnesota Resident Abortions	8,924	11,109	+24.5%

The 34% observed increase in 1976 can be partitioned into increased reported abortions (21.8%) and increased participation of reporting facilities (11.9%). Likewise the observed 24.5% increase in Minnesota resident abortions is due to increased reported abortions (13.1%) and increased facility participation (11.4%).¹

¹Reported Induce Abortions Minnesota 1976, p. 7.

HOW LARGE IS THE NUMBER OF ABORTIONS IN MINNESOTA, COMPARED TO THE NUMBER OF BIRTHS?

Reported Number of Legal Abortions by State of Occurrence, Abortion Ratios, 1975

<u>State</u>	<u>Abortions</u> ¹	<u>Live Births</u> ¹	<u>Ratios</u> ²	<u>Rank</u> ⁹
Alabama	2,747 ³	58,086 ⁴	47	47
Alaska	1,248	7,391	169	28
Arizona	5,482 ³	39,578 ⁴	139	32
Arkansas	1,925	33,612 ⁵	57	46
California	142,067	317,318	448	2
Colorado	9,744	40,469	241	20
Connecticut	10,820	35,915 ⁴	301	10
Delaware	2,322	8,242 ⁴	282	15
Dist. of Columbia	22,721	9,759 ⁴	*	--
Florida	16,745	105,735	158	29
Georgia	23,733	79,951	297	11
Hawaii	4,545	15,689	290	13
Idaho	672 ³	16,243 ⁴	41	48
Illinois	58,743	169,248	347	6
Indiana	7,859	82,397	95	40
Iowa	1,345 ⁶	20,689 ⁷	65	44
Kansas	9,160	33,707	272	16
Kentucky	6,295 ³	54,680 ⁴	115	38
Louisiana	4,180	67,792	62	45
Maine	1,930 ³	15,279 ⁴	126	36½
Maryland	18,865	52,732	358	5
Massachusetts	29,940 ⁸	68,309 ⁴	438	3
Michigan	34,210 ³	133,931	255	18
Minnesota	10,565	56,463	187	24
Mississippi	315	43,336	7	49
Missouri	10,244	68,442	150	30
Montana	1,535	11,815 ⁵	130	35
Nebraska	3,406	23,658	144	31
Nevada	1,807	8,848 ⁵	204	22
New Hampshire	1,396	11,101	126	36½
New Jersey	26,291 ⁸	91,457	287	14
New Mexico	4,195 ³	21,036 ⁴	199	23
New York	147,229	235,803	624	1
North Carolina	19,960	80,885	247	19
North Dakota	812	10,596 ⁴	77	41½
Ohio	36,675 ³	158,701 ⁴	231	21
Oklahoma	5,808 ³	42,704	136	33
Oregon	10,641	33,352	319	7
Pennsylvania	43,319	148,942	291	12
Rhode Island	3,253	10,724	303	9
South Carolina	4,511	46,665	97	39
South Dakota	1,475	11,294	131	34
Tennessee	11,081	62,252	178	25
Texas	37,894 ³	215,665 ⁴	176	26
Utah	2,146	31,500	68	43

<u>State</u>	<u>Abortions</u> ¹	<u>Live Births</u> ¹	<u>Ratios</u> ²	<u>Rank</u> ⁹
Vermont	2,100	6,709	313	8
Virginia	17,999	70,032	257	17
Washington	20,963	50,821	412	4
West Virginia	96 ³	27,960	3	50
Wisconsin	11,300 ³	65,173 ⁴	173	27
Wyoming	539 ³	6,962 ⁴	77	41½
Total	<u>854,853</u>	<u>3,119,648</u>	<u>274</u>	<u>--</u>

¹Abortions and resident live birth data from central health agency unless otherwise noted

²Abortions per 1,000 live births

³Reported from 1 or more hospitals and/or facilities in state

⁴Live birth data from Monthly Vital Statistics Report, Final Natality Statistics, 1975, vol. 25, no. 10, Supplement, December 30, 1976

⁵Occurrence live birth data from central health agency

⁶January-June

⁷Resident live births estimated; January-June

⁸Reported from state health department and 1 or more hospitals and/or facilities in state

⁹State with highest abortion ratio = 1

HOW DOES THE ABORTION RATE IN MINNESOTA COMPARE WITH OTHER STATES?

Reported Number of Legal Abortions by State of Occurrence, Abortion Rates, 1975

<u>State</u>	<u>Abortions</u> ¹	<u>Females 15-44</u>	<u>Rate</u>	<u>Rank</u> ⁹
Alabama	2,747 ⁵	818,800	3	48
Alaska	1,248	80,300	16	21
Arizona	5,482 ⁵	485,600	11	29½
Arkansas	1,925	451,700	4	46½
California	142,067	4,703,800	30	3
Colorado	9,744	577,000	17	16
Connecticut	10,820	672,700	16	21
Delaware	2,322	131,900	18	12½
Dist. of Columbia	22,721	183,300	124	1
Florida	16,745	1,713,600	10	33
Georgia	23,733	1,131,000	21	8½
Hawaii	4,545	197,300	23	6½
Idaho	672 ⁵	177,300	4	46½
Illinois	58,743	2,458,900	24	5
Indiana	7,859	1,184,300	7	42
Iowa	1,345 ⁸	620,600	2	49
Kansas	9,160	495,900	18	12½
Kentucky	6,295 ⁵	747,900	8	38½
Louisiana	4,180	860,800	5	45
Maine	1,930	228,600	8	38½
Maryland	18,865	931,900	20	10½
Massachusetts	29,940 ¹⁰	1,280,100	23	6½
Michigan	34,210 ⁵	2,065,000	17	16
Minnesota	10,565	877,500	12	27½
Mississippi	315	527,000	1	50
Missouri	10,244	1,033,700	10	33
Montana	1,535	165,200	9	36
Nebraska	3,406	336,500	10	33
Nevada	1,807	128,000	14	25½
New Hampshire	1,396	173,900	8	38½
New Jersey	26,291 ¹⁰	1,565,400	17	16
New Mexico	4,195 ⁵	268,900	16	21
New York	147,229	3,980,100	37	2
North Carolina	19,960	1,249,400	16	21
North Dakota	812	139,100	6	44
Ohio	36,675 ⁵	2,419,200	15	24
Oklahoma	5,808 ⁵	584,700	10	33
Oregon	10,641	498,900	21	8½
Pennsylvania	43,319	2,548,800	17	16
Rhode Island	3,253	193,000	17	16
South Carolina	4,511	647,600	7	42
South Dakota	1,475	147,900	10	33
Tennessee	11,081	944,300	12	27½
Texas	37,894 ⁵	2,745,500	14	25½
Utah	2,146	275,100	8	38½

<u>State</u>	<u>Abortions</u> ¹	<u>Females 15-44</u>	<u>Rate</u>	<u>Rank</u> ²
Vermont	2,100	103,000	20	10 ^{1/2}
Virginia	17,999	1,133,300	16	21
Washington	20,963	779,700	27	4
West Virginia	96 ⁵	390,700	--	--
Wisconsin	11,300	1,009,900	11	29 ^{1/2}
Wyoming	539 ⁵	82,800	7	42
Total	854,853	47,147,400	18	--

¹Estimates of females 15-44 provided by the Alan Guttmacher Institute

²Abortions per 1,000 females 15-44

³Reported from 1 or more hospitals and/or facilities in state

⁴Live birth data from Monthly Vital Statistics Report, Final Natality Statistics, 1975, vol. 25, no. 10, Supplement, December 30, 1976

⁵Occurrence live birth data from central health agency

⁶January-June

⁷Resident live births estimated; January-June

⁸Reported from state health department and 1 or more hospital and/or facilities in state

⁹State with highest abortion ratio = 1

WHAT IS THE AGE DISTRIBUTION OF MINNESOTA ABORTION PATIENTS?

	<u>Reported Resident Abortions</u>	<u>% Reported Resident Abortions</u>
Less than 15	128	1.2%
15-19	4,443	40.0%
20-24	3,643	32.8%
25-29	1,727	15.5%
30-34	676	6.1%
35-39	349	3.1%
40 +	143	1.3%
Total	<u>11,109</u>	<u>100.0%</u>

WHAT PERCENTAGE OF MINNESOTA ABORTION PATIENTS ARE MARRIED AT THE TIME
OF ABORTION?

	<u>Reported Married Resident Abortions</u>	<u>Total Reported Resident Abortions</u>	<u>% Reported Resident Abortions Married</u>
1975	1,522	8,924	17.0%
1976	1,756	11,109	15.9%

Reported Induced Abortions 1975, 1976

WHAT IS THE RACIAL DISTRIBUTION OF WOMEN WHO OBTAIN ABORTIONS IN MINNESOTA AND STATE RESIDENTS WHO OBTAIN ABORTIONS IN MINNESOTA?

REPORTED INDUCED ABORTIONS
BY RACE/ETHNIC GROUP AND RESIDENCE
MINNESOTA, 1976

<u>Race</u>	<u>Total Reported Abortions</u>		<u>Minnesota Resident Abortions</u>	
	<u>Number</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
White	11,450	81.1	9,528	85.8
Black	394	2.8	337	3.0
American Indian	81	0.6	69	0.6
Hispanic	30	0.2	26	0.2
Other	117	0.8	97	0.9
Unknown	<u>2,052</u>	<u>14.5</u>	<u>1,052</u>	<u>9.5</u>
TOTAL	14,124	100.0	11,109	100.0

WHAT IS THE LENGTH OF PREGNANCY AMONG WOMEN WHO OBTAIN ABORTIONS IN MINNESOTA
AND STATE RESIDENTS WHO OBTAIN ABORTIONS IN MINNESOTA?

REPORTED INDUCED ABORTIONS
BY GESTATION AND RESIDENCE

MINNESOTA, 1976

(Post LMP) Weeks of Gestation	Total Reported Abortions		Minnesota Resident Abortions	
	Number	Percentage	Number	Percentage
	<9	4,733	33.5	3,972
9-10	4,710	33.3	3,667	33.0
11-12	2,331	16.5	1,822	16.4
13-15	1,039	7.4	837	7.5
16-20	1,289	9.1	791	7.1
21+	22	0.2	20	0.2
TOTAL	14,124	100.0	11,109	100.0

<u>b*</u>				
<15	12,567	89.0	10,117	91.1
15-19	1,446	10.2	928	8.4
20+	111	0.8	64	0.6
TOTAL	14,124	100.0	11,109	100.0

*Table b indicates the number of abortions performed earlier and later than the first trimester (post conception), and the 20 week gestation criteria established in Minnesota as the definition of "Fetal Death." (<15 weeks post LMP = <13 weeks post conception).

Reported Induced Abortions, 1976

IS AN ABORTION LIKELY TO HARM A WOMAN'S HEALTH?

As with any medical procedure the likelihood of morbidity or mortality resulting from abortion varies with the patient's health, the practitioner's skill, and the technique chosen. As the tables below indicate, some methods appear related to greater complication rates than others. However, the severity of complications is not clearly indicated and the methods with more complications also appear to be those used later in a pregnancy. It is generally acknowledged that the risk to the woman increases with the length of pregnancy. In general, abortion is a relatively safe procedure. When the Center for Disease Control reviewed nearly two million legal abortions performed in the U.S. between 1972 and 1974 it found that women who get legal abortions within the first 12 weeks of pregnancy have a death rate nine times lower than those who give birth. The death rate from abortion is "substantially below" that from tonsilectomies or appendectomies.¹

These tables, supplied by the Minnesota Health Department, display only coluntarily reported data on legal abortions. Women who obtain illegal abortions face greater risk than those who obtain legal abortions.

Because abortion became a common procedure only recently, its effect on a woman's future pregnancies has not been thoroughly studied. Although some women have reported depression as a result of an abortion, providers find that the most common emotion found among women after abortion is a sense of relief.

¹Minneapolis Star, January 31, 1977 in JAMA.

REPORTED INDUCED ABORTIONS
BY METHOD BY WEEKS OF GESTATION
MINNESOTA RESIDENTS, 1976

Method**	Reported Resident Abortions	Gestation in Weeks* (LMP)						Gestation in Weeks (Optional Grouping)**		
		<9	9-10	11-12	13-15	16-20	21+	<15	15-19	20+
Suction Curettage	9,587	3,762	3,617	1,784	408	14	2	9,550	32	5
Suction w/Laminaria	738	6	5	13	267	445	2	151	565	22
Combination	262	33	30	23	158	18	0	226	36	0
Prostaglandin	337	1	6	0	2	313	15	7	294	36
Sharp	3	2	0	0	0	0	1	2	0	1
Hysterectomy Hysterotomy	1	0	1	0	0	0	0	1	0	0
Saline	0	0	0	0	0	0	0	0	0	0
Menstrual Ext -	174	161	8	2	2	1	0	173	1	0
Menstrual Ext +	7	7	0	0	0	0	0	7	0	0
TOTAL	11,109	3,972	3,667	1,822	837	791	20	10,117	928	64

*Weeks of gestation as reported by the physician using uterine size and/or LMP indicated by the patient.

**See definitions of methods.

***The optional grouping of gestation weeks details the abortions bounding the first trimester post conception (<15 weeks post LMP = <13 weeks post conception).

REPORTED INDUCED ABORTIONS
BY METHOD BY COMPLICATIONS AND RESIDENCE

MINNESOTA, 1976

Method**	Total Reported Abortions				Minnesota Resident Abortions			
	Proce- dures	%	Compli- cations	Rate/ 1000*	Proce- dures	%	Compli- cations	Rate/ 1000*
Suction Curettage	11,940	84.5	31	2.59	9,587	86.3	29	3.02
Suction w/Laminaria	1,255	8.9	5	3.98	738	6.6	3	4.07
Prostaglandin	410	2.9	9	21.95	337	3.0	7	20.77
Combination	326	2.3	6	18.40	262	2.4	4	15.27
Sharp Curettage	3	0.0	0	0	3	0.0	0	0
Hysterectomy Hysterotomy	1	0.0	0	0	1	0.0	0	0
Menstrual Extraction(-)	179	1.3	2	11.17	174	1.6	2	11.49
Menstrual Extraction(+)	10	0.1	0	0	7	0.1	0	0
TOTAL	14,124	100.0	53	3.75	11,109	100.0	45	4.05

*Reported complications include the categories hemor-
rhage (≥ 250 ml), pelvic infection, fever, cervical
injury, uterine perforation, retained tissue and other
procedure related conditions.*

*Rate is reported complications per 1,000 abortion procedures.

**See definitions of methods.

DEFINITIONS OF ABORTION METHODS

- Abortion, Induced: The premature expulsion from the uterus of a nonviable fetus (i.e., a fetus incapable of surviving outside the womb) brought on intentionally.
- Combination: The classification used to indicate two or more abortion methods used simultaneously or sequentially. Generally suction curettage followed by sharp curettage.
- Curettage: The induction of a bleeding from the endometrium by administration and withdrawal of any progestational agent. The scraping or suction of the uterine walls to remove the placental membrane and the fetus.
- Gestation: The period of development of the fetus, expressed in completed weeks, calculated from the last menstrual period date.
- Menstrual Extraction: (M. Regulation, M. Induction): The evacuation of the uterine contents by vacuum curettage, usually before the 14th day after a missed menstrual period, and before a diagnosis of pregnancy is reliable.
- Prostaglandin: A naturally occurring hormone used medically to produce uterine membrane depolarization and contractions which result in initiation of labor.
- Resident Abortions: Abortions to Minnesota Residents which occurred in Minnesota and were reported during this Surveillance.
- Saline: The technique of injecting a sterile salt solution into the amniotic sac to replace the amniotic fluid, resulting in initiation of labor usually within 30 hours.
- Suction Curettage w/Laminaria The insertion into the cervix of laminaria tents (sterile dried marine plant stems) which absorb body fluids and expand, gradually dilating the cervix, prior to conventional suction curettage.

WHAT ARE THE TRENDS, INTERNATIONALLY, IN ABORTION LAW?

