

## “Partial-Birth” Ban Advances in Congress As Court Mulls Legality

Congress, once again, is poised to send President William J. Clinton legislation banning “partial-birth” abortion just as the U.S. Supreme Court is about to render an opinion on the constitutionality of doing so. On April 5, the House of Representatives passed ban legislation, for the third time since 1995, by a veto-proof margin of 287–141. Last October, the Senate passed a virtually identical bill by a vote of 63–34, which is just short of the two-thirds majority necessary to override the guaranteed presidential veto.

Only a few weeks after the House vote, on April 25, the Supreme Court heard oral arguments in *Stenberg v. Carhart*, a case involving Nebraska’s 1999 law criminalizing “partial-birth” abortions. On behalf of abortion provider LeRoy H. Carhart, Simon Heller of the Center for Reproductive Law and Policy asserted that the law is unconstitutionally vague in what it aims to ban, places an undue burden on a woman’s right to choose and fails to provide constitutionally mandated exceptions to protect the woman’s health as well as her life. The Clinton administration, 80 members of Congress, the states of New York, Oregon, Maine and Vermont and numerous organizations committed to women’s health, equality and reproductive rights filed “friend of the court” briefs in support of that view. Arguing for Nebraska, Attorney General Don Stenberg (R) asserted that the state was not interpreting the law to ban anything other than intact dilation and extraction procedures and that was a reasonable interpretation that the Court should accept. He also stated that the law served the state’s interest in “drawing a bright line between infanticide and abortion.”

Republican congressional leaders apparently were in a hurry to have an extended debate and pass a “partial-birth” bill just before the Supreme Court argument, but they have yet to take the minor procedural steps necessary to actually forward the legislation to the president. At this point, it is likely that the next move will be the Supreme Court’s; its decision is expected by the end of June. Clearly, the Court’s action will have important and direct legal ramifications in the 31 states that have enacted essentially the same laws, including New Mexico just this year (see related story, page 9). It doubtless will have political ramifications as well—for the pending federal legislation and for the November elections from the presidential level on down.

## Children’s Health Bill Contains Language on Title X, Adoption

On May 9, the House of Representatives passed, 419–2, an omnibus children’s health bill that contains the Infant Adoption Awareness Act, a provision directed largely at pregnancy-options counselors in Title X family planning clinics. Authored by House Commerce Committee Chairman Tom Bliley (R-VA), the provision represents a hard-fought compromise between family planning advocates and antiabortion legislators seeking to promote adoption in family planning clinics to the exclusion of any information about abortion (“Family Planning and Adoption Promotion: New Proposals, Long-Standing Issues,” *TGR*, October 1999, page 1).

As negotiated and passed by the House, the provision would fund adoption organizations to train counselors in Title X clinics and community health centers “in providing adoption information and referrals to pregnant women on an equal basis with all other courses of

action included in nondirective counseling.” Adoption organizations and family planning providers would collaborate to develop best-practices guidelines on the provision of adoption information and referrals to pregnant women. Within one year following enactment, the secretary of the Department of Health and Human Services would be required to submit a report to Congress evaluating the extent to which adoption information, and referral upon request, is provided by family planning clinics “in order to determine the effectiveness of the training.”

## House Passes Bill with Contentious Provisions On Condoms and HPV

The Breast and Cervical Cancer Treatment Act, legislation providing Medicaid coverage to low-income women found to have breast or cervical cancer through a federal screening program, was approved by the House of Representatives on May 9 by a vote of 421–1. Included in this otherwise extremely popular bill is a controversial provision relating to human papillomavirus (HPV), which was added at the insistence of Rep. Tom A. Coburn (R-OK) but is opposed by key public health and medical groups, including the American College of Obstetricians and Gynecologists (“Wanted: A Balanced Policy and Program Response to HPV and Cervical Cancer,” *TGR*, December 1999, page 1). In addition to requiring the Centers for Disease Control and Prevention to study the prevalence of HPV and to outline the steps needed to make HPV a reportable disease, the Coburn provision would mandate that condoms carry a warning that they are not effective in preventing HPV and that HPV can lead to cervical cancer. It also would require the Department of Health and Human Services and all of its grantees to state in any sexually transmitted disease or condom-

related information materials “the effectiveness or lack of effectiveness of condoms in preventing the transmission of HPV, herpes and other sexually transmitted diseases.”

