

**RIPLEY REMARKS – SENATE STATE AFFAIRS COMMITTEE**

**HB 638**

**MARCH 12, 2018**

MR. CHAIRMAN, THANK YOU FOR GIVING US TIME WITH YOUR COMMITTEE TO DISCUSS THIS GROUND-BREAKING LEGISLATION.

WE'VE ALREADY HEARD A LOT ABOUT THIS PROPOSAL, AND I'D LIKE TO TAKE A MOMENT TO RESPOND TO SOME QUESTIONS – AND TO EMPHASIZE THE KEY REASONS WE URGENTLY NEED THIS REFORM ENACTED INTO LAW.

BUT FIRST – I'D LIKE TO THANK REP. CHANEY AND SEN. FRED MARTIN FOR THEIR LEADERSHIP ON THIS BILL. I'M ALSO THANKFUL FOR THE SUPPORT OF RIGHT TO LIFE, THE FAMILY RESEARCH COUNCIL ... AMERICANS UNITED FOR LIFE ... AND THE CO-SPONSORS. I MUST ALSO THANK THE ATTORNEY GENERAL'S OFFICE ... AND THE GOOD FOLKS AT THE BOARD OF MEDICINE FOR THEIR INPUT.

YOU MAY HEAR THAT WE DON'T NEED THIS ... BECAUSE IDAHO ALREADY HAS A REPORTING SYSTEM.

THAT IS NOT QUITE TRUE. TITLE 39, CHAPTER 2 OF IDAHO CODE DOES INDEED REQUIRE REPORTING BY THE ABORTION INDUSTRY. THEY ARE REQUIRED TO REPORT THE ABORTIONS THEY PERFORM TO THE DEPARTMENT OF HEALTH & WELFARE. THAT WAS ENACTED IN 1977.

BUT NOWHERE DOES IT REQUIRE ABORTIONISTS TO REPORT COMPLICATIONS – LET ALONE ANYONE ELSE IN THE MEDICAL COMMUNITY.

IT IS TRUE THAT THE DEPARTMENT'S ANNUAL REPORT INCLUDES A TABLE (PAGE 12) SHOWING THAT THERE WERE 9 "COMPLICATIONS" OUT OF 1289 ABORTIONS PERFORMED IN IDAHO DURING 2016. BUT THIS IS A GROSSLY MISLEADING NUMBER.

FIRST – WE DON'T BELIEVE THE DEPARTMENT PRESENTLY HAS THE STATUTORY AUTHORITY TO REQUIRE THE DISCLOSURE OF COMPLICATIONS. 39-261 DOES NOT MENTION "COMPLICATIONS".

SECOND – IDAHO CODE 39-261 IS DIRECTED SOLELY AT ABORTIONISTS. ESPECIALLY IN THE AGE OF CHEMICAL ABORTIONS ... IN WHICH THE GIRL OR WOMAN IS SENT HOME WITH A PILL TO PERFORM SELF-ABORTIONS ... MOST COMPLICATIONS ARE NOT GOING TO TAKE PLACE IN PLANNED PARENTHOOD OFFICES.

THE DATA NOW BEING PROVIDED BY THE DEPARTMENT IN ITS ANNUAL REPORT ON COMPLICATIONS IS ACTUALLY WORSE THAN NO DATA AT ALL. IT ALMOST CERTAINLY UNDERSTATES THE HEALTH PROBLEMS THAT WOMEN ARE EXPERIENCING.

IF I MAY ... I'D LIKE TO DIGRESS FOR A MOMENT TO ADDRESS A CONCERN RAISED BY SENATOR WINDER ON FRIDAY. HE ASKED IF THE COLLECTION OF DEMOGRAPHIC INFORMATION ABOUT FEMALE PATIENTS MIGHT POSE SOME SORT OF LEGAL PROBLEM FOR THE STATE.

FIRST – THE ATTORNEY GENERAL'S OFFICE HAS THOROUGHLY VETTED THIS LEGISLATION AND SEES NO CONSTITUTIONAL PROBLEMS.

SECOND – THE STATE OF IDAHO IS ALREADY COLLECTING EXTENSIVE DEMOGRAPHIC DATA FROM ABORTIONISTS ON WOMEN UNDERGOING ABORTIONS:

- COUNTY OF RESIDENCE, AS WELL AS COUNTY WHERE THE PROCEDURE TOOK PLACE;
- AGE OF THE WOMAN
- MARITAL STATUS
- PREVIOUS ABORTION HISTORY

- ETHNICITY AND RACE OF THE WOMAN RECEIVING AN ABORTION
- TYPE OF PROCEDURE USED
- GESTATIONAL AGE OF THE PREBORN CHILD
- PREVIOUS LIVE BIRTHS EXPERIENCED BY THE WOMAN

AND, IT HAS BEEN COLLECTING THAT INFORMATION PURSUANT TO IC 39-261 SINCE 1977 WITHOUT LEGAL CHALLENGE.