Decade of Change

In the past ten years, abortion has become an acceptable medical practice in many countries. "The status of abortion has been transformed dramatically by legislative action."¹

1/3 World - Nonrestrictive Laws

"About a third of the world's people now live in countries with nonrestrictive abortion laws, that is, countries where pregnancies can be terminated on request at least up to a specified stage of pregnancy (from 10 weeks to 24 weeks, with 12 weeks the usual upper limit) and thereafter for medical indications; in a few countries the granting of permission for abortion on request may depend on the age of the woman and the size of her family."¹

1/3 World - Moderately Restrictive Laws

"Another third of the world's people are in countries with moderately restrictive abortion laws, where unwanted pregnancies may be terminated not on simple request but for broadly interpreted medical, psychological and socioeconomic reasons ... housing, income, marital status and other factors affecting a woman's life situation may be considered. Juridical indications generally include criminal acts such as rape and incest.... A provision of the British Abortion Act of 1967 (and of several other laws modeled on it) allows abortion if the continuation of the pregnancy would constitute a greater risk than its termination."¹

¹Tietze, Christopher and Lewit, Sarah; Legal Abortion, Scientific American, Jan. 1977. V. 236, No. 1, p. 21.

1/3 World - Restrictive Laws

"The remaining third of the world's people live in countries where abortion either is completely illegal or is allowed only if the woman's life or health is severely threatened by continuation of the pregnancy."¹

Practice and Law

Of course, the law and actual practice do not always coincide.

Where policies are restrictive, wealth may permit a woman to obtain an abortion locally or travel outside the country for care.

Where policies are permissive, abortions may be inaccessible because providers refuse to perform abortions or because of a shortage of convenient, reasonably priced facilities.¹

¹Tietze, Christopher and Lewit, Sarah; Legal Abortion, Scientific American, Jan. 1977, V. 236, No. 1, p. 21.

WHAT ARE THE TRENDS IN ENGLAND AND CANADA?

Under British law, a woman can obtain an abortion in a government-run hospital if her case is approved by two physicians. British women, particularly in rural areas, may have trouble locating a physician and facility for the performance of an abortion. For these reasons, most of the estimated 100,000 British women who undergo abortions annually have them done privately rather than in public institutions. The total number of abortions performed in England declined in 1975 and 1976, and the rate of abortion is lower there than in the U.S.

A Canadian woman can obtain legal abortions if the therapeutic abortion committee of an accredited hospital issues a certificate stating that continuation of the pregnancy would be likely to endanger her life or health. A recent study concluded that the abortion law is not applied equitably across Canada and that for every five women who obtained an abortion in Canada, at least one left the country for that purpose.¹

¹W.D.S. Thomas, the Badgley Report on Abortion Law. CMA Journal, V. 116, May 7, 1977, p. 966.

IS ABORTION GOVERNMENT-FINANCED IN OTHER COUNTRIES?

Abortion is usually free in England, Sweden, Eastern Europe, the Soviet Union and China.¹ The Helms Amendment to the Foreign Assistance Act approved by Congress in 1973 prohibits the use of foreign aid funds for performing abortions as a family planning service.²

¹ Zero Population Growth, Fifteen Facts You Should Know About Abortion, September, 1976.

² Zero Population Growth, The Right to Choose: Facts on Abortion, December, 1976

HOW MANY ABORTIONS ARE PERFORMED THROUGHOUT THE WORLD EACH YEAR?

By aggregating individual country data of varying accuracy one can estimate that between 30 and 55 million abortions are induced world-wide every year. The lower estimate implies an abortions-to-live births ratio of about one to four, the higher estimate a ratio of almost one to two. Perhaps half of those abortions are performed legally; it is impossible to be sure because even some countries with very permissive laws, including the USSR and China, either lack accurate figures or do not choose to make them public.¹

¹ Tietze, Christopher and Lewit, Sarah; Legal Abortion. Scientific American, Jan. 1977, V. 236, No. 1.

II. SPECIFIC ISSUES

ABORTION BECOMES A PRIVILEGE

1973, Nontherapeutic Abortion Legalized

Demographic Effects

How did Roe v. Wade and Doe v. Bolton affect abortion in this country?

As abortion laws changed, how did the number of legal abortions change?

Legal Effects

Federal

Since restrictive abortion laws were found unconstitutional, there have been efforts made to amend the constitution. What shape have these efforts taken?

What does a typical "right to life" amendment say?

What are some criticisms of "right to life" amendments?

What would be the effect of laws forbidding abortion?

State

Have states changed their abortion statutes since the Supreme Court found them unconstitutional?

How did the Minnesota Legislature respond to Roe v. Wade and Doe v. Bolton?

Which sections of the Minnesota abortion statute have been struck down by the court?

Is it constitutional for a state to forbid abortions after 20 to 24 weeks of pregnancy?

Is it constitutional for a state to prohibit a physician from performing an abortion on a woman who was originally anesthetized for a different surgical procedure?

The legalization of abortion has influenced the number of pregnancies, the number of live births, the number of legal abortions, the number of illegal abortions, and the number of maternal deaths related to abortion.

Legalized Abortion Affects Pregnancy Rates

None of the available evidence supports the contention that legalization of abortion has resulted in the replacement of contraception by abortion; however, women who terminate a pregnancy rather than carry it to term spend more months susceptible to another pregnancy. Therefore, the total number of pregnancies tends to increase.¹

Legalized Abortion Decreases Illegal Abortion and Births

Christopher Tietze, Senior Consultant with the Population Council, estimates that 70% of legal abortions would have been obtained when abortion was illegal. Tietze estimates that 500,000 of the 750,000 legal abortions performed in the U.S. during 1973 replaced illegal abortions; the other 30% of abortions replaced live births.¹

Other Factors Decrease Pregnancies

According to Tietze's model, changed abortion law, influencing 200,000 pregnancies, accounted for only 20% of the difference between actual and expected birth rates in 1973. Other changes in reproductive behavior accounted for the other 80% of the imputed decline.¹

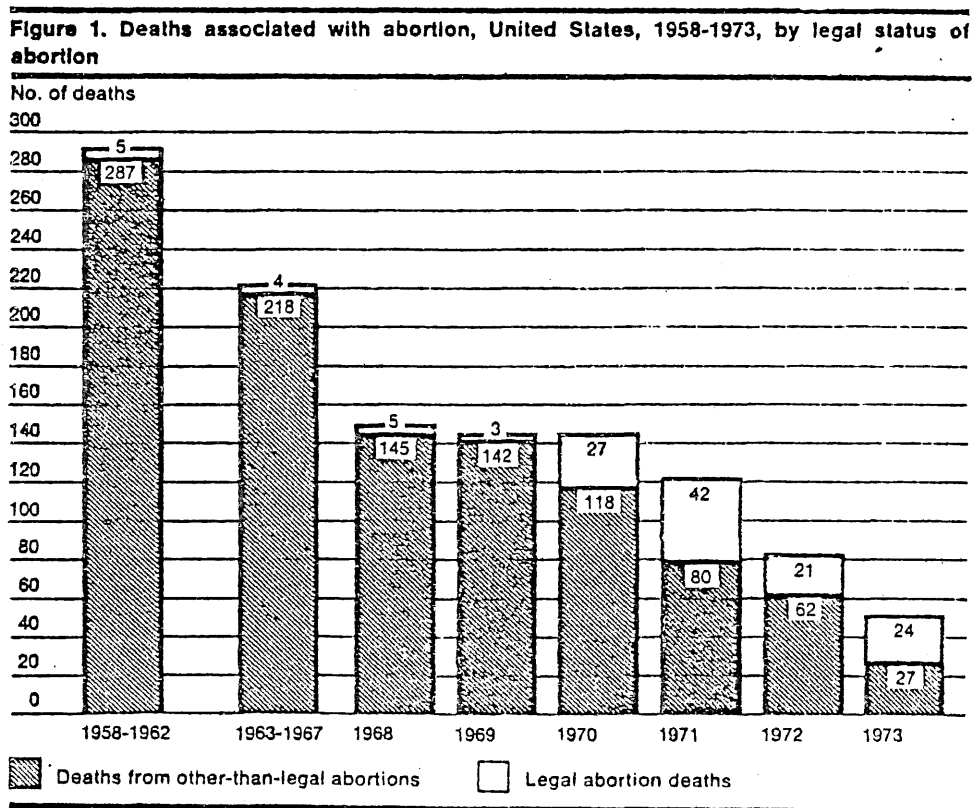
Legalized Abortion Affects Maternal Mortality Rates

Maternal Mortality Rates¹

Pregnancy & Childbirth	14 deaths per 100,000 live births
Legal Abortion	5 deaths per 100,000 abortions
Illegal Abortion	40 deaths per 100,000 abortions

¹Christopher Tietze. Legal Abortion in the United States, 1975-1976. Family Planning Perspectives, 9:3, May/June 1977, pp.116-131.

"The substitution of legal abortions for either live births or illegal abortions would tend to reduce the total number of deaths" unless there was a very large increment in the total number of abortions. (Tietze, p. 124) In the U.S., the increase in the total number of abortions does not seem to have offset the effects of legalization. See Figure below.



¹Christopher Tietze. Legal Abortion in the United States, 1975-1976. Family Planning Perspectives, 9:3, May/June, 1977. p. 124.

AS ABORTION LAWS CHANGED, HOW DID THE NUMBER OF LEGAL ABORTIONS CHANGE?

Number of Legal Abortions Reported in the U.S.¹

1969	22,700	
1970	193,500	
1971	485,800	- abortion law liberalized in New York, Hawaii, Alaska, Washington, and the District of Columbia
1972	586,800	
1973	615,831	- Supreme Court decision
1974	763,476	

There is no data available estimating the number of Americans who left the U.S. to obtain abortions.

¹Zero Population Growth, Fifteen Facts You Should Know About Abortion, September, 1976.

SINCE RESTRICTIVE ABORTION LAWS WERE FOUND UNCONSTITUTIONAL, THERE HAVE BEEN EFFORTS MADE TO AMEND THE CONSTITUTION. WHAT SHAPE HAVE THESE EFFORTS TAKEN?

Article V of the Constitution specifies two methods for proposing constitutional amendments, passage by 2/3 of both houses of Congress and the calling of a constitutional convention.

Constitutional Amendment

The first method is favored by Dr. Mildred Jefferson, President of the National Right to Life Committee.

Constitutional Convention

The second method for amending the Constitution, the calling of a constitutional convention, became a major priority of several national "right to life" groups in early 1977. As of May, 1977 seven states had enacted legislation calling on Congress to convene a constitutional convention to consider an anti-abortion constitutional amendment. The seven states are Indiana, Louisiana, Missouri, New Jersey, Arkansas, Utah and South Dakota.¹

"While the chances of [the constitutional convention drive] ultimately being successful must still be considered unlikely at this time, the anti-abortion momentum created at the grassroots level by the drive itself may pressure Congress into taking action on its own."²

Ellen Leitzer, head of HCLU's Reproduction Freedom Project (Washington) has predicted that there will be a constitutional amendment passed in the next few years banning abortions in the U.S.

¹Planned Parenthood Washington Memo, 27 May 1977, p.6.

²Planned Parenthood Washington Memo, 11 March 1977.

The two principal types of amendments being considered by Congress are the "right to life" amendments, which would guarantee to the fetus a "right to life" or similar constitutional protection and the "states' rights" amendments which would give the states absolute discretion in the matter of abortion.¹

States' Rights Amendments

States' rights amendments have been opposed by leaders on both sides of the issue because they would allow abortion in some states but not others. Analysts speaking from both perspectives have questioned whether a states' rights amendment could supersede Roe v. Wade and Doe v. Bolton.^{1,2}

Right to Life Amendments

Senate Joint Resolution 6, introduced by Senator Helms in January, 1977 is an example of a "right to life" amendment.

¹Pilpel, Family Planning Perspectives, June 1976.

²Helms, Congressional Record, 11 January 1977.

WHAT DOES A TYPICAL "RIGHT TO LIFE" AMENDMENT SAY?

Senate Joint Resolution 6 is an example of a "Right to Life" Amendment.

S.J. Res. 6

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"Article --

"Section 1. With respect to the right to life guaranteed in this Constitution, every human being, subject to the jurisdiction of the United States, or of any State, shall be deemed, from the moment of fertilization, to be a person and entitled to the right to life.

"Sec. 2. Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

The following excerpts from Senator Helms' introduction of the bill¹ summarize his perception of its effects.

The substance of my amendment is that it makes the unborn child a person only 'with respect to the right to life guaranteed in this constitution.' Thus, only the right to life becomes a constitutional right. Other rights could be assigned to the unborn by legislation, or judicial interpretation, as seen by the large body of law on inheritance and tort claims. But such laws are not mandated by my amendment.

At the same time, it is clear that an unborn child under my amendment would not be subject to census, registration, passports, taxation, and other such requirements imposed upon residents of the United States.

¹Congressional Record, 123:4, 11 January 1977.

Although this amendment definitely prohibits abortions in every case where the mother's life is not at stake, it is not intended to invalidate future laws in the States which permit procedures to save the life of the mother.

Nor is it intended to prevent State legislatures and courts reviewing State laws from continuing to regard abortions to save the life of the mother as a matter of self-defense and therefore legally justifiable according to the general principles of self-defense that apply to all human beings.

My amendment clearly states that life begins at the moment of fertilization.

A recent survey of major medical centers by the Washington Post discloses that premature babies weighing under 2 pounds at birth now have over a 60-percent chance of survival.

My amendment would be consistent with State laws permitting the premature termination of pregnancy when the life of the unborn child is not threatened by such a procedure.¹

1

Congressional Record, 123:4, 11 January 1977.

WHAT ARE SOME CRITICISMS OF "RIGHT TO LIFE" AMENDMENTS?

The comments¹ below are from an attorney who testified before a House subcommittee on the implications of a constitutional amendment on abortion, Harriet Pilpel. Ms. Pilpel is a partner in the law firm of Greenbaum, Wolff and Ernst, which is counsel to Planned Parenthood Federation of America.

Government Support Required Throughout Life

In order to protect the 'right to life' of all 'persons,' Congress and the states would be called upon to enact far-reaching legislation providing for the support and maintenance of every individual -- not only, as in some Socialist countries, 'from the cradle to the grave,' but indeed, 'from womb to tomb'.

Who Could Be Prosecuted?

If the fetus is a 'person' or a 'human being,' anyone committing a lesser crime which incidentally results in the miscarriage of a woman would apparently, ipso facto, be guilty of murder under the so-called 'felony-murder rule,' which classifies as murder the killing of a person in the course of a lesser crime.

Some of the proposed amendments are worded so broadly that they might well authorize Congress and the state legislatures to make it a crime to sell alcohol or cigarettes to a pregnant woman. Other questions with serious implications for our entire legal system arise. Would, for example, prosecutors be under a duty to investigate every miscarriage to see if it resulted from fetus abuse, carelessness or recklessness? It is estimated that approximately 30 percent of all conceptions result in a spontaneous miscarriage.

Maternal v. Fetal Life

There would undoubtedly be a great deal of litigation in which the pregnant woman's countervailing 'right to life' would have to be weighed, first by physicians and then by courts, against the 'right to life' of the fetus.

Federal-State, Conflicting Laws Confusing

The enforcement authorization contained in these amendments would permit both the federal government and the states to enact substantive laws to protect the 'right to life.' The enactment of numerous inconsistent, and possibly conflicting, laws governing not only abortion, but any area of law involving the 'right to life,' would therefore be likely. How could a doctor, faced with conflicting federal and state laws which, for example, variously permitted abortion to protect the 'life,' 'health' or 'safety' of the mother, decide whether performing an abortion would subject him to criminal penalties of the federal government, the state government or both?

IUDs Outlawed

Amendments which would protect human beings 'from conception' or guarantee a 'right to life' 'from the moment of fertilization,' if enacted, could make doctors who prescribe the IUD, the morning-after pill and the mini-pill, as well as the women who use them, guilty of homicide.

Vague

Since the date of conception or fertilization cannot be determined exactly, such amendments would create a great penumbra of vagueness. Such vagueness until now has been rightly denounced by the courts as unconstitutional, particularly in connection with the criminal law.