Calling the Coburn approach “misguided” from a public health perspective, Rep. Diana DeGette (D-CO) argued that the condom labeling requirement “may very well have the unintended consequence of discouraging condom use, which, as we all know, is very effective in preventing other diseases, including HIV/AIDS.” She also contended that taking steps to make HPV a reportable disease “does not make sense, since most all of these cases do resolve on their own and only a very small percentage lead to cervical cancer.” DeGette said that instead of “trying to instill panic here...., we should be trying to encourage every American woman to have regular Pap smear examinations, which are still the state of the art.”

The Senate is likely to take up its own version of the bill, which does not include the HPV language, sometime before Congress adjourns this fall.

### **Parenting Is Priority, According to Clinton Executive Order, Study**

President William J. Clinton issued an executive order on May 2 banning employment discrimination against parents in the federal workforce. The order prohibits discrimination against federal employees with children in all aspects of employment from recruitment to promotion. Legislation to provide these protections to parents in both the private and the public sectors is stalled in Congress. The stated intent of that legislation is to prohibit employers from assuming that simply because a person is also a parent, that person cannot satisfy the requirements of a particular position.

A new study, meanwhile, indicates that adults—and particularly young men—are beginning to place a

higher priority on family in relation to work and income. The study by Radcliffe Public Policy Center (RPPC), released the day after the executive order was issued, found that for both men and women, family is more important than more money. Among adults aged 20–39, 82% of men and 85% of women said family time is their top priority. Fully 71% of the men and 64% of the women in this age-group also said they would exchange salary for more family time. Older male workers were significantly less interested in that trade-off, however. And although the study shows a significant break with the traditional family mold—96% of all polled said parents should equally share the child care—68% also thought that one parent should stay at home when the child is young. In releasing the study, Paula Raymond, director of RPPC, said that today’s workers have “more control over their careers than ever before...[and] any employer who ignores workers’ needs and expectations in the new economy does so at their own peril.”

### **Global AIDS Crisis Deemed Threat to U.S., Human Security**

For the first time, a global health crisis has been dubbed a threat to U.S. national security. The Clinton administration made this determination vis-à-vis HIV/AIDS on the basis of U.S. intelligence reports that the staggering levels of mortality and new infections—already the case in Sub-Saharan Africa and likely to become in Asia and eastern Europe shortly—will “challenge democratic development and transitions and possibly contribute to humanitarian emergencies and military conflicts to which the United States may need to respond.” Along the same lines, and at the urging of U.S. Ambassador Richard Holbrooke, the United Nations (UN) Security Council devoted its first meeting of 2000 to this topic, the first time a health issue has been the focal point. UN

Secretary-General Kofi Annan has dubbed HIV/AIDS Africa’s paramount human security issue in recognition of the fact that while Africa comprises 10% of the world’s population, it contributes 80% of the worldwide deaths attributable to AIDS; life expectancy in southern Africa is expected to drop to 45 by 2015, down from 59 currently.

The Clinton administration has established an interagency task force to formulate an expanded and more concerted policy response to combating the disease internationally. One outgrowth was the president’s executive order in April to encourage greater access to life-saving drugs for developing countries by relaxing the U.S. position protecting pharmaceutical companies’ patent rights. At virtually the same time, five of the world’s largest drug companies announced their decisions to drastically reduce the price of AIDS drugs for sufferers of the disease in Africa and poor countries elsewhere.

In Congress, meanwhile, the House overwhelmingly passed legislation on May 15 to create a World Bank-run trust fund to which private organizations and world governments would contribute for the purpose of education, prevention, treatment and vaccine-development programs to fight the disease. The bill, which is supported by the Clinton administration, authorizes a U.S. contribution of up to \$100 million annually through FY 2005, with the aim of leveraging \$1 billion a year from international donors. No corresponding legislation has yet been filed in the Senate.