



January 16, 2020

The Honorable John Barker and Members of the House Federal and State Affairs Committee
Kansas House Federal and State Affairs Committee

The Honorable Rick Wilborn and Members of the Senate Judiciary Committee
Kansas Senate Judiciary Committee

Re: Letter in Opposition to House Concurrent Resolution No. 5019

Dear Representative Barker, Senator Wilborn, Members of the House Federal and State Affairs Committee, and Members of the Senate Judiciary Committee:

The Center for Reproductive Rights (“the Center”) urges you to vote no on House Concurrent Resolution No. 5019 (“H.C.R. 5019”), which would nullify abortion rights currently afforded to Kansans under the state constitution. Such retrogression could have devastating and lasting consequences for women and families in Kansas and is prohibited by core human rights principles.¹

The Center is a legal advocacy organization dedicated to protecting the right to access safe and legal abortion and other reproductive health care. For over 25 years, we have successfully challenged restrictions on abortion throughout the United States. In 2016, we won the landmark case *Whole Woman’s Health v. Hellerstedt*, in which the U.S. Supreme Court struck down two Texas laws burdening access to abortion and reaffirmed the Constitution’s robust protections for the decision to have an abortion.

The Center strongly opposes H.C.R. 5019, which seeks to amend the Kansas constitution to provide that “the constitution of the state of Kansas does not require government funding of abortion and does not create or secure a right to abortion.” This resolution is intended to reverse a Kansas Supreme Court decision holding that the state constitution provides strong protections for the right to terminate a pregnancy. If approved, Kansas would join only four other states whose constitutions contain this extreme language.

In its April 2019 ruling, the Kansas Supreme Court acknowledged that pregnant people in Kansas have the right to safe and legal abortion under the state constitution. The Court explained that its decision was based on the history and laws of Kansas:

[W]e reach our conclusion that section 1 of the Kansas Constitution Bill of Rights protects a woman’s right to make decisions about whether she will continue a pregnancy based on several factors. These include an analysis of natural rights, Lockean principles,

¹ See, e.g., Committee on Economic, Social and Cultural Rights (CESCR), *Gen. Comment No. 22: on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, para. 38, U.N. Doc. E/C.12/GC/22 (2016).

the caselaw of Kansas, the rationale and holdings of court decisions from other jurisdictions reviewing broad constitutional natural rights provisions or other provisions similar to ours, and the history of early statutes limiting abortion in Kansas. These factors lead us to conclude that section 1's declaration of natural rights, which specifically includes the rights to liberty and the pursuit of happiness, protects the core right of personal autonomy—which includes the ability to control one's own body, to assert bodily integrity, and to exercise self-determination. This right allows Kansans to make their own decisions regarding their bodies, their health, their family formation, and their family life. Pregnant women, like men, possess these rights.²

In order demonstrate your support for women and families in Kansas, we urge you to vote no on H.C.R. 5019, an extreme measure that would limit pregnant people's rights under the state constitution and further restrict their access to reproductive health care. It is critical for the health and safety of all Kansans to retain Kansas's constitutional right to abortion, which is based on the state's history, the language of its constitution, and its laws.

Sincerely,



Elisabeth Smith, Esq.
Chief Counsel, State Policy & Advocacy
Center for Reproductive Rights
199 Water Street, 22nd Floor
New York, NY 10038
esmith@reprorights.org

² *Hodes & Nauser, MDs, P.A. v. Schmidt*, 309 Kan. 610, 660 (2019).