Negligence Law Affected

Many of the proposed amendments would in effect compel the states to adopt a single standard for determining the legality of abortion and the rights of a deceased fetus to collect damages for its wrongful death.

If a deceased fetus can sue for wrongful death, there would be an unending succession of new legal inquiries which would have to be answered by the courts.

Medical Malpractice Law Affected

If every fetus had a constitutionally guaranteed 'right to life,' it is likely that there would soon develop a new variety of malpractice actions against doctors in connection with pregnancies. In addition to claims on behalf of the woman, there would also inevitably be claims on behalf of dead or injured fetuses.

Property and Inheritance Law Affected

Until now, unborn children have been recognized in the law as entitled to rights or interests by way of inheritance or transfer of property only if born alive. It is not clear from the language of the various proposed amendments to what extent they would change present law in this area.

Some Amendments Provide Constitutional Protection Against Nongovernmental Action

The proposed amendments which provide that 'no unborn person shall be deprived of life by any person' (with some exceptions) would have additional serious collateral and detrimental effects on our entire constitutional law system. As a result of this provision, private individuals as well as government would be subject to the constitutional restraints of the Fifth and Fourteenth Amendments, but only with respect to the unborn.

¹Family Planning Perspectives, 5:3, June 1976.

WHAT WOULD BE THE EFFECT OF LAWS FORBIDDING ABORTION?

If fertility rates and abortion-seeking rates remained constant, approximately 1 million women who would have chosen legal abortions will not be able to obtain them.

Approximately 700,000 women would seek an abortion in spite of its illegality.¹

Maternal morbidity and mortality rates associated with abortion would increase significantly.

Approximately 300,000 women would carry their pregnancies to term, increasing the birth rate (decreasing fetal mortality).¹

Most women will keep their children; others will offer them for adoption.

¹ Christopher Tietze. Legal Abortion in the United States, 1975-1976. Family Planning Perspectives, 9:3, May/June, 1977, p. 123.

HAVE STATES CHANGED THEIR ABORTION STATUTES SINCE THE SUPREME COURT FOUND THEM UNCONSTITUTIONAL?

Some states revised their abortion laws to conform to the court decisions.

Florida, Illinois and Nebraska repealed their abortion laws and did not replace them.¹

Michigan and New Jersey left their laws on the books but apparently consider them void as applying to physicians performing abortions within the Supreme Court guidelines.¹

Rhode Island considers its abortion law void, but has taken no further action.¹

Maryland has held that its abortion laws no longer carry criminal penalties.¹

Texas lifted its law from the criminal statutes and deposited it, unchanged, in the civil statutes.¹

Arizona, Connecticut, Missouri, Oklahoma, and South Dakota have acknowledged their laws unconstitutional but have done nothing further.¹

The legal effects of restrictive criminal laws are minimal. Women and physicians who defy these laws may be confident that they cannot be successfully prosecuted.

However, even states whose statutes recognize abortion as a right implement policies affecting the availability of abortion. Those policies are discussed in detail throughout the rest of this paper.

¹Shana Alexander. State-by-State Guide to Women's Legal Rights. Los Angeles, California: Wollenstonecraft, Inc., 1975, p.123.

HOW DID THE MINNESOTA LEGISLATURE RESPOND TO ROE V. WADE AND DOE V. BOLTON?

In 1974, the Minnesota State Legislature passed S.F. 498, a bill which put several conditions on the performance of a legal abortion. Chapter 177 of the 1974 session is reprinted below.

CHAPTER 177—S.F.No.498
[Coded]

An act providing for the regulation of abortions; providing penalties; providing for records to be kept; repealing Minnesota Statutes, Sections 617.18 and 617.19.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [145.411] ABORTIONS; DEFINITIONS. Subdivision 1.

TERMS. As used in sections 1 to 6, the terms defined in this section have the meaning given to them.

Subd. 2. VIABLE. "Viable" means able to live outside the womb even though artificial aid may be required. During the second half of its gestation period a fetus shall be considered potentially "viable".

Subd. 3. HOSPITAL. "Hospital" means an institution licensed by the state board of health; adequately and properly staffed and equipped; providing services, facilities and beds for the reception and care of one or more non-related persons for a continuous period longer than 24 hours for diagnosis, treatment or care of illness, injury or pregnancy; and regularly providing clinical laboratory services, diagnostic x-ray services and treatment facilities for surgery, obstetrical care or other definitive medical treatment of similar extent. "Hospital" shall not include diagnostic or treatment centers, physicians' offices or clinics, or other facilities for the foster care of children licensed by the commissioner of welfare.

Subd. 4. ABORTION FACILITY. "Abortion facility" means those places properly recognized and licensed by the state board of health under lawful rules and regulations promulgated by the board for the performance of abortions.

Subd. 5. ABORTION. "Abortion" includes an act, procedure or use of any instrument, medicine or drug which is supplied or prescribed for or administered to a pregnant woman which results in the termination of pregnancy.

Sec. 2. [145.412] CRIMINAL ACTS. Subdivision 1. It shall be unlawful to wilfully perform an abortion unless the abortion is performed:

(1) by a physician licensed to practice medicine pursuant to Minnesota Statutes, Chapter 147, or a physician in training under the supervision of a licensed physician;

(2) in a hospital or abortion facility if the abortion is performed after the first trimester;

(3) in a manner consistent with the lawful rules and regulations promulgated by the state board of health; and

(4) with the consent of the woman submitting to the abortion after a full explanation of the procedure and effect of the abortion.

Subd. 2. It shall be unlawful to perform an abortion upon a woman who is unconscious except if the woman has been rendered unconscious for the purpose of having an abortion or if the abortion is necessary to save the life of the woman.

Subd. 3. It shall be unlawful to perform an abortion when the fetus is potentially viable unless:

(1) the abortion is performed in a hospital;

(2) the attending physician certifies in writing that in his best medical judgment the abortion is necessary to preserve the life or health of the pregnant woman; and

(3) to the extent consistent with sound medical practice the abortion is performed under circumstances which will reasonably assure the live birth and survival of the fetus.

Subd. 4. A person who performs an abortion in violation of this section is guilty of a felony.

Sec. 3. [145.413] RECORDING AND REPORTING HEALTH DATA. Subdivision 1. The state board of health shall promulgate regulations to effect a reporting system on terminated pregnancies in order that statistical data is obtained that will relate to maternal health. The regulations and reporting system shall not interfere with the right of a pregnant woman to seek an abortion before the fetus is potentially viable. No such report, or any part thereof, shall be disclosed, in any manner, by any official or clerk or other employee or person having access thereto, and all such information shall be confidential.

Subd. 2. If any woman who has had an abortion dies from any cause within 30 days of the abortion or from any cause potentially related to the abortion within 90 days of the abortion, that fact shall be reported to the state board of health.

Subd. 3. A physician who performs an abortion and who fails to comply with subdivision 1 and transmit the required information to the state board of health within 30 days after the abortion is guilty of a misdemeanor.

Sec. 4. [145.414] ABORTION NOT MANDATORY. No person and no hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion for any reason.

Sec. 5. [145.415] LIVE FETUS AFTER ABORTION, TREATMENT. Subdivision 1. A potentially viable fetus which is live born following an attempted abortion shall be fully recognized as a human person under the law.

Subd. 2. If an abortion of a potentially viable fetus results in a live birth, the responsible medical personnel shall take all reasonable measures, in keeping with good medical practice, to preserve the life and health of the live born person.

Subd. 3. (1) Unless the abortion is performed to save the life of the woman or child, or, (2) unless one or both of the parents of the unborn child agrees within 30 days of the birth to accept the parental rights and responsibilities for the child if it survives the abortion, whenever an abortion of a potentially viable fetus results in a live birth, the child shall be an abandoned ward of the state and the parents shall have no parental rights or obligations as if the parental rights had been terminated pursuant to Minnesota Statutes, Section 260.221. The child shall be provided for pursuant to Minnesota Statutes, Sections 256.12 (14) and 256.72 to 256.87.

Sec. 6. [145.416] LICENSING AND REGULATION OF FACILITIES. The state board of health shall license and promulgate regulations for facilities as defined in section 1, subdivision 4, which are organized for purposes of delivering abortion services.

Sec. 7. Minnesota Statutes, Sections 617.18 and 617.19 are repealed.

Sec. 8. This act is effective the day following its final enactment.

Approved March 21, 1974.

WHICH SECTIONS OF THE MINNESOTA ABORTION STATUTE HAVE BEEN STRUCK DOWN BY
THE COURT?

The 1974 abortion statute was challenged in Hodgson v. Lawson. The
United States Law Week summary¹ of that case is reproduced on the following
page.

¹45 LWZ 198.

sible during the second trimester of pregnancy and thus, these provisions are unconstitutional.

Another portion of the statute requires a physician performing an abortion after the twentieth week to exercise the prescribed standard of care and use only those procedures and techniques calculated to preserve the life and health of the fetus. Under *Roe*, the state may protect the fetal life subsequent to viability. It may require a professional pre-operative determination of viability in each case upon which the physician must proceed accordingly. The state cannot, however, enact legislation that has the effect of establishing a presumption of viability prior to the twenty-fourth week as the point of viability before that time is to be purposefully left flexible for professional determination. Thus, these portions of the statute are also unconstitutional.

The statute also provides that: "No person and no hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion for any reason." The words "and no hospital or institution" cannot, as applied to public facilities, constitutionally remain in this section. In *Nyberg v. City of Virginia*, 495 F.2d 1342 (CA 8), appeal dismissed, 419 U. S. 891 (1974), this court clearly held that a public hospital must make its existing facilities available for the performance of abortions.

Portions of Minnesota abortion law that require woman's informed consent to abortion procedure, require reporting of all abortions performed after fetus is potentially viable, and subject abortion decisions to regulations promulgated by state board of health even in first trimester of pregnancy, are constitutionally inoffensive.

The statute makes it unlawful to perform an abortion without first obtaining the consent of the woman after a full explanation of the abortion procedure and its effect. In *Dansforth*, the Supreme Court upheld a similar informed consent requirement. This court believes that the particularly stressful nature of the decision to abort distinguishes it sufficiently from other medical decisions to justify additional state regulation insuring that the woman's consent has been freely and intelligently given. Thus, this section is constitutional. Another portion of the statute, however, provides that: "It shall be unlawful to perform an abortion upon a woman who is unconscious except if the woman has been rendered unconscious for the purpose of having an abortion or if the abortion is necessary to save [her] life." This would subject a phy-

sician to felony charges if he aborted a woman who is anesthetized for a different procedure but who had instructed the physician to perform an abortion should a specified contingency arise. The abortion decision and its implementations are to be left to the woman and her physician during the first trimester. Thus, this portion is unconstitutional as it impermissibly prohibits contingent consent during the first trimester.

The statute requires the reporting, in accordance with the regulations promulgated by the state board of health, of all abortions performed after the fetus is potentially viable. In *Dansforth*, the Supreme Court upheld recordkeeping requirements. Thus, this court finds that recordkeeping and reporting requirements that are directed to the preservation of maternal health and that respect a patient's confidence and privacy, as these do here, are permissible regardless of the stage of pregnancy.

The statute subjects the abortion decision, even during the first trimester, to regulations promulgated by the state board of health. The state has the power to insure that first trimester abortions, like other medical procedures, are performed under conditions providing for the maximum safety of the patient. The statutory provisions that merely authorize the adoption of regulations, even during the first trimester, are not unconstitutional. Any regulations promulgated under such an enabling statute must, of course, comply with the requirements of the Supreme Court. A state can impose the same regulations on an abortion clinic that are imposed on other clinics that perform similar surgical procedures. As long as such regulations are the same as those applied to other clinics performing similar surgical procedures, it would not be impermissible to make the regulations specifically applicable to abortion clinics. Where the state regulates abortions beyond its regulation of similar surgical procedures, the difference in treatment must be shown to be necessitated by the particular characteristics of the abortion procedure.—*Per Curiam*.

Dissent. In view of the fact that, realistically speaking, we now have abortion on demand, the statutory provisions requiring physicians to take all reasonable measures to preserve the life and health of a potentially viable fetus that is live born are constitutional. In addition, public hospitals and institutions should not be compelled to perform abortions until it has been determined that the right of a pregnant woman to have an abortion cannot otherwise be reasonably protected.—*Heaney, J.*

—CA 8; *Hodgson v. Lawson*, 10/8/76.

Criminal Law and Procedure

ABORTION—

Portions of Minnesota abortion law that create presumption that fetus in second half of gestation period is "potentially viable," proscribe abortion of potentially viable fetus unless necessary to preserve life and health of mother, require physician aborting potentially viable fetus to use procedures calculated to preserve life of fetus, and allow public hospitals to refuse to perform abortions are unconstitutional.

The Minnesota abortion law provides: "Viable means able to live outside the womb even though artificial aid may be required. During the second half of its gestation period a fetus shall be considered potentially viable" The district court reasoned that including the term "potentially viable" in the definition of "viable" had the effect of establishing a presumption that viability occurred at the end of the twentieth week. This, the Court held, was inconsistent with the Supreme Court's decisions in *Roe v. Wade*, 410 U. S. 113, 41 LW 4213 (1973) and *Doe v. Bolton*, 410 U. S. 179, 41 LW 4233 (1973), which placed the earliest point of viability at the twenty-fourth week. This holding was cited with approval by the Supreme Court in *Planned Parenthood of Central Missouri v. Danforth*, 44 LW 5197 (1976), and cannot be disturbed by this court.

The statute also provides that when the fetus is potentially viable, abortions are prohibited unless necessary to preserve the life or health of the mother. It also requires physicians, in the abortion of a potentially viable fetus, to use methods that would reasonably assure the fetus' survival. These requirements impose restrictions that are not necessarily related to maternal health. Under *Roe*, such restrictions are impermis-

In March, 1977 a panel of federal judges rules that most of the Minnesota State health board of regulations associated with the 1974 abortion statute are also unconstitutional.

"The regulations governed, among other things, the kinds of facilities that could provide abortions, the kinds of equipment and services that must be available, the types of rooms, their size, the personnel who must be on duty and the location of such clinics. The regulations also suggested the types of surgical procedures that must be used."¹

The panel said two of the regulations were constitutional if used with care:

"A requirement that abortion patients sign consent forms and a requirement that clinics provide the state with limited abortion statistics."

The opinion was filed in Minneapolis by Judge Donald Ross of the 8th Circuit Court of Appeals, Omaha; Paul Benson, chief judge, U.S. District Court, Fargo, N.D., and Judge Robert Denney, U.S. District Court, Omaha.

The Minnesota Health Board voted unanimously in mid-April 1977 that it would not appeal the federal court decision.²

¹St. Paul Dispatch, March 25, 1977.

²St. Paul Pioneer Press, April 15, 1977.

IS IT CONSTITUTIONAL FOR A STATE TO FORBID ABORTIONS AFTER TWENTY OR TWENTY-FOUR WEEKS OF PREGNANCY?

No. Laws proscribing abortion which are based on a fetus's calendar age, rather than a medical judgment of its viability, are unconstitutional, according to three different federal courts.

In Hodgson v. Lawson¹ the Court of Appeals for the Eighth Circuit invalidated Minnesota's abortion statute because its definition of viability provided that abortion of a "potentially viable" fetus (after 20 weeks) was prohibited unless necessary to save the woman's life or health. The Court of Appeals declared that a state cannot:

enact legislation that has the effect of establishing a presumption of viability prior to the twenty-fourth week as the point of viability before that time is to be 'purposefully left flexible for professional determination.'¹

In a South Carolina case, a federal district court invalidated a statute which presumed viability at twenty-four weeks. A physician has been convicted of manslaughter after performing an abortion on a woman who was 25 weeks pregnant. The fetus survived for three weeks after the procedure. Prosecution of the physician was barred because the statute was unconstitutional. The District Court held that "viability must, under Roe, be determined on a fetus by fetus basis." The court decided that in this case the fetus was not viable.²

The holding that viability should not be defined in statutes as an age in weeks was established earlier by the U.S. Supreme Court in Danforth v. Planned Parenthood of Missouri.³

¹45 U.S.L.W. 2198.