MR. CHAIRMAN, THIS LEGISLATION STARTED IN RESPONSE TO OUR LOSS OF THE BAN ON TELEMED ABORTIONS IN FEDERAL COURT A COUPLE OF YEARS AGO.

PART OF THE REASON WE LOST THAT LAWSUIT WAS FOR LACK OF HARD EVIDENCE THAT THERE ARE HEALTH RISKS ASSOCIATED WITH ABORTION. THE STATE HAD TO RELY ON DATA FROM THE FDA – WHICH HAS NOT PUBLISHED A REPORT SINCE 2011.

BUT AS I'VE DUG DEEPER INTO THIS MATTER, IT HAS BECOME RATHER SHOCKING TO ME THAT WE HAVE YET TO ADDRESS THIS WHOLE PROBLEM, SOME 45 YEARS INTO THE ROE ERA. THE ONLY DATA WE HAVE COMES FROM THE ABORTION INDUSTRY ITSELF. EVERYTHING IS SHROUDED IN MYSTERY AND SILENCE. WE MUST END THAT.

WE SIMPLY CAN'T WAIT ON THE FEDERAL GOVERNMENT FOR INFORMATION ON HOW THE INGESTING OF POWERFUL DRUGS LIKE RU-486 ARE IMPACTING WOMEN'S HEALTH -- PARTICULARLY SINCE WE ARE NOW ONE OF ONLY TWO STATES ENGAGING IN THE EXPERIMENT OF TELE-MED ABORTIONS.

I WOULD ALSO POINT OUT, MR. CHAIRMAN, THAT THIS LEGISLATION – OR SOMETHING SIMILAR -- HAS BEEN ENACTED IN TWELVE STATES AS OF NOW:

- Arizona, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Wisconsin, Wyoming, Louisiana, Mississippi and Missouri.

THERE HAVE BEEN MODIFICATIONS TO THIS LEGISLATION AS A RESULT OF OUR WORK WITH THE IDAHO MEDICAL ASSOCIATION AND THE IDAHO HOSPITAL ASSOCIATION. WE HAVE RESPONDED TO THEIR CONCERNS – THE LATEST OF WHICH IS REMOVING LANGUAGE IN THE BILL WHICH WOULD REQUIRE KEEPING TRACK OF THE COSTS ASSOCIATED WITH ABORTION COMPLICATIONS. THE HOSPITALS TOLD US THAT WOULD BE TOO CUMBERSOME.

THERE ARE ACTUALLY VERY GOOD REASONS FOR LOOKING AT THE HARD DOLLAR IMPACTS ASSOCIATED WITH ABORTION – IT IS NOT SIMPLY A MATTER OF THE COST OF THE PROCEDURE ITSELF. THAT IS ESPECIALLY TRUE IN CASES WHERE A WOMAN OR GIRL IS RECEIVING SUBSEQUENT TREATMENT UNDER THE MEDICAID PROGRAM.

NEVERTHELESS, THE HOSPITAL ASSOCIATION TOLD US THAT KIND OF DATA WOULD BE HARD TO COLLECT, SO WE REMOVED THAT REQUIREMENT FROM THE BILL. IT IS MORE IMPORTANT TO BEGIN TRACKING THE HEALTH RISKS.

BUT PERHAPS WE CAN REVISIT THE QUESTION OF SUBSEQUENT TREATMENT COSTS AT SOME POINT IN THE FUTURE.

MR. CHAIRMAN, I WOULD LIKE TO ANTICIPATE A COUPLE OF OTHER POSSIBLE OBJECTIONS TO THIS LEGISLATION.

ONE ARGUMENT I'VE SEEN IS THAT THE DEPARTMENT WILL HAVE TROUBLE KEEPING THE WOMAN'S IDENTITY CONFIDENTIAL IF IT HAS TO TRACK THE TREATMENTS AN INDIVIDUAL WOMAN UNDERGOES AFTER AN ABORTION.

THIS REPRESENTS A MISREADING OF THE BILL AND THE ROLE OF THE DEPARTMENT.

AS REP. CHANEY EXPLAINED, THIS LEGISLATION GOES TO GREAT LENGTHS TO PROTECT THE ANONYMITY OF THE WOMAN. AS A RESULT, THE DEPARTMENT WILL BE UNABLE TO TRACK THE MEDICAL HISTORY OF A PARTICULAR WOMAN.

DOWN THE ROAD, IT WILL BE IMPORTANT FOR THOSE OF US LOOKING AT THE DATA TO REMEMBER THAT WE WON'T BE ABLE TO TELL FOR CERTAIN WHETHER A SINGLE ABORTION PROCEDURE LED TO SEVERAL DIFFERENT HEALTH PROBLEMS – OR WHETHER FIVE SEPARATE WOMEN EXPERIENCED FIVE SEPARATE ADVERSE EVENTS.