²Floyd v. Anders, Civil Action No. 75-1481 (D.S.C.), Family Planning Perspective, 6:6, 77).

³44 U.S.L.W. 5197.

IS IT CONSTITUTIONAL FOR A STATE TO PROHIBIT A PHYSICIAN FROM PERFORMING AN ABORTION ON A WOMAN WHO WAS ORIGINALLY ANESTHETIZED FOR A DIFFERENT SURGICAL PROCEDURE?

No. Portions of the Minnesota abortion statute which prohibited the performance of an abortion on a woman who was originally anesthetized for a different surgical procedure were struck down by the U.S. Court of Appeals for the Eighth District.¹

The Court found the prohibition unconstitutional because the abortion decision is to be left to a woman and her physician and such a prohibition would prevent an abortion if the patient had instructed the physician to perform the procedure should a specified contingency arise.²

¹Hodgson v. Lawson, 45 U.S.L.W. 2198.

²Family Planning Perspectives, 5:66, 90.

PERMISSION FOR ABORTION

Consent of Patient

Is a state law requiring that women provide written consent to abortion during the first trimester constitutional?

Can a state constitutionally impose a 24-hour waiting period between the signing of a consent form and the performance of a first trimester abortion?

Consent of Spouse

If an abortion is not necessary to save a woman's life, can a state constitutionally require that she have her husband's consent to a first trimester abortion?

Notice to Spouse

Is it constitutional for a state to require that a woman's husband be notified of her plans for an abortion?

Opposition of Unmarried Father

Does an unmarried father have legal standing to prohibit an abortion?

Consent of Parent

Is a state law requiring parental consent to a minor's abortion constitutional?

Notice to Parent

Are state laws which require that parents be notified of a minor daughter's abortion constitutional?

Is every minor capable of giving informed consent?

Minnesota Policies

Do Minnesota Statutes allow minors to consent to abortion?

IS A STATE LAW REQUIRING THAT WOMEN PROVIDE WRITTEN CONSENT TO ABORTION DURING THE FIRST TRIMESTER CONSTITUTIONAL?

Yes. In Danforth v. Planned Parenthood of Missouri, the U.S. Supreme Court held that a state may require the use of a consent form which states that the woman consents to the abortion, that her consent is fully informed, and that it is given without coercion.¹ That July 1976 decision has been the basis of several lower federal court decisions affirming states' rights to require informed consent. The U.S. Court of Appeals reviewing Kentucky's abortion law found constitutional a section requiring that after the first trimester, physicians inform their patients of the "reasonably possible physical and mental consequences of the performance of abortion or the nonperformance of the abortion."²

Similarly, the U.S. Court of Appeals for the Eighth Circuit upheld the informed consent requirement of Minnesota's abortion statute, which requires "a full explanation of the procedure and effect of the abortion."³

There is some confusion about the type of information a state can require that a woman know before her consent is "informed" and an abortion may be performed.

The U.S. Supreme Court affirmed the judgment of a U.S. District Court which found the consent requirements of the Pennsylvania abortion statute unconstitutional. The stricken provisions required a woman to sign a written consent form stating that she has been advised of the possible detrimental physical and psychological effects of abortion, of possible alternatives to abortion, including childbirth and adoption, and of the medical procedures to be used.⁴

¹96 S. Ct. 2831 (1976).

²Wolfe v. Schroering, No. 75-1318 (6th Cir.), (FPPR, 5:5, 75).

³Hodgson v. Lawson, 45 U.S.L.W. 2198 (145.412(4)).

⁴Franklin v. Fitzpatrick, 44 U.S.L.W. 3758.

In contrast, a November, 1976 decision of a three-judge district court affirmed Montana's statutory requirement that

"the woman give her informed consent after her physician has told her about the nature of the procedure, including the stage of development of the fetus, the method to be used, the physical and psychological consequences and alternatives to abortion."¹

¹Doe v. Deschamps, CV 74 - 120 - M (D. Mont.).

CAN A STATE CONSTITUTIONALLY IMPOSE A 24-HOUR WAITING PERIOD BETWEEN THE SIGNING OF A CONSENT FORM AND THE PERFORMANCE OF A FIRST TRIMESTER ABORTION?

Yes, according to a U.S. Court of Appeals decision in August 1976. The Court of Appeals did not believe that requirement of the 1974 Kentucky law significantly burdened the abortion process.¹

¹Wolfe v. Schroering, No. 75-1318 (6th Cir.) (FPPR, 5:5, 1975)

IF AN ABORTION IS NOT NECESSARY TO SAVE A WOMAN'S LIFE, CAN A STATE CONSTITUTIONALLY REQUIRE THAT SHE HAVE HER HUSBAND'S CONSENT TO A FIRST TRIMESTER ABORTION?

Apparently not, according to the U.S. Supreme Court decision in Danforth v. Planned Parenthood of Missouri¹ which struck down the Missouri law requiring that

"during the first 12 weeks of pregnancy a woman had to have her husband's consent, unless the abortion was necessary to save her life. The Court held that 'since the State cannot regulate or proscribe abortion during the first stage . . . the State cannot delegate authority to any particular person, even the₂ spouse, to prevent abortion during the same period.'"

This ruling appears to have invalidated laws in 12 states which gave husbands veto power over their wives' abortions. Those states were Idaho, Illinois, Kentucky, Louisiana, Missouri, Nebraska, Nevada, North Dakota, Pennsylvania, South Carolina, South Dakota and Virginia. Many of these provisions had already been struck down or enjoined by lower federal courts before the Supreme Court ruled (Illinois, Kentucky, Louisiana and Pennsylvania).²

¹44 U.S.L.W. 5197.

²Family Planning/Population Reporter, 5:4, 54-55.

IS IT CONSTITUTIONAL FOR A STATE TO REQUIRE THAT A WOMAN'S HUSBAND BE NOTIFIED OF HER PLANS FOR AN ABORTION?

A three-judge U.S. District Court held that a Montana law requiring that a husband be notified of his wife's impending abortion was unconstitutional.¹ Although Montana did not require spousal consent, it did require that written notice be given to a husband before an abortion, unless the couple were separated. The notice requirement was found unconstitutional because there was no incontrovertible method of giving notice and, therefore, the woman and physician to be inadequately protected from criminal liability.

¹Doe v. Deschamps, CV 74-120-M (D.Mont.), (FPPR, 5:6, 95).

DOES AN UNMARRIED FATHER HAVE LEGAL STANDING TO PROHIBIT AN ABORTION?

The courts have said no, in Jones v. Smith¹ and Rothenberger v. Doe.²

¹(Fla. App.) 278 So.2d 339, cert. den., 415 U.S. 958, 39 L.Ed.2d 573,
94 S.Ct. 1486.

²149 N.J. Super. 478.274 A.2d 57 (1977).

IS A STATE LAW REQUIRING PARENTAL CONSENT TO A MINOR'S ABORTION CONSTITUTIONAL?

No. In Danforth v. Planned Parenthood of Missouri,¹ the U.S. Supreme Court invalidating a Missouri law requiring an unmarried woman under 18 seeking an abortion during the first 12 weeks of pregnancy to have the consent of a parent or guardian, unless the abortion was necessary to save her life. The Court held that

"the State does not have the constitutional authority to give a third party an absolute, and possibly arbitrary, veto over the decision of the physician and his patient to terminate the patient's pregnancy, regardless of the reasons for withholding the consent."

The Court's ruling apparently invalidated laws in 13 states which gave patients similar authority to prevent their minor daughters from terminating their pregnancies (Illinois, Indiana, Kentucky, Louisiana, Missouri, Nebraska, Nevada, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota and Virginia). Many of these provisions were declared unconstitutional or enjoined by lower courts before the Supreme Court ruling (Illinois, Indiana, Kentucky, Louisiana, Nebraska, Ohio and Pennsylvania).

Also, Alaska, Colorado, Florida and Washington had parental consent laws predating Roe and Doe. The Colorado, Florida, and Washington laws had been declared unconstitutional by lower courts prior to the Supreme Court's latest ruling. The Massachusetts parental consent requirement appears to remain in effect under the Court's action in Bellotti v. Baird.²

"In addition, 12 states have passed laws which authorize minors to consent to their own medical care but which specifically exclude abortion (Arkansas, Delaware, Georgia, Kentucky, Louisiana, Massachusetts, Missouri, Montana, Oklahoma, Oregon, Texas and Virginia). These statutes as well as the parental consent statutes also appear invalid under the Court's recent opinions, since in Bellotti v. Baird the Court indicated that any distinction between parental consent requirements for abortion and other medical procedures could be supported only if the state were able to show that a minor seeking an abortion without parental consent could obtain one in a speedy, confidential manner through a court proceeding."

¹44 U.S.L.W. 5197.

²Bellotti v. Baird, 44 U.S.L.W. 5221.

"Both in the Missouri decision and in a companion case from Massachusetts (Bellotti v. Baird), however, the Court suggested that a statute which imposed a more limited restriction than an outright parental veto would confront the Court with a different issue."³

The Massachusetts Supreme Court has unanimously construed the Massachusetts law to require that except in an emergency, a minor must consult her parents and only if they refuse to consent may she go to a court for consent, in which case her parents must be notified of the proceedings and be allowed to participate. The case went back to the district court for consideration of the constitutionality of the statute as interpreted by the Massachusetts court.

The district court did not rule on the constitutionality of the statute, its opinion granting a stay request "strongly indicated that the court believes the law as interpreted by Massachusetts Supreme Judicial Court is unconstitutional."

¹Family Planning/Population Reporter, 6:2, 13-14.

ARE STATE LAWS WHICH REQUIRE THAT PARENTS BE NOTIFIED OF A MINOR DAUGHTER'S ABORTION CONSTITUTIONAL?

Three states--Hawaii, Montana and Utah--have enacted statutes requiring that parents be notified when an abortion is performed on their daughter. The Court's opinion in Bellotti,¹ speaking of the necessity for a procedure whereby the minor can obtain an abortion without parental consultation (rather than consent) suggests that these notification statutes may all be unconstitutional, since 'notification' is very similar to 'consultation'.²

¹Bellotti v. Baird, 96, S. Ct. 2857.

²Family Planning/ Population Reporter, 6:2, 1,5.

IS EVERY MINOR CAPABLE OF GIVING INFORMED CONSENT?

No. The Supreme Court has pointed out that its holding in Danforth¹ does not mean that every minor regardless of age or maturity, may give effective consent for termination of her pregnancy.

In order to give an informed consent a patient must be intelligent enough to understand the risks involved in the procedure.²

¹44 U.S.L.W. 5197.

²Family Planning/Population Reporter, 6:1,3.

DO MINNESOTA STATUTES ALLOW MINORS TO CONSENT TO ABORTION?

Yes. Minors currently can consent to abortions under the minor consent law, 144.343.

144.343 "PREGNANCY, VENEREAL DISEASE AND ALCOHOL OR DRUG ABUSE. Any minor may give effective consent for medical, mental and other health services to determine the presence of or to treat pregnancy and conditions associated therewith, venereal disease, alcohol and other drug abuse, and the consent of no other person is required."

Bills introduced last year, House File 58 and Senate File 372, would require the consent of a patient and both her parents, or an order from the juvenile court, before an abortion could be performed on a minor. House File 58 was tabled on a voice vote in the health care subcommittee of the House Health and Welfare Committee. Senate File 372 was referred to the Senate Health, Welfare, and Corrections Committee. The text of the two companion bills is printed below.

Subdivision 1. A physician shall not perform an abortion for a minor female who has not married, unless the physician has obtained the written consent of the minor and her parents, or an order from the juvenile court.

If one parent has died, has deserted the family, or cannot give consent because of medical incapacity consent from the remaining parent is sufficient. If both parents have died or deserted the family, consent from the guardian of the minor, or from the person who has assumed the care and custody of the minor is sufficient.

Subd. 2. If one or both parents refuse consent, consent may be obtained by an order of a juvenile judge after a showing of good cause, and after a hearing as he deems necessary. Petition for the order shall have priority over other matters of the juvenile court. The judge shall not deny the order on the basis of concerns exclusively of the parent, but shall make his decision based upon the child's best interests.

According to testimony before the House subcommittee, the major advantage of the bill is that it would allow the minor to have the "wisdom of her family in the decision."

Opponents made the following statements about the bill

- that it's unconstitutional
- that it will divide the family
- that it will encourage courts to mediate disputes in intact families
- that teenagers will have abortions despite the legislation by traveling to Wisconsin, forging consent, and self-abortion
- that it will harm minors in broken families
- that it will put undue burden on a minor to make them go to court in opposition to her parents.¹

¹ Subcommittee testimony reported in the Catholic Bulletin.

PAYMENT FOR ABORTIONS

Federal Financing Policy

Does the federal government financially support abortion services?

How has federal policy toward payment for abortion changed in the recent past?

What exactly is the text of the abortion amendment to the labor department and DHEW appropriations bill?

Have regulations been promulgated on the latest abortion amendment?

How many abortions has the federal government paid for?

How much was expended by federal state programs for abortions in each state during fiscal year 1976?

Would abortion services be covered under national health insurance?

State Financing Policies

Are the states required to financially support abortion services?

Are the states paying for abortion services?

In which states are these recent policy changes likely to have the greatest impact?

Is the state of Minnesota currently paying for abortion services for welfare recipients?

What is the state policy on payment for Medicaid abortions likely to be in the future?

How many abortions has the state of Minnesota paid for, at what cost?

Do Minnesota counties financially support abortion services?

Financing Policy Effects

Who performs Medicaid abortions?

How many Medicaid-eligible women who would have preferred abortion were unable to obtain them before implementation of the Hyde amendment?

How many abortions do Medicaid recipients receive, compared to the non-poor?

How much does an abortion cost, relative to a welfare recipients' income?

What will be the cost effect of this new Medicaid policy?

What will be the effect of this new Medicaid payment policy on maternal deaths?

What will be the morbidity effects of the new Medicaid payment policies?

Which alternative is a woman likely to choose if she is denied Medicaid financing for an abortion?

It has been argued that individuals who believe in abortion can make donations to facilities, making abortions available to the poor while relieving taxpayers of the burden. Are free abortions common; could they solve these problems?

DOES THE FEDERAL GOVERNMENT FINANCIALLY SUPPORT ABORTION SERVICES?

There is no federal financial participation in Medicaid coverage of abortions, unless two physicians agree that severe and long lasting physical health damage would result if the pregnancy were carried to term or the woman was a victim of promptly-reported rape or incest undergoing "medical procedures" such as dilation and curretage.

As of September, 1977 the Defense Department continued to pay for abortions at military installations. There were 12,687 abortions at military hospitals between 1 Sept. 1977 and 31 Aug. 1976. The Pentagon's policy is that such abortions can be performed for medical reasons or reasons involving mental health.¹

The Pentagon also pays for elective abortions through its medical program for military personnel and their dependents using non-military health care facilities. Under that program, elective abortions totaled 13,087 in 1975.¹

As an employer, the federal government pays insurance premiums for health benefits; abortion is among the expenses covered in most plans.

Federal research grants in the area of prostaglandins for induced abortions are given to pharmaceutical companies and universities.

The federal government indirectly finances the abortions of income taxpayers when abortion expenses are used as medical income tax deductions.

¹ St. Paul Pioneer Press, 4 Sept. 1977.

HOW HAS FEDERAL POLICY TOWARD PAYMENT FOR ABORTION CHANGED IN THE RECENT PAST?

- Oct. 1, 1976 Congress passed the Hyde amendment, which ended federal funding for all abortions except those in which the life of the mother would be endangered by childbirth.
- Oct. 1, 1976 U.S. District Judge John Dooling, New York City, immediately issued an injunction barring DHEW from enforcing the Hyde amendment.
- June 20, 1977 U.S. Supreme Court decided that neither the Constitution nor Title XIX of the Social Security Act requires states to pay Medicaid benefits for nontherapeutic abortions.
Beal v. Doe, 45 USLW 4781
Maher v. Roe, 45 USLW 4787
- June 29, 1977 U.S. Supreme Court vacated and remanded J. Dooling's injunction with orders that he reconsider it in light of the June 20 decisions.
Califano v. McRae, 45 US.L.W. 3852 (U.S. June 29, 1977)
- July 28, 1977 Dooling initially issued a new temporary restraining order, citing the danger to those who might seek illegal abortions.
- Aug. 4, 1977 Judge Dooling dissolved temporary restraining order on the ground "that the plaintiffs (Planned Parenthood of New York City, women, doctors, and the New York Health & Hospitals Corporation had not proven their contention that the Hyde amendment was 'vague & ambiguous'" and required DHEW to issue regulations defining it before it could go into effect.
- As soon as Dooling's temporary restraining order was lifted, DHEW Secretary Joseph Califano limited federal

financial participation to abortions necessary to save the life of the mother, or in cases of rape, incest, or ectopic pregnancy. Rape and incest abortions were covered only if the procedures were performed before pregnancy was established.

Oct. 1, 1977 End of 1977 FY. \$60.1 billion appropriations bill was held up because of controversy. Departments of Labor/HEW were forced to suspend all grants, contracts, travel, and administrative expenses.¹

Dec. 7, 1977 Congress compromised on new abortion amendment. President Carter signed Department of Labor, DHEW appropriation bill.

¹ NOW Information Release, 28 Oct. 1977.

WHAT EXACTLY IS THE TEXT OF THE ABORTION AMENDMENT TO THE LABOR DEPARTMENT AND DHEW APPROPRIATIONS BILL?

"Provided, That none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The Secretary shall promptly issue regulations and establish procedures to insure that the provisions of this section are rigorously enforced."

HAVE REGULATIONS BEEN PROMULGATED ON THE LATEST ABORTION AMENDMENT?

Not yet. However, in the meantime, DHEW has sent a statement to all Medicaid agencies, DHEW regional offices, Public Health Service hospitals and state medical associations which recites the language of the amendment but then goes on to make a distinction, not contained in the law, in regard to rape and incest. An abortion would be paid for, the statement reads, "where a physician, on the basis of his or her professional judgment, has certified in writing that the abortion is necessary because the life of the mother would be endangered if the fetus were carried to term or where two physicians, on the basis of their professional judgment, have certified in writing that severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term." However, only "medical procedures," presumably treatment with DES or other post-coital agents, would be paid for for other rape and incest victims. DES has been shown to cause cancer in the offspring of women who took it during pregnancy to prevent miscarriage. It has now been shown to cause cancer in the users as well.¹

¹ Planned Parenthood Washington Memo, 16 Dec. 1977, 2.

HOM MANY ABORTIONS HAS THE FEDERAL GOVERNMENT PAID FOR?

The federal government has no facts on the incidence and cost of Medicaid abortions; it relies on the data of the Alan Guttmacher Institute.^{1,2} The Alan Guttmacher Institute (AGI) has been able, through a survey of state welfare and Medicaid agencies and a large random sample of abortion providers, supplemented by other available information reported in the press, to come up with rough estimates, by state, of the number of publicly funded abortions performed and the amount of money expended for these abortions in FY 1976 under Title XIX (Medicaid) and Title XX (social services) of the Social Security Act.²

AGI estimates that between 261,000 and 274,000 poor women obtained abortions that were paid for at least in part by one of these federal-state programs, at a total public expenditure of over \$60 million in fiscal year 1976. Expenditures for about 248,000 to 262,000 of these abortions were made under Medicaid, and for the remaining 13,000 abortions under Title XX.²

¹ Planned Parenthood Washington Memo, 21 Oct. 1977, 6.
² Family Planning/Population Reporter, 6:5, 59.

HOW MUCH WAS EXPENDED BY FEDERAL STATE PROGRAMS FOR ABORTIONS IN EACH STATE
DURING FISCAL YEAR 1976?

Estimated number of abortions and total expenditures under Title XIX (Medicaid) and Title XX (Social Services) of the Social Security Act, by state, FY 1976 ¹

State	No. of abortions	Expenditures
U. S. total	260,800-274,400†	\$60,907,000
Ala.	1,300	338,800
Alaska	300	17,600
Ariz.	†	†
Ark.	500	61,300
Calif.	70,000*	24,411,700*
Colo.	2,800*	110,300
Conn.	2,000*	427,500*
Del.	400	44,100
D. C.	7,400*	1,419,800*
Fla.	1,600*	229,300*
Ga.	3,700*	948,600
Hi.	1,200	212,100
Idaho	na	na
Ill.	18,300*	2,667,100*
Ind.	na	na
Iowa	1,000	297,300
Kans.	3,700*	300,000*
Ky.	900	197,400
La.	na	na
Maine	500	212,100
Md.	5,000*	1,675,000*
Mass.	5,100*	1,105,300*
Mich.	14,800*	2,432,200*
Minn.	1,300	215,700
Miss.	na	na
Mo.	2,400*	180,000*
Mont.	700*	210,000*
Nebr.	300*	11,700*
Nev.	400**	200,000**
N.H.	200*	31,300*
N.J.	10,000*	3,500,000*
N.M.	900**	164,700**
N.Y.	50,000*	7,875,000
N.C.	3,100**	1,109,800**
N.D.	na	na
Ohio	10,000*	2,000,000*
Okla.	700	59,200
Oreg.	2,000*	547,000*
Pa.	10,000*	1,913,100*
R.I.	1,000*	96,300*
S.C.	1,400**	248,900**
S.D.	na	na
Tenn.	1,200*	274,700*
Texas	13,300**	3,500,000
Utah	300*	25,200*
Vt.	300*	179,800
Va.	5,200*	463,100*
Wash.	2,700**	640,000**
W. Va.	300*	91,500*
Wis.	2,500*	250,000
Wyo.	100	12,500

†The 274,000 estimate is from the AGI 1977 sample survey of abortion providers.

‡No Medicaid program in FY 1976.

*Based on Title XIX state reports.

**Based on state reports of Title XIX and Title XX. Estimated expenditures and number of abortions performed under Title XX are: Nevada, 25 abortions, \$12,500; New Mexico, 400 abortions, \$77,800; North Carolina, 1,700 abortions, \$624,855; South Carolina, 900 abortions, \$162,900; Texas, 9,500 abortions, \$2,491,700; Washington, 300 abortions, \$39,900.

Note: na = not available.

¹ Family Planning/Population Reporter, 6:5, 59.

WOULD ABORTION SERVICES BE COVERED UNDER NATIONAL HEALTH INSURANCE?

Joseph Califano, Secretary of DHEW, has stated that any national health insurance plan proposed by the administration would not cover abortion.¹

If national health insurance were made mandatory--which medical associations and other groups oppose--this could mean women of all income levels could not get insurance to cover abortion costs, as many now do. They would have to finance them personally.

¹ Planned Parenthood Washington Memo, 21 Oct. 1977, p. 4.

ARE THE STATES REQUIRED TO FINANCIALLY SUPPORT ABORTION SERVICES?

No. That decision was made by the U.S. Supreme Court June 20, 1977 when it upheld actions by Connecticut and Pennsylvania. The issue in the Connecticut case, Maher v. Roe was whether

"providing Medicaid reimbursement for therapeutic abortions and childbirth but not for nontherapeutic abortions violated the equal protection clause of the Constitution. The Court held that it did not. The Court made a distinction between direct state interference in obtaining an abortion--for example, making it a crime to perform an abortion, as was the case in the Texas law declared unconstitutional in Roe--which would be unconstitutional, and state encouragement of an alternative to abortion--for example, funding normal childbirth."¹

The Court went on to say:

An indigent woman who desires an abortion suffers no disadvantage as a consequence of Connecticut's decision to fund childbirth; she continues as before to be dependent on private sources for the service she desires. The State may have made childbirth a more attractive alternative, thereby influencing the woman's decision, but it has imposed no restriction on access to abortions that was not already there. The indigency that may make it difficult--and in some cases, perhaps, impossible--for some women to have abortions is neither created nor in any way affected by the Connecticut regulation."²

The Pennsylvania case, Beal v. Doe,³ involved the question of whether the Social Security Act requires payment for nontherapeutic abortions if Medicaid reimbursement is available for therapeutic abortions and childbirth.

The Court held

"that there is 'nothing in either the language or the legislative history of Title XIX that suggests that it is unreasonable for a participating State to further' its 'unquestionably strong and legitimate interest in encouraging normal childbirth'"³

¹ Planned Parenthood Washington Memo, 24 June 1977, 2.

² Maher v. Roe, No. 75-1440.

³ Beal v. Doe, No. 75-554.

ARE THE STATES PAYING FOR ABORTION SERVICES?

A Planned Parenthood survey, September 25, 1977 found that 30 states had discontinued payment for Medicaid abortions. The table below indicates state policies as of September 25, 1977.

State Policies Toward Payment for Medicaid Abortions¹
 Planned Parenthood Survey
 25 Sept 1977

<u>State</u>	<u>Discontinued</u>	<u>Publicly Committed To Continue</u>	<u>Paying Through Sept.</u>	<u>Undecided</u>	<u>Paying Through Dec. 30</u>
Alabama	X				
Alaska		X			
Arkansas	X				
Arizona ²					
California		X			
Colorado				X	
Connecticut	X				
Delaware	X				
District of Columbia			X		
Florida	X				
Georgia	X				
Hawaii		X			
Idaho		X			
Illinois		X			
Indiana	X				
Iowa	X				
Kansas	X				

¹ Family Planning/Population Reporter, 6:5, 57.

² No Medicaid Program.

<u>State</u>	<u>Discontinued</u>	<u>Publicly Committed To Continue</u>	<u>Paying Through Sept.</u>	<u>Undecided</u>	<u>Paying Through Dec. 30</u>
Kentucky	X				
Louisiana	X				
Maine	X				
Maryland		X			
Massachusetts		X			
Michigan		X			
Minnesota	X				
Mississippi	X				
Missouri	X				
Montana	X				
Nebraska	X				
Nevada	X				
New Hampshire	X				
New Jersey	X				
New Mexico			X		
New York		X			
North Carolina	X				
North Dakota	X				
Ohio	X				
Oklahoma				X	
Oregon		X			
Pennsylvania				X	
Rhode Island	X				
South Carolina	X				
South Dakota	X				

<u>State</u>	<u>Discontinued</u>	<u>Publicly Committed To Continue</u>	<u>Paying Through Sept.</u>	<u>Undecided</u>	<u>Paying Through Dec. 30</u>
Tennessee	X				
Texas	X				
Utah	X				
Vermont	X				
Virginia					X
Washington		X			
West Virginia		X			
Wisconsin		X			
Wyoming					X

Since the September survey, the Illinois General Assembly has limited the use of state funds for abortion to cases where the woman's life is threatened.³ Other state policies have changed as well. The December 12, 1977 issue of the St. Paul Pioneer Press reported that fourteen states have decided to fund abortions to the poor without the federal government's help.

³ Family Planning/Population Reporter, 6:6, 81.

IN WHICH STATES ARE THESE RECENT POLICY CHANGES LIKELY TO HAVE THE GREATEST IMPACT?

States where many Medicaid abortions are performed.

More than four in 10 of the abortions were obtained in California and New York. Three-quarters of all of the publicly financed abortions were reported from eight states--California, Illinois, Michigan, New Jersey, New York, Ohio, Pennsylvania and Texas--in which 10,000 or more procedures were paid for by public funds; three of these states have now cut off public funding.¹

States where Medicaid recipients have exceptionally low incomes.

The average cost of a nonpublicly funded abortion in the United States--\$280--is \$42 higher than the average monthly welfare payment for an entire family for food, clothing, shelter and all other necessities. In Mississippi, the average cost of such an abortion is 10 times higher than the monthly family AFDC payment.¹

¹ Family Planning/Population Reporter, 6:5, 59.

IS THE STATE OF MINNESOTA CURRENTLY PAYING FOR ABORTION SERVICES FOR WELFARE RECIPIENTS?

Only for some of them. On September 23, 1977 the Minnesota Supreme Court held that the state welfare commissioner should have followed public notice and hearing requirements prior to issuing a policy bulletin allowing Medicaid reimbursement for abortion services.¹ The Court remanded the policy bulletin to the welfare department for compliance with notice and hearing requirements. As a result of the decision, Minnesota is currently paying only for abortions when the woman's life is threatened.²

¹ McKee v. Likins, No. 157-1/2 (Minn. Sup. Ct.)

² Family Planning/Population Reporter, 6:6, 79.

WHAT IS THE STATE POLICY ON PAYMENT FOR MEDICAID ABORTIONS LIKELY TO BE IN THE FUTURE?

One bill, whose chief authors are Senator Chmielewski and Representative Kempe, would allow public funding of abortions only when the following three conditions are met:

- the abortion is necessary to save the life of the mother
- the abortion is performed in a hospital with written consent of the patient and parental consent for minors
- permission is obtained from the state Department of Public Welfare.¹

¹ St. Paul Dispatch, 8 July 1977

HOW MANY ABORTIONS HAS THE STATE OF MINNESOTA PAID FOR, AT WHAT COST?

During the fiscal year ending June 30, 1977 there were 2,529 abortions paid for under Medicaid in Minnesota, at a cost of \$351,755.¹ During fiscal year 1976, 1,736 abortions costing the state \$114,000 were paid for through the Medicaid program.² The federal government spent \$167,000 in fiscal year 1976² and \$199,938 in fiscal year 1977¹ for abortions provided through the Minnesota Medicaid program. The state's entire medical assistance program, including General Assistance Medical Care rather than just Medicaid, pays for approximately 3,400 abortions a year. This is almost one fourth of the total 14,124 abortions reported in the state in 1976.³

¹Minneapolis Star, July 16, 1977.

²St. Paul Pioneer Press, August 11, 1977.

³Minneapolis Tribune, June 21, 1977.

DO MINNESOTA COUNTIES FINANCIALLY SUPPORT ABORTION SERVICES?

Hennepin County will make payments for abortions only when the woman's life is threatened. That decision, passed on a 4 to 3 vote by the county commissioners, was made September 27, 1977. The vote came 4 days after a state Supreme Court ruling which said that the state Welfare Department cannot continue to pay for non-therapeutic abortions without conducting formal hearings on regulations; a ruling which shifted the entire burden of the cost of abortions to the counties. The Hennepin County decision is particularly significant because more than half the state's abortions for poor women are done in Hennepin County.¹ In a September 23, 1977 decision the state Supreme Court held that counties may refuse to pay their share of the cost of abortions.²

¹St. Paul Pioneer Press, 28 September 1977

²Mower County Welfare Board v. State of Minnesota Department of Public Welfare, No. 157 and Dakota County Welfare Board v. State of Minnesota Department of Public Welfare, No. 149 (Minn. Sup. Ct.) (FPPR, 6:6, 79.

WHO PERFORMS MEDICAID ABORTIONS?

As the table below indicates,

"74 percent of abortions that are not financed by Medicaid are performed in nonhospital clinics or private physicians' offices; just four percent are performed in public hospitals and 22 percent in private hospitals. In contrast, 19 percent of all Medicaid-funded abortions are performed in public hospitals, 50 percent in private hospitals, and only 31 percent in clinics or physicians' offices.

"Although only about half of all provider hospitals report that they perform any Medicaid-funded abortions, compared to 70 percent of clinics, seven out of 10 Medicaid-reimbursed abortions are performed in hospitals. Medicaid-financed abortions account for 60 percent of public hospital abortions and 44 percent of private hospital terminations, compared with only 13 percent of all clinic procedures."¹

Estimated number and percent distribution of Medicaid-funded abortions and non-Medicaid abortions, percent of total abortions that are funded by Medicaid, and percent of abortion providers that report performing abortions funded by Medicaid, by type of provider, FY 1976¹

Type of provider	No. of abortions		% distribution of abortions		% total abortions Medicaid-funded	% providers that perform Medicaid abortions
	Medicaid-funded	Not Medicaid-funded	Medicaid-funded	Not Medicaid-funded		
Total	274,400	800,000	100	100	26	54*
Hospitals						
Private	138,000	173,600	50	22	44	52
Public	51,700	34,200	19	4	60	46
Clinics/MD Offices	84,700	592,200	31	74	13	70*

*Excluding private physicians' offices.