THAT IS JUST THE PRICE WE WILL HAVE TO PAY IN ORDER TO PROTECT WOMEN AND THEIR CONFIDENTIALITY.

I'VE ALSO HEARD AN OBJECTION RAISED REGARDING THE DEPARTMENT'S INABILITY TO DETERMINE WHETHER A REPORTED HEALTH COMPLICATION IS THE RESULT OF AN ABORTION, OR SOME OTHER FACTOR – OR ONE OF MANY FACTORS PRODUCING A GIVEN HEALTH PROBLEM.

LET ME POINT OUT THAT THE DEPARTMENT HAS NO ROLE WHATSOEVER IN MAKING A DIAGNOSIS. THAT ISSUE WAS PART OF OUR DISCUSSIONS WITH THE IMA. ONLY LICENSED MEDICAL PROFESSIONALS CAN MAKE SUCH A DETERMINATION – WITHIN THE SCOPE OF THEIR LICENSE. THE DEPARTMENT HAS NO RESPONSIBILITY WHATSOEVER TO MAKE MEDICAL DETERMINATIONS, NOR IS IT QUALIFIED TO DO SO.

THEY ARE RESPONSIBLE FOR MANAGING AND REPORTING THE DATA ONLY.

I HAVE EVEN HEARD AN ARGUMENT THAT THIS NEW REPORTING SYSTEM MIGHT SOMEHOW DISCOURAGE WOMEN FROM SEEKING TREATMENT FOR ABORTION COMPLICATIONS.

WITH ALL DUE RESPECT – THIS IS A SPECIOUS ARGUMENT. THE PATIENT HAS NO RESPONSIBILITIES WHATSOEVER UNDER THIS LEGISLATION. THIS REPORTING

PROCEDURE HAPPENS ENTIRELY BEHIND THE SCENES. THE ONLY POSSIBLE IMPACT ON THE WOMAN INVOLVED WOULD BE THE GATHERING OF PERTINENT MEDICAL INFORMATION AND PATIENT HISTORY – WHICH MUST HAPPEN AS PART OF ANY RESPONSIBLE MEDICAL PRACTICE.

BEFORE CLOSING, MR. CHAIRMAN, I WOULD LIKE TO RESPOND TO ANOTHER QUESTION RAISED ON FRIDAY MORNING. THERE HAVE BEEN QUITE A FEW QUESTIONS COMING ABOUT THE SECTION OF THE BILL (39-9508; PAGE 6) WHICH PROVIDES A MECHANISM FOR THE LEGISLATURE TO INTERVENE IN A LAWSUIT IF THIS LAW IS CHALLENGED.

THIS IS FAIRLY INNOVATIVE LANGUAGE – THOUGH IT HAS BEEN USED IN OTHER STATES. THE WAY WE SEE THIS WORKING IS THAT IF A LAWSUIT IS FILED ... THE ATTORNEY GENERAL WOULD STILL PROVIDE THE STATE'S BASIC, FIRST-LINE DEFENSE.

BUT IF THE LEGISLATURE FELT THAT ITS POLICY POSITION WAS NOT BEING ADEQUATELY DEFENDED BY THE EXECUTIVE BRANCH – AS SOME OF US FELT ABOUT THE LAWSUIT AGAINST OUR BAN ON TELE-MED ABORTIONS – IT WOULD HAVE THE PEROGATIVE OF INTERVENING IN THE CASE TO AUGMENT THE STATE'S DEFENSE OF A GIVEN STATUTE OR POLICY.

IT DOES NOT REQUIRE INTERVENTION. IN FACT, IT WOULD TAKE A SPECIFIC LEGISLATIVE ACT TO AUTHORIZE THE INTERVENTION BY THE LEGISLATURE IN A GIVEN CASE. AND, AGAIN, THE ATTORNEY GENERAL'S OFFICE DID NOT RAISE A CONSTITUTIONAL ISSUE WITH THIS PROVISION.

I MUST ALSO MENTION THAT I AM UNAWARE OF A SINGLE LAWSUIT BROUGHT IN THE TWELVE STATES THAT HAVE CREATED SIMILAR REPORTING REQUIREMENTS.

LASTLY, THE LEGISLATIVE FINDINGS AT THE BEGINNING OF THIS BILL NICELY SUMMARIZE ALL OF THE JUSTIFICATIONS FOR APPROVING THIS LEGISLATION. I ASK COMMITTEE MEMBERS TO QUICKLY REVIEW THAT SECTION PRIOR TO A VOTE.

WITH THAT, MR. CHAIRMAN, I ASK THIS COMMITTEE'S SUPPORT FOR THIS LANDMARK LEGISLATION.

AGAIN ... THANK YOU FOR YOUR CONSIDERATION.