Note: Data on total abortions from AGI 1976 abortion survey; all other data from AGI 1977 sample provider survey.

¹ Family Planning Perspectives, 9:5, 212.

HOW MANY MEDICAID-ELIGIBLE WOMEN WHO WOULD HAVE PREFERRED ABORTION WERE UNABLE TO OBTAIN THEM BEFORE IMPLEMENTATION OF THE HYDE AMENDMENT?

Using the estimated abortion rates in each state, it is

"possible to calculate approximately how many additional Medicaid-funded abortions might have been performed in 1976 under conditions of equitable distribution throughout the country; in other words, the number of Medicaid recipients who were unable to obtain legal abortions in 1976, even before the recent restrictions were implemented."¹

The weighted average abortion rate in the 12 states with Medicaid abortion rates at or above the national average is 86. If this rate is applied to

"the Medicaid-eligible population of the remaining 39 states, the total number of Medicaid abortions would have been 164,000 more than actually occurred.

The figure of 164,000 additional Medicaid-funded abortions that would have been obtained under conditions of high accessibility and availability is probably conservative. This is because the 12 higher-than-average abortion rate states are from all parts of the country; and it is not likely that all Medicaid-eligible women who want abortions are actually obtaining them in all these states."¹

This analysis suggests that at least 164,000 Medicaid-eligible women

"who needed and wanted abortions were unable to obtain them--before implementation of the Hyde Amendment--as a result of restrictive Medicaid practices and the lack of abortion services in most states."¹

¹ Family Planning Perspectives, 9:5, 211.

HOW MANY ABORTIONS DO MEDICAID RECIPIENTS RECEIVE, COMPARED TO THE NON-POOR?

As the table below shows,

"utilization of legal abortion services among the poor, as measured by the rate of abortions per 1,000 Medicaid-eligible women aged 15-44, was about three times higher in FY 1976 than among the nonpoor. This is consistent with previous findings that the incidence of unwanted and mistimed pregnancies and births is much higher among poor than among nonpoor women.

Abortion rates for Medicaid-eligible women would have been higher still if access to abortion services had been distributed more equitably among different areas in FY 1976. In six out of 10 of the states, abortions are concentrated in one or two large metropolitan areas, and in eight out of 10 counties, there is not a single abortion provider. The need to travel often over considerable distances, to obtain abortions has been shown to be a major barrier to utilization by individuals from lower socio-economic groups--especially teenagers. In addition, some states pay providers considerably less than the actual charge for the abortion under their Medicaid plans, or restrict payment to specified facilities, such as hospitals. Nevertheless, Medicaid abortion rates were higher than non-Medicaid rates in all but four states (Florida, Kentucky, Massachusetts and Tennessee) that reported paying anything for abortions under their Medicaid programs.

It is difficult to explain the large variations in Medicaid abortion rates among the states in terms of attitudinal differences, since there are striking differences in the rates in contiguous states, where the age and race of the Medicaid-eligible population are fairly similar.

Such differences among bordering states, whose populations are comparable, seem to be attributable primarily to inequitable distribution of services and/or to restrictive policies."¹

¹ Family Planning Perspectives, 9:9, 211.

Estimated rate of Medicaid-funded abortions per 1,000 Medicaid-eligible women and rate of abortions not Medicaid-funded per 1,000 women not eligible for Medicaid, by state, FY 1976¹

State	Medicaid rate	Non-Medicaid rate	Medicaid/non-Medicaid ratio	State	Medicaid rate	Non-Medicaid rate	Medicaid/non-Medicaid ratio
U.S. total	53-56	19	2.8-3.0				
Ala.	20	7	3.0	Mo.	25	10	2.5
Alaska	74	16	4.6	Mont.	46	5	8.3
Ariz.	*	16**	u	Nebr.	16	14	1.2
Ark.	11	6	1.8	Nev.	60	25	2.4
Calif.	100	24	4.2	N.H.	18	12	1.4
Colo.	77	20	3.8	N.J.	52	17	3.0
Conn.	37	17	2.2	N.Mex.	41	17	2.4
Del.	30	17	1.8	N.Y.	85	35	2.5
D.C.	190	171	1.1	N.C.	29	15	2.0
Fla.	16	28	0.6	N.Dak.	u	10**	u
Ga.	30	21	1.5	Ohio	46	16	2.8
Hawaii	56	27	2.1	Okla.	14	12	1.2
Idaho	u	7**	u	Oreg.	43	25	1.7
Ill.	60	19	3.1	Pa.	39	17	2.2
Ind.	u	7**	u	R.I.	30	16	1.9
Iowa	25	10	2.7	S.C.	25 ⁺	8	3.1
Kans.	82	24	3.4	S.Dak.	u	11**	u
Ky.	7	12	0.6	Tenn.	15	22	0.7
La.	u	9**	u	Tex.	91	16	5.6
Maine	17	7	2.3	Utah	18	8	2.4
Md.	56	21	2.6	Vt.	32	21	1.5
Mass.	21	28	0.7	Va.	65	15	4.2
Mich.	52	16	3.1	Wash.	37	27	1.4
Minn.	22	14	1.6	W.Va.	13	1	15.9
Miss.	u	1**	u	Wis.	34	11	3.2
				Wyo.	28	5	5.4

*No Medicaid program in FY 1976.

**Total abortion rate.

+Includes abortions funded under Title XX as well as under Title XIX, since in South Carolina abortion services were restricted under both titles to women who were categorically indigent.

Note: u = unavailable.

¹Family Planning Perspectives, 9:5, 210.

HOW MUCH DOES AN ABORTION COST, RELATIVE TO A WELFARE RECIPIENT'S INCOME?

"The average cost of an abortion in the United States--\$280--is \$42 higher than the average monthly welfare payment for an entire family for food, clothing, shelter and all other necessities. In only 13 states¹ and the District of Columbia is the cost of an abortion less than the monthly family AFDC payment. Under these circumstances, it seems clear that not very many pregnant women on welfare will be able to get together the money to pay for their own legal abortions--and if they do, it will be at the sacrifice of basic necessities of food and shelter for themselves or their families."²

The table on the next page lists the average abortion cost and the average AFDC monthly payment in every state.

¹ Alaska, California, Colorado, District of Columbia, Hawaii, Illinois, Kansas, Maryland, Nevada, New York, Texas and Virginia.
² Family Planning Perspectives, 9:5, 211.

Average abortion cost, average monthly family AFDC payment and ratio of cost to payment, by state, United States, FY 1976¹

State	Average abortion cost*	Average AFDC monthly payment**	Cost/payment ratio
U.S. total	\$280	\$238	1.2
Ala.	310	113	2.7
Alaska	293	297	0.8
Ariz.	207	141	1.5
Ark.	307	135	2.3
Calif.	379	297	1.3
Colo.	301	205	1.5
Conn.	409	268	1.5
Del.	460	207	2.2
D.C.	239	242	1.0
Fla.	211	139	1.5
Ga.	214	97	2.2
Hawaii	430	363	1.2
Idaho	400	256	1.6
Ill.	225	269	0.8
Ind.	244	168	1.5
Iowa	310	247	1.3
Kans.	379	229	1.7
Ky.	199	171	1.2
La.	160	119	1.3
Maine	274	193	1.4
Md.	280	175	1.6
Mass.	218	300	0.7
Mich.	232	296	0.8
Minn.	278	266	1.0
Miss.	460	48	9.6
Mo.	167	137	1.2
Mont.	383	173	2.2
Nebr.	202	210	1.0
Nev.	250	157	1.6
N.H.	321	217	1.5
N.J.	280	263	1.1
N.Mex.	289	140	2.1
N.Y.	309	363	0.9
N.C.	331	154	2.1
N.Dak.	160	258	0.6
Ohio	202	195	1.0
Okla.	169	203	0.8
Oreg.	415	260	1.6
Pa.	298	283	1.1
R. I.	448	263	1.7

State	Average abortion cost*	Average AFDC monthly payment**	Cost/ payment ratio
S.C.	\$226	\$ 85	2.6
S.Dak.	160	205	0.8
Tenn.	196	104	1.9
Tex.	208	104	2.0
Utah	184	246	0.7
Vt.	181	255	0.7
Va.	253	191	1.3
Wash.	223	252	0.9
W.Va.	460	196	2.3
Wis.	241	296	0.8
Wyo.	460	196	2.3

*The average costs for a hospital abortion (\$460) and clinic abortion (\$160) were derived from the AGI provider sample survey. For each state, these averages were multiplied by the percentage of all abortions (from the 1976 AGI abortion survey) performed in hospitals or in clinics and physicians' offices. The results were summed to obtain the average abortion cost in the state.

**Average payment per family, from National Center for Social Statistics, DHEW, Public Assistance Statistics, February 1977, June 1977, Table 4A, p. 7.

WHAT WILL BE THE COST EFFECT OF THIS NEW MEDICAID POLICY?

The cost effect is even more difficult to predict than the maternal health effect, but the following figures are relevant.

COST OF ABORTIONS¹

abortion cost--outpatient clinic	\$150 per pregnancy
abortion cost--private practitioner at hospital	\$450-\$600 per pregnancy
childbirth cost--prenatal care, delivery, first year	\$2200 per pregnancy
childraising cost--low income family cost per child, birth to 18 years	\$35,261 ²

-at a cost of \$175-\$190 per abortion and \$2200 per childbirth, the government pays 10 times the amount in medicaid to persons choosing childbirth as to persons choosing abortion

government medicaid payments for abortions
as of August, 1977-----\$40-\$50 million/year

cost to government in medicaid payments for the first
year after birth for medical care and public assistance
if all abortions were carried to term-----\$450-\$565 million/year

¹ NOW Information Release

² Louis Hellman, M.D., "The Medical Aspects of Abortion," June 6, 1977.

WHAT WILL BE THE EFFECT OF THIS NEW MEDICAID PAYMENT POLICY ON MATERNAL DEATHS?

Using Medicaid data, census enumerations, vital statistics and the CDC's abortion surveillance reports officials of DHEW's Center for Disease Control have prepared the following estimates:

"If all women who would have obtained a legal abortion turned to illegal channels to terminate their pregnancies, 90 additional deaths per year would result.

If 70 percent of the women had an illegal abortion and 30 percent chose to carry their pregnancies to term, 77 additional deaths would occur--63 deaths from illegal abortion, and 14 from complications related to childbirth.

If all women who would have obtained a legal Medicaid, funded abortion chose to carry their pregnancies to term, an additional 44 deaths would occur.

If difficulties in obtaining funds for abortion resulted in an average delay of two weeks in obtaining a legal abortion, five additional legal abortion deaths would occur--raising the national abortion death-to-case rate by 21 percent, and increasing the death-to-case rate of women who would have had Medicaid abortions by 60 percent."¹

Senator Edward Brooke predicted that the new abortion amendment, passed December 7, would allow one-third of the 260,000 Medicaid abortions that took place before legislative restrictions went into effect last June. Therefore, approximately 166,000 women who would have chosen Medicaid financed abortions will not be eligible for that care. ²

¹ Family Planning Perspectives, 9:5, 213.

² Minneapolis Tribune, 8 Dec. 1977.

WHAT WILL BE THE MORBIDITY EFFECTS OF THE NEW MEDICAID PAYMENT POLICIES?

It is difficult to estimate, but it is generally believed that "major complications from illegal and legal abortion and from pregnancy and childbirth are more than one hundred times more frequent than death--especially among poor women. These health consequences are in addition to the enormous social and financial costs to the poor women involved and to their families."¹

¹ Family Planning Perspectives, 9:5, 213.

WHICH ALTERNATIVE IS A WOMAN LIKELY TO CHOOSE IF SHE IS DENIED MEDICAID FINANCING FOR AN ABORTION?

When welfare recipients receiving abortions at Meadowbrook Clinic were asked what they would do if they had been ineligible for a public financed abortion and couldn't raise the money, they made the following responses:

	<u>No.</u>	<u>Percent</u>
1. Carry through the pregnancy and keep the baby	14	23
2. Carry through the pregnancy and give the baby up for adoption	7	11.6
3. Try to end the pregnancy myself	15	25
4. Try to get an illegal abortion for less money	17	28
5. Other:	7	11.6
"Pray for a miscarriage"		Multiple responses given
"Not sure"		
"End my life also"		

The United States Supreme Court has ruled that individual states do not have to pay for abortions for women who receive welfare funds. Did you know about this Court ruling before you came here today?

	<u>No.</u>	<u>Percent</u>
1. Yes	68	76
2. No	21	24

Your abortion at this clinic would cost \$_____ if you were paying for it yourself. Would you be able to raise this if welfare refused to pay?

	<u>No.</u>	<u>Percent</u>
1. Yes	12	13
2. No	33	37
3. Uncertain	44	49

If you COULD raise the money, how do you think you would do it?

(Circle ALL that apply.)

	<u>No.</u>	<u>Percent</u>
1. Borrow from family	43	
2. Borrow from friends	28	Multiple
3. Ask man involved to pay for part or all of it	53	responses
4. Sell something I own	21	given -
5. Try to borrow from loan company	14	No %.
6. Other (Please explain)	8	
7. No response	4	

Before you needed an abortion were you:

	<u>No.</u>	<u>Percent</u>
1. For legalized abortion	57	64
2. Against legalized abortion	5	6
3. I had mixed feelings	21	24
4. I had no opinion	6	7

Do your plans for the future include getting off welfare:

	<u>No.</u>	<u>Percent</u>
1. Yes, very soon	41	46
2. Yes, someday in the future but I'm not sure when	47	53
3. No, probably not	1	1

If you had to have a baby now, would you be on welfare?

	<u>No.</u>	<u>Percent</u>
1. A longer time	72	81
2. A shorter time	10	11
3. No change	7	8

Is your abortion today MOSTLY necessary because of:

	<u>No.</u>
1. Medical risk to your life	0
2. Medical risk to your health	4
3. Fear that the pregnancy is not normal	6
4. Life situation - (for example, financial, not ready for a child, family complete)	34
5. Forced intercourse (rape)	0
6. Incest	0
7. No response	1

(Not included in 1st questionnaire -- multiple responses received.)

How old were you on your last birthday?

<u>Age</u>	<u>No.</u>	<u>Percent</u>
Less than 15	1	1
15-19	32	36
20-24	37	41
25-29	13	15
30-34	6	7
35+	0	

How many living children do you have?

<u># Children</u>	<u>No.</u>	
0	22	
1	43	
2	20	Average .75
3+	4	

Note: Some women got M.A. just for the AB, also, some came from AFDC families and are still dependents themselves.

IT HAS BEEN ARGUED THAT INDIVIDUALS WHO BELIEVE IN ABORTION CAN MAKE DONATIONS TO FACILITIES, MAKING ABORTIONS AVAILABLE TO THE POOR WHILE RELIEVING TAXPAYERS OF THE BURDEN. ARE FREE ABORTIONS COMMON; COULD THEY SOLVE THESE PROBLEMS?

The answer to this question comes from the October issue of Family Planning Perspectives.¹

"About 75 percent of nonhospital clinics, 30 percent of private hospitals and 27 percent of public hospitals provided some free or reduced-cost abortions to poor people in 1976. (In some instances--especially among clinics--reduced-fee policies reflected Medicaid reimbursement rates set at below actual abortion charges.) An estimated 14 percent of all clinic abortion patients and possibly four percent of all hospital abortion patients (a total of more than 100,000 women) obtained reduced-cost or free abortions in 1976.

"In addition, about three-quarters of nonhospital clinics and public hospitals and nearly two-thirds of private hospitals offered deferred payment plans to some women in financial difficulty. Payments were deferred for an estimated 15 percent of all clinic patients and for perhaps six percent of hospital patients (for a total of about 120,000 women).

"There is an unknown degree of overlap among abortions for which providers accepted reduced and deferred payments in 1976, but it is probable that providers are already subsidizing, through one or both of these channels, at least 150,000 abortions annually. If public subsidies were withdrawn, current providers would have to almost triple the number of abortions that they are now subsidizing to make up the deficit, assuming that Medicaid recipients could raise even the reduced fees.

"What is more, the role of private philanthropy in financing personal health services has always been very small and, according to DHEW, has been steadily declining--from 2.9 percent of total expenditures in 1960 to just 1.1 percent in 1975. If private contributions to finance abortion services were five times as great as they are for all other personal health services, and if all of those contributions were spent to subsidize abortions formerly financed by Medicaid, only five percent of the 261,000-274,000 Medicaid abortions would be covered.

¹ Family Planning Perspectives, 9:5, 212.

III. OTHER INFORMATION



FACILITIES PROVIDING ABORTIONS

Are public hospitals legally obligated to provide nontherapeutic abortion services?

Are private hospitals legally obligated to provide nontherapeutic abortion services?

When the courts say that public hospitals do not have to perform nontherapeutic abortions, do they consider abortions to preserve the woman's health, or in cases of rape, incest or a deformed fetus "therapeutic"?

Are public hospitals providing abortion services?

Do hospitals owned and operated by the federal government perform abortions?

Does Minnesota have a policy about institutional obligation to perform abortions?

Can a state specify the facilities in which an abortion may be performed?

ARE PUBLIC HOSPITALS LEGALLY OBLIGATED TO PROVIDE NONTHERAPEUTIC ABORTION SERVICES?

A recent U.S. Supreme Court decision, Poelker v. Doe¹, held that public hospitals are not required to provide publicly financed nontherapeutic abortion services. In a June 20, 1977 decision the U.S. Supreme Court reversed a decision by the U.S. Court of Appeals for the Eighth Circuit which held that the city of St. Louis, Missouri had to make its facilities available for abortions and had to hire staff willing to perform abortions. The Court concluded that the issue was identical to the question of whether a state could refuse Medicaid benefits for nontherapeutic abortions while providing them for childbirth.

"For the reasons set forth in . . . [Maheer v. Roe], we find no constitutional violation by the city of St. Louis in electing, as a policy choice, to provide publicly financed hospital services for childbirth without providing corresponding services for nontherapeutic abortions."¹

This U.S. Supreme Court decision about the responsibility of public hospitals reverses the trend of lower courts. Courts in five states,² in addition to Missouri, had ordered public hospitals to make their facilities available for nontherapeutic abortions.³ Only in Arizona has a public hospital been permitted to deny the use of its facilities for nontherapeutic abortions.⁴

¹Poelker v. Doe, No. 75-442.

²Massachusetts (Doe v. Hale Hospital, 369 F.Supp. 970 (D. Mass. 1974) aff'd, 500 F.2d 144 (1st Cir. 1974), cert. denied, 420 U.S. 907 (1975)); Minnesota (Nyberg v. City of Virginia, 361 F.Supp. 932 (D.Minn. 1973), aff'd, 495 F.2d 1342 (8th Cir. 1974), cert. denied, 419 U.S. 891 (1974)); Nebraska (Orr v. Koefoot, 377 F.Supp. 673 (D. Nebr. 1974)); West Virginia (Doe v. West Virginia University Hospital, No. 75-0524 (N.D. W. Va., Aug. 8, 1975)); Wisconsin (Doe v. Mundy, 378 F.Supp. 731 (E.D. Wis. 1974), stay denied, 95 S.Ct. 28 (1974), aff'd, 514 F.2d 1179 (7th Cir. 1975).

³FPPR, 6:4, 48.

⁴Roe v. Arizona Bd. of Regents, No. 12143-PR (Ariz. Sup. Ct., May 11, 1976).

ARE PRIVATE HOSPITALS LEGALLY OBLIGATED TO PROVIDE NONTHERAPEUTIC ABORTION SERVICES?

State and federal courts differed about whether receipt of federal money made the action of a private voluntary hospital a state action. Courts had generally found that "state action" must allow the performance of nontherapeutic abortions. To clear up those differences, Congress passed a law stating that receipt of government money does not authorize a court to find state action and require provision of abortions, but a hospital policy denying abortions must be based on the religious belief of moral convictions of the hospital. Apparently the Poelker v. Doe¹ changed all this: the 14th Amendment doesn't require any hospital to make nontherapeutic abortions available.

Although constitutional law apparently does not require hospitals to provide nontherapeutic abortions, states' common law may require their provision, particularly in nonsectarian hospitals. In late June, 1977, the U.S. Supreme Court "denied certiorari, and therefore let stand, a 1976 decision of the New Jersey Supreme Court that private, nonprofit, nonsectarian hospitals may not deny the use of their facilities for elective abortions."² Unlike the St. Louis hospital case,¹ in which the U.S. Supreme Court held that the Constitution did not require public hospitals to provide nontherapeutic abortion services, the New Jersey Supreme Court based its decision primarily on the hospitals' common law obligation to serve the general public, rather than any requirement of the federal Constitution."³ The majority of justices gave no reason for the court's refusal to review the case. Certiorari is not normally granted unless there is a substantial federal question.

¹Poelker v. Doe, No. 75-442.

²Bridgeton Hospital Ass'n v. Doe, 45 U.S.L.W. 3840 (U.S. June 27, 1977) (No.76-978).

³FPPR, 6:4, 48.

WHEN THE COURTS SAY THAT PUBLIC HOSPITALS DO NOT HAVE TO PERFORM NON-THERAPEUTIC ABORTIONS, DO THEY CONSIDER ABORTIONS TO PRESERVE THE WOMAN'S HEALTH, OR IN CASES OF RAPE, INCEST OR A DEFORMED FETUS "THERAPEUTIC"?

No. A federal court ruled on September 2, 1977¹ that the Supreme Court decisions do not require public hospitals to make their facilities available for medically necessary abortions. In the Court's financing decisions Beal v. Doe² and Maher v. Roe³ it held that there was "no constitutional violation in the failure to provide funding for medically necessary abortions."¹ In Doe v. Mundy¹ the District Court held that the Supreme Court's public hospital decision⁴ also inferred that permission of abortion is required only when there is "a threat of grave physiological injury or death to the mother."

¹Doe v. Mundy, No. 74-C-224 (E.D. Wis.).

²45 U.S.L.W. 4781 (U. S. June 20, 1977) (No. 75-554).

³45 U.S.L.W. 4787 (U. S. June 20, 1977) (No. 75-1440).

⁴Poelker v. Doe, 45 U.S.L.W. 4794 (U. S. June 20, 1977) (No. 75-442).
FPPR, 6:6, 75.

ARE PUBLIC HOSPITALS PROVIDING ABORTION SERVICES?

Nationally, only 17% of public hospitals perform abortions.¹

In Minnesota, Department of Health statistics show that less than 10% of the abortions in the state are performed in government-run hospitals.²

When a service is available in a public hospital, it is more accessible to the poor.

¹ NOW Information Release.

² Cope & Dornfield, Minneapolis Tribune, 21 June 1977.

DO HOSPITALS OWNED AND OPERATED BY THE FEDERAL GOVERNMENT PERFORM ABORTIONS?

In September, 1975 the Defense Department directed military hospitals to provide abortion services. In December, 1975 DHEW directed the 60 hospitals operated under the department's Public Health Service to offer abortions.¹ It appears that these policies have not yet changed.

¹ Family Planning/Population Reporter, 4:6, 113.

DOES MINNESOTA HAVE A POLICY ABOUT INSTITUTIONAL OBLIGATION TO PERFORM
ABORTIONS?

Yes. The Minnesota abortion statute contains a provision allowing public hospitals to refuse to make their facilities available for abortions.¹ In October, 1976 the U.S. Court of Appeals for the Eighth Circuit ruled that this section of the 1974 abortion statute was unconstitutional.² This policy may change as a result of the U.S. Supreme Court decision in Poelker v. Doe³ in June, 1977.

¹145.414 ABORTION NOT MANDATORY. No person and no hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion for any reason.

²Hodgson v. Lawson, 45 U.S.L.W. 2198.

³45 U.S.L.W. 4794 (U. S. June 20, 1977) (No. 75-442).

CAN A STATE SPECIFY THE FACILITIES IN WHICH AN ABORTION MAY BE PERFORMED?

Not during the first trimester. This was stated in Roe v. Wade and Doe v. Bolton. Many state statutes have been contested for this reason. Most recently:

"The U.S. Supreme Court affirmed, six to three without a hearing, a lower court decision which held unconstitutional an Indiana law requiring that first-trimester abortions be performed by a physician in a hospital or in a licensed health facility which has the basic safeguards as provided by a hospital admission, and has immediate hospital backup."¹

¹ Sendak v. Arnold, 45 U.S.L.W. 3398. FPPR. 6:1.

PROFESSIONAL ISSUES

Does Minnesota require the attendance of two physicians at an abortion?

If a state's criminal abortion law has been invalidated, can non-physician abortionists be prosecuted?

DOES MINNESOTA REQUIRE THE ATTENDANCE OF TWO PHYSICIANS AT AN ABORTION?

Statute 145.231 (Section 2), passed in 1976, requires that a second physician be available at any abortion that's performed after the 20th week of pregnancy to attend any fetus that might have a chance of surviving. When a live birth results from an abortion Minnesota physicians are required to "take all reasonable measures consistent with good medical practice" to preserve that life.

There is a chance that this 1976 statute could be challenged in court. When the 1974 Minnesota abortion statute was challenged, sections of the law which defined a fetus as "potentially viable" after 20 weeks, prohibited abortion when the mother's health was endangered and required "potentially viable" fetuses to be aborted in a way most likely to assure their survival were all found unconstitutional. Those statutory provisions were struck down because they imposed restrictions which were "not necessarily related to maternal health. Under Roe, such restrictions are impermissible during the second trimester of pregnancy."¹

¹Hodgson v. Lawson, 45 U.S.L.W. 2198.

IF A STATE'S CRIMINAL ABORTION LAW HAS BEEN INVALIDATED, CAN NONPHYSICIAN ABORTIONISTS BE PROSECUTED?

Yes. In November 1975 the U.S. Supreme Court held that nonphysician abortionists are not immune from prosecution under criminal abortion statutes.

According to the court "the insufficiency of the state's interest in maternal health is predicated upon the first trimester abortion being as safe for the woman as normal childbirth at term." This is true "only if the abortion is performed by medically competent personnel under conditions insuring maximum safety for the woman."¹

This Supreme Court decision effectively reversed a Minnesota Court decision² which held that invalidation of the state criminal abortion law prevented prosecution of nonphysician abortionists.³

¹Connecticut v. Menillo, 423 US 9, 46 L. Ed. 2d 152, 96 S Ct 170.

²State v. Hultgren, 295 Minn. 299, 204 N.W.2d 197 (1973).

³Family Planning/Population Reporter, 4:6, 105.

REPORTING

Can a state constitutionally require that all abortions be reported to the health department?

CAN A STATE CONSTITUTIONALLY REQUIRE THAT ALL ABORTIONS BE REPORTED TO THE HEALTH DEPARTMENT?

In Danforth v. Planned Parenthood of Central Missouri¹ the U.S. Supreme Court held that "recordkeeping and reporting requirements that are reasonably directed to the preservation of maternal health and that properly respect a patient's confidentiality and privacy are permissible" even during the first trimester.

When the U.S. Court of Appeals for the Eighth Circuit reviewed the reporting requirements in Minnesota statutes it held that records which are "directed to the preservation of maternal health and which respect a patient's confidence and privacy, as these do here, are permissible *regardless* of the stage of pregnancy."²

¹44 U.S.L.W. 5197.

²Hodgson v. Lawson, 45 U.S.L.W. 2198.

PREVENTION OF PREGNANCY

How effective are counseling and education programs which encourage the use of contraception?

Is abortion or contraception more effective in lowering the fertility of women under 14 years of age?

HOW EFFECTIVE ARE COUNSELING AND EDUCATION PROGRAMS WHICH ENCOURAGE THE USE OF CONTRACEPTION?

A followup study has been done of 180 adolescents 6-8 years after they were served by a comprehensive program of prenatal, maternity, and newborn care for school-age mothers. This New Haven, Connecticut program included a heavy increment of counseling and education encouraging the use of contraception. The followup found:

"that over one-third of them had used legal abortion to terminate some 80 subsequent pregnancies; an additional 16 young women had sought and received surgical sterilization. The abortion experience after the first pregnancy of the 180 teenage mothers served by this special program was not significantly different from comparable groups of teenage mothers who had not been served by the program. The figures almost certainly understate the situation since they are based on a review of medical records at the Yale-New Haven Hospital and thus do not include abortions or sterilizations performed elsewhere."¹

¹Abortions and Public Policy, AJPH, 65:7, 604.

IS ABORTION OR CONTRACEPTION MORE EFFECTIVE IN LOWERING THE FERTILITY
OF WOMEN UNDER 14 YEARS OF AGE?

In 1972 a Georgian law allowed minors to obtain contraceptive advice without parental consent. However, the fertility rate of Georgian teenagers under age 15, which had begun to rise in 1967, continued to do so through 1973. It declined slightly in 1974 for the first time in 6 years. In 1975 the decline was quite sharp. It was greatest among whites and residents of Central Atlanta.

The timing of the decline, differences in geographic accessibility and the reported utilization of abortion and contraceptive services suggest that the delivery of abortion services rather than contraceptive services is responsible for this recent decline in fertility.¹

¹"Abortions and Public Policy, AJPH, 67:7, 604.

PROMOTION OF ABORTION AS AN OPTION

Is it legal to advertise abortion services?

Do federal family planning programs do abortion counseling?

IS IT LEGAL TO ADVERTISE ABORTION SERVICES?

Yes, In Bigelow v. Virginia¹ the U.S. Supreme Court struck down a Virginia statute prohibiting abortion advertising. In subsequent decisions, similar statutes in Montana² and Louisiana³ were declared unconstitutional in federal district courts. The decision on the Louisiana statute was affirmed without comment by the U.S. Supreme Court.

¹421 U.S. 809 (1975)

²Doe v. Deschamps, CV 74-120-M (D. Mont.)

³Guste v. Weeks, 45 U.S.L.W. 3485 (U.S. Jan. 17, 1977 (No. 76-75))

DO FEDERAL FAMILY PLANNING PROGRAMS DO ABORTION COUNSELING?

No. Family planning programs funded under Title X of the Public Health Services Act and Title V of the Social Security Act cannot legally do abortion counseling.

PUBLIC OPINION

What do the national polls say?

Which national organizations support "The Right to Choose"?

What do Minnesota polls say?

Which Minnesota organizations are on record as supporting "Freedom of Choice"?

WHAT DO THE NATIONAL POLLS SAY?

NEW YORK TIMES/CBS NEWS POLL — September 5, 1976 — random selection of 1703 registered voters. (NY Times/CBS News, 1976)

"Do you favor an amendment to the Constitution that would make abortions illegal, or do you oppose such a change in the law?"

Favor	Oppose	Don't know/no answer
32%	56%	12%

HARRIS SURVEY — Spring 1972, 1973, 1975, 1976 — interviews with 1,000-2,000 adults nationwide. (Louis. Harris and Associates, Inc., 1972-1976)

"Do you favor or oppose the U.S. Supreme Court decision making abortions up to three months of pregnancy legal?"

	1972	1973	1975	1976*
Favor	42%	52%	54%	54%
Oppose	46	41	38	39
Not Sure	12	7	8	7

*In 1976, the Harris survey asked a cross section of 1,512 nationwide: "In 1973, the U.S. Supreme Court decided that state laws making it illegal for a woman to have an abortion up to three months of pregnancy were unconstitutional, and that the decision on whether a woman should have an abortion up to three months of pregnancy should be left up to the woman and her doctor. In general, do you favor or oppose the U.S. Supreme Court decision making abortions up to three months of pregnancy legal?"

GALLUP POLL — March 1976 — personal interviews with 1,525 adults nationwide. (Field Enterprises, Inc., 1976)

"A constitutional amendment has been proposed which would prohibit abortions, except when the pregnant woman's life is in danger. Would you favor this amendment which would prohibit abortions or would you oppose it?"

	Favor	Oppose	No Opinion
National	45%	49%	6%
College Background	30	65	5
High School	49	46	5
Grade School	56	31	13

GALLUP POLL — April 1975 — interviews with 1,535 persons 18 or older nationwide. (Field Enterprises, Inc., 1975)

"Do you think that abortion should be legal under any circumstances, legal under certain circumstances, or illegal in all circumstances?"

Should be legal under any circumstances	21%
Should be legal only under certain circumstances	54
Should be illegal in all circumstances	22
No Opinion	3

***(1) NATIONAL OBSERVER PLEBISCITE** — February 22-March 5, 1976, page one ballot of three choices offered to readers nationwide, to which 13,572 responded. (Reflects intensity of feeling on issue.) (National Observer, 1976)

71% or 9,683 agreed: "let the Supreme Court decision legalizing abortion stand."
 23.9% or 3,247 agreed: "amend the Constitution to outlaw all abortions."
 4.7% or 642 agreed: "amend the Constitution to return abortion matters to the states."

NBC NEWS POLL — February 26-28, 1976 — interviews with 1,500 adults throughout the United States. (NBC News, 1976)

"Are you in favor of an Amendment to the Constitution which would make it illegal to have an abortion or would you oppose such an Amendment?"

Opposed	In Favor	Not Sure
66%	26%	8%

NEW YORK TIMES/CBS NEWS POLL — February 2-8, 1976 — interviews with 1,463 adult men and women across the contine United States. (NY Times/CBS News, 1976)

"The right of a woman to have an abortion should be left entirely up to the woman and her doctor."

Agree	Disagree	Don't Know
67%	26%	7%

***(2) KNIGHT-RIDDER NEWSPAPERS SURVEY** — January 12-17, 1976 — interviews with 1,117 adults in 21 cities. (Knight-Ridder Newspapers, 1976)

"If a woman wants to have an abortion, that is a matter for her and her doctor to decide and the government should have nothing to do with it."

Agree 81%	Disagree 15%	Not Sure 4%
Agreement by Religion	Protestants 82%	Jews 98%
		Catholics 76%

NBC NEWS POLL — November 6, 1974 — interviews with a national probability sample of 9,733 voters; January 4, 1976 — telephone interviews, nationwide, with 2,836 adults. (NBC News, 1974, 1976)

"Would you like to see abortion laws changed so that it would be harder for a woman to get an abortion, easier for a woman to get an abortion, or do you think abortion laws should be left the way they are?"

	1974	1976
Harder	32%	33%
No Change	28	32
Easier	30	24
Not Sure	10	11

WASHINGTON SURVEY — February and April 1975 — interviews with an area probability sample of 2,102 residents of Greater Washington, D. C. (Bureau of Social Science Research, Inc., 1975)

"The decision to have an abortion should be made solely by a woman and her physician."

Agree 77%	Disagree 20%	No Opinion 4%
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DEVRIES POLL — December 1974 — interviews with 4,004 adults nationwide. Commissioned by the National Committee for a Human Life Amendment. (DeVries and Associates, March, 1975)

"Abortion should not be allowed under any circumstances."

	Total	Catholic	Protestant	Jewish
Strongly agree	15.8%	22.3%	14.6%	2.6%
Mildly agree	7.8	9.0	7.9	3.6
Mildly disagree	21.7	22.7	23.2	4.5
Strongly disagree	50.5	42.0	49.5	86.9
Not sure	4.2	4.0	4.8	2.4

VIRGINIA SLIMS AMERICAN WOMEN'S OPINION POLL — Spring 1974 — interviews with 3,006 women and 1,002 men. (The Roper Organization, Inc., 1974)

"Laws making abortion legal should be repealed."

	Agree	Disagree	Not Sure
Women	36%	50%	14%
Men	31	55	14

"Where abortions are legal, the decision about an abortion should be left up to a woman and her doctor."

	Agree	Disagree	Not Sure
Women	74%	15%	12%
Men	70	17	13

NATIONAL OPINION RESEARCH SURVEY — July 1972 and July 1973 — interviews with a national probability sample of men and women (quota sample at block level). Commissioned by the *National Catholic Reporter*. (National Opinion Research Center, 1972, 1973)

Attitudes Toward Abortion by Religious Affiliation (Per Cent Approve)

Reason for Abortion	Protestant		Catholic		Jew	
	1972	1973	1972	1973	1972	1973
Danger to mother's health	83%	91%	80%	88%	96%	100%
Rape	74	81	70	75	96	98
Chance of defective child	75	83	67	77	91	100
Does not want more children	36	46	29	34	70	91
Mother is unwed	39	48	32	34	80	88
Too poor to have more children	45	52	36	39	78	92

WHICH NATIONAL ORGANIZATIONS SUPPORT "THE RIGHT TO CHOOSE"?

LEGAL

American Civil Liberties Union
Minnesota Civil Liberties Union

National Emergency Civil Liberties Committee
Women's Legal Defense Fund

MEDICAL

American Association of Planned Parenthood Physicians
American College Health Association
American College of Nurse-Midwives
American College of Obstetricians and Gynecologists
American Medical Association
American Medical Women's Association
American Protestant Hospital Association

American Psychiatric Association
American Public Health Association
Medical Committee for Human Rights
National Association of Reproductive Health Centers
Physicians Forum
Physician's National Housestaff Association
American Medical Student Association

SOCIAL SERVICE

American Friends Service Committee
American Psychological Association
Association for Voluntary Sterilization
National Council on Family Relations

Planned Parenthood/World Population
President's Task Force on the Mentally Handicapped
Sex Information and Education Council of the U.S.
White House Conference on Children and Youth

WOMEN

American Association of University Women
Human Rights for Women
Intercollegiate Association of Women Students
National Association of Women Deans, Administrators
and Counselors
National Association of Commissions of Women

National Commission on Observance of
International Women's Year 1975
National Organization for Women
U.S. Commission on the Status of Women
Women's Equity Action League
Women's International League for Peace and Freedom
Women's Lobby

RELIGIOUS

American Baptist Churches in the USA
American Jewish Congress
American Lutheran Church
American United for Separation of Church and State
Baptist Joint Committee on Public Affairs
Central Conference of American Rabbis
Church of the Brethren
Church Women United, Board of Managers
Clergy Consultation Service on Abortion
Episcopal Church of the U.S.A.
Friends Committee on National Legislation
Lutheran Church in America
Moravian Church, Northern Province Synod
National Association of Laity
Presbyterian Church in the U.S.
Reformed Church in America
Religious Affairs Committee of Planned
Parenthood/World Population
Religious Coalition for Abortion Rights
National Ministries, American Baptist Churches
American Ethical Union
National Women's Conference of the American Ethical Union
American Humanist Association
American Jewish Congress, Women's Division
B'nai B'rith Women

Catholics for a Free Choice
Christian Church (Disciples of Christ)
National Council of Jewish Women
National Federation of Temple Sisterhoods
General Executive Board and Committee on Women's Concerns
Presbyterian Church in the U.S.
Union of American Hebrew Congregations
Unitarian Universalist Association
Unitarian Universalist Women's Federation
Board of Homeland Ministries and Center for Social Action,
United Church of Christ
Women's Division, Board of Global Ministries and Board
of Church and Society, United Methodist Church
Church and Society Unit: Washington Office and Women's
Program Unit, United Presbyterian Church, USA
Women's League for Conservative Judaism
Young Women's Christian Association
Reorganized Church of Jesus Christ of Latter Day Saints
Southern Baptist Convention
United Church of Canada, General Council
United Church of Christ
United Methodist Church
National Association of Health and Welfare Ministries,
United Methodist Church
United Presbyterian Church, USA
United Synagogue of America
Women of the Episcopal Church

OTHER

Americans for Democratic Action
American Home Economics Association
American Veterans Committee
Environmental Action
Environmental Policy Center
Friends of the Earth
National Abortion Rights Action League

National Conference of Commissioners of Uniform State Laws
United Automobile Workers Union
Urban League
Workmen's Circle
Zero Population Growth

WHAT DO MINNESOTA POLLS SAY?

Minneapolis Tribune Minnesota Poll¹

"The Supreme Court has ruled that the Constitution and federal law do not require states to spend federal funds for abortions. Are you pleased or not pleased with that ruling?

"The Supreme Court ruling also allows states and localities to bar use of public funds for abortions. Are you pleased or not pleased with that ruling?"

	<u>Not required to spend federal funds</u>	<u>States can bar use of public funds</u>
Pleased	64%	52%
Not pleased	26	38
No opinion	<u>10</u>	<u>10</u>
	100%	100%

"Do you think public funds should or should not be used for abortions?"

	<u>Should</u>	<u>Should not</u>	<u>No opinion</u>
All adults	23%	71%	6%
18-24 years	41	56	3
65 and over	10	83	7
Catholics	11	84	5
Liberals	37	55	8
Moderates	23	70	7
Conservatives	11	86	3

"A Minnesota Poll taken in June of last year revealed that public sentiment in Minnesota for a no-abortion amendment to the Constitution was noticeably stronger than for the nation as a whole.

In September 1976 another Minnesota Poll showed that a majority (56 percent) thought human life begins at the moment of conception and that people holding that view were one-sidedly in favor of a constitutional amendment forbidding most abortions.

Opinions among everyone interviewed in the September survey divided 54 percent in favor of such an amendment and 37 percent against.

In 1973 the U.S. Supreme Court ruled that states cannot prohibit abortions during approximately the first six months of pregnancy. In February of that year a majority of Minnesotans (57 percent) told the poll they were not pleased with the ruling. A third of the people (35 percent) said they were pleased.

The August, 1977 Minnesota Poll involved interviews with 600 men and women 18 and over throughout Minnesota July 21-25. As a scientifically based opinion survey, it provides an approximation of the response that could be expected if all adult Minnesotans had been interviewed. The editors of the Tribune developed the questionnaire used in the survey. Custom Research, Inc., Bloomington, obtained the interviews and tabulated the answers.

Results of such surveys are subject to sampling error. For a random sampling this size, it is possible to say that the error will not exceed four percentage points either way. Since this sample is taken only from households with telephones, the error may be larger than for a completely random sampling. For a subsample of the population--the 90 state residents 18 to 24 years of age for example--the error could be larger.

¹Minneapolis Tribune, August 21, 1977.

WHICH MINNESOTA ORGANIZATIONS ARE ON RECORD AS SUPPORTING "FREEDOM OF CHOICE"?

Abortion Counseling Service
Abortion Rights Council of Minnesota
American Association of University Women
Association of Universalist Women
DFL Feminist Caucus of Minnesota
Elizabeth Blackwell Women's Health Center
Family Tree Clinic
GOP Women for Political Effectiveness
Macalester Student Feminists
Minnesota Psychological Association
Minnesota Women's Political Caucus
National Council of Jewish Women
National Organization of Women
New American Movement
Planned Parenthood of Minnesota
Religious Coalition for Abortion Rights
Social Action Committee--First Unitarian Society of Minneapolis
Social Concerns Committee--Unity Church
Socialist Workers Party
Southside Community Health Coalition
Twin Cities Women's Union
United Church of Christ
Women's Alliance--First Unitarian Society of Minneapolis
Women's Rights Committee--Minnesota Federation of Teachers
Women's International League for Peace and Freedom
Young Socialist Alliance
Zero Population Growth

Majority still support abortion under certain circumstances

By George Gallup
Director, American Institute
of Public Opinion

Princeton, N.J.

A majority of Americans believe abortions should be legalized, but most say the procedure should be performed only in certain situations.

The latest Gallup survey also reveals that attitudes are closely related to the circumstances, the stage of pregnancy and perceptions as to when a fetus becomes human.

Fifty-five percent said abortions should be legal but only under certain circumstances. Twenty-two percent said abortions should be legal under any circumstances and 19 percent said abortions should not be legal under any circumstances.

These findings almost exactly mirror those recorded in April 1975, when 54 percent said under certain circumstances, 21 percent under any circumstances and 22 percent would not have allowed the operation at all.

Here is the question asked to determine basic attitudes:

"Do you think abortions should be legal under any circumstances, legal under only certain circumstances, or illegal in all circumstances?"

	1975	Today
Legal under all circumstances	21%	22%
Legal under certain circumstances	54	55
Illegal under all circumstances	22	19
No opinion	3	4

To determine the attitudes of those who would allow abortions under certain circumstances, the group was handed a card listing six of the most commonly cited situations in which abortions take place and asked under which they would allow an abortion in each of the three trimesters of pregnancy.

The results indicated that both the particular circumstance and the stage of pregnancy contribute importantly to attitudes on this highly charged issue.

Here is the question asked of those who said they would make abortions legal under certain circumstances:

"Now, thinking about the first three months of pregnancy (the second three months, the third three months), under which of these circumstances (respondents were handed a card with six circumstances listed) do you think abortions should be legal?"

	First trimester	Second trimester	Third trimester
When the woman's life is endangered	77%	64%	60%
Where pregnancy is result of rape or incest	65	38	24
When woman may suffer severe health damage	54	46	34
Chance of deformed baby	45	39	28
Woman's mental health endangered	42	31	24
Family can't afford child	18	9	6
Can't say	2	9	20

Although the Roman Catholic Church opposes abortion under all circumstances, many Catholics disagree with their church's position on this issue.

Here's how the views of Catholics and Protestants compare now and how they compared two years ago:

	Today		1975	
	Prot. estant	Catholic	Prot. estant	Catholic
Legal under all circumstances	18%	20%	18%	17%
Legal under certain circumstances	58	53	58	50
Illegal under all circumstances	19	23	21	32
No opinion	5	4	3	1

When Catholics and Protestants who would allow abortions under some circumstances were questioned about what circumstances and at what stage of the pregnancy, their attitudes tend to correspond, as shown in the following table:

	First trimester			2nd tri.			3rd tri.		
	Prot. R.C.	%		Prot. R.C.	%		Prot. R.C.	%	
When the woman's life is endangered	77	77	65	64	60	56			
Where the pregnancy is a result of rape or incest	63	68	36	44	23	27			
When the woman may suffer severe physical health damage	54	51	45	46	34	29			
When there is a chance the baby will be deformed	43	42	38	37	26	29			
When the woman's mental health is endangered	41	40	29	32	23	23			
If the family cannot afford to have the child	15	15	9	9	5	7			
Can't say	1	2	9	9	19	22			

Gallup Poll



When asked at what point a fetus becomes a human being, 36 percent said they believe this occurs at the moment of conception. About one person in four, 23 percent, placed it at some point during the first three months of pregnancy, and 12 percent said it takes place during the last six months. Ten percent said it happens when the baby is born.

However, even among those people who said life begins at conception, 75 percent said they would allow a legal abortion under some circumstances. About one in four in this group, 23 percent, would ban all abortions.

And here are the views of these various groups on the over-all question of abortion:

	Legal under all circumstances	Legal under certain circumstances	Illegal	No opinion
Life begins:				
At conception	14%	61%	23%	2%
During first three months of pregnancy	19	58	19	4
During last six months of pregnancy	27	59	13	1
When baby is born	58	35	6	1
Other answers—can't say	17	49	21	14

The results are based on interviews with 1,518 adults, 18 and older, in more than 300 scientifically selected localities Dec. 9-12, 1977.

Minnesota House of Representatives

Research Department

The House of Representatives Research Department was established in 1967 to assist Representatives in the increasingly complex process of developing, introducing, and evaluating legislation. The Department is non-partisan; its staff is available to any member of the Minnesota House of Representatives.

The Department staff serves the House of Representatives in two ways during the legislative session. Each of the nineteen legislative analysts in the Department has been assigned to one or more major subject areas and is available as research staff to the corresponding House committee. Analysts also provide research assistance, issue analysis and background information directly to House members. They frequently draft bills and amendments for committees or individual members.

Between legislative sessions, the Research Department conducts in-depth research on pertinent issues, provides research support and develops materials for active committees. The staff also continues to draft appropriate bills and amendments, and provide research assistance to individual members of the House of Representatives.

