



Written Testimony of Clarke D. Forsythe, J.D., M.A.
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Submitted to the Subcommittee on Labor, Health and Human Services, Education, and
Related Agencies of the House Committee on Appropriations
March 23, 2023

Dear Chair Aderholt, Ranking Member DeLauro, and Members of the Subcommittee:

My name is Clarke Forsythe, and I serve as Senior Counsel at Americans United for Life (“AUL”). AUL is a national law and policy nonprofit organization, which strives for a world in which everyone is welcomed throughout life and protected in law. Thank you for the opportunity to testify in support of pro-life Health and Human Services appropriations riders, including the Hyde Amendment,¹ Title X abortion funding restrictions,² Weldon Amendment,³ and Medicare Advantage program conscience protections.⁴ I urge the Subcommittee to keep these riders for the following reasons.

Publicly-Funded Abortion Increases the Coercion on Women to Abort

Public funding of abortion increases the pressure a woman may already feel to have an abortion. The reality is many women are coerced into having an abortion by either a partner, family member, employer, or sex trafficker, as illustrated by numerous empirical studies.⁵ As an example,

¹ See Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, div. H, tit. V, §§ 506–507, ___ Stat. ___, ___ (2022) (restricting the use of federal funds for abortion, except for medical emergencies and cases of rape or incest).

² See *id.* div. H, tit. II (prohibiting the use of Title X funds for abortions and requiring “that all pregnancy counseling shall be nondirective”).

³ See *id.* div. H, tit. V, § 507(d) (establishing anti-discrimination protections for medical professionals, facilities and health plans that conscientiously object to “provid[ing], pay[ing] for, provid[ing] coverage of, or refer[ring] for abortions”).

⁴ See *id.* div. H, tit. II, § 209 (protecting entities’ participation in the Medicare Advantage program when they “will not provide, pay for, provide coverage of, or provide referrals for abortion.”).

⁵ See, e.g., Tim Bradley, *New Michigan Laws Deter and Punish Coerced Abortion*, CHARLOTTE LOZIER INST. (June 20, 2016), <https://tinyurl.com/MICoercionBan>; Priscilla K. Coleman et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experience*, 22 J. AM. PHYSICIANS & SURGEONS 113, 115 (2017); REPORT OF THE SOUTH DAKOTA TASK FORCE TO STUDY ABORTION 20–21 (2005).

a 2004 study found 64% of women felt “pressured by others” to have an abortion.⁶ Because coerced abortions have become such a widespread phenomenon since the Supreme Court decided *Roe v. Wade*, at least 20 states have enacted some form of coercive abuse prevention law.⁷

Coercion can take many forms, such as intimate partner violence (“IPV”), force, vocal opposition, subtle pressure, or paying for the woman’s abortion. Psychologist Susan Nathanson wrote about the role of her husband’s coercion in her decision to abort, who stated, “If you don’t choose to abort this child, I will push you to do it.”⁸ Unfortunately, Nathanson is not alone in her experience as many women suffer reproductive control or IPV when pregnant.

IPV is “abuse or aggression that occurs in a romantic relationship.”⁹ Abortion increases the risk of IPV.¹⁰ The prevalence of IPV is nearly three times greater for women seeking abortion than for women continuing a pregnancy.¹¹ Similarly, a study found that one quarter of women of reproductive age have reported experiencing reproductive control.¹² Reproductive control is defined as “actions that interfere with a woman’s reproductive intentions.”¹³

⁶ Vincent Rue, et al., *Induced Abortion and Traumatic Stress: A Preliminary Comparison of American and Russian Women*, 10 MED. SCI. MONITOR SR5, SR5–16 (2004).

⁷ ALA. CODE § 26-23A-4(b)(7) (2014); ARIZ. REV. STAT. § 36-2153(A)(2)(d) (2021); ARK. CODE § 20-16-1705 (2015); CONN. GEN. STAT. § 19a-601(a)(1) (1990); DEL. CODE tit. 24 § 1786 (1995); IDAHO STAT. § 18-615 (2008); IND. CODE § 16-34-6-6 (2022); KAN. STAT. § 65-6709(k) (2017); LA STAT. tit. 40 § 1061.17(C)(1)(j) (2022); ME. STAT. tit. 22 § 1599-A(1) (2019); MICH. COMP. LAWS § 333.17015 (2013); MO. REV. STAT. § 188.027(4) (2019); MONT. CODE § 50-20-106(7) (2009); NEB. REV. STAT. §§ 28-327(1)(d), (4)(a) (2022); N.C. GEN. STAT. § 90-21.91 (2011); N.D. CENT. CODE § 14-02.1-02.1(1)(a) (2022); OHIO REV. CODE ANN. §§ 2317.56(B)(4)(b) (2021), 3701.791(C) (2009); OKLA. STAT. tit. 63 § 1-757.7 (2021); 18 PA. CONS. STAT. § 3206(g) (1992); S.D. CODIFIED LAWS §§ 22-17-14 (2021), 34-23A-56 (2015); TENN. CODE ANN. § 39-15-202(i)(1)(A) (2018); TEX. HEALTH & SAFETY CODE ANN. § 171.012 (2021); UTAH CODE ANN. § 76-7-312 (1974); W. VA. CODE § 16-2I-2 (2021); WIS. STAT. § 253.10(3)(b) (2016).

⁸ SUE NATHANSON, SOUL CRISIS: ONE WOMAN’S JOURNEY THROUGH ABORTION TO RENEWAL 28 (1990).

⁹ *Preventing Intimate Partner Violence*, CTRS. FOR DISEASE CONTROL & PREVENTION (Oct. 11, 2022), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html>.

¹⁰ COMM. ON HEALTH CARE FOR UNDERSERVED WOMEN, *Reproductive and Sexual Coercion*, Comm. Op. No. 554, at 2 (reaffirmed 2022) (internal citation omitted); Megan Hall et al., *Associations Between Intimate Partner Violence and Termination of Pregnancy: A Systematic Review and Meta-Analysis*, 11 PLOS MED. 1, 15 (Jan. 2014).

¹¹ Hall, *supra* note 10, at 15; *see also* Jay G. Silverman et al., *Male Perpetration of Intimate Partner Violence and Involvement in Abortions and Abortion-Related Conflict*, 100 AM. J. PUB. HEALTH 1415, 1416 (Aug. 2010).

¹² Sam Rowlands & Susan Walker, *Reproductive Control by Others: Means, Perpetrators and Effects*, 45 BMJ SEXUAL & REPROD. HEALTH 61, 62 (2019).

¹³ *Id.*

Coercive abuse can come from parents, family members, or employers as well. Parental pressure to abort is documented in court cases where minors have sought protection from coercive parents. The media has also reported stories of family members and employers forcing women and young girls to abort.¹⁴ Additionally, a 1990 study reported open hostility from program directors to pregnant residents,¹⁵ and female lawyers have testified to experiencing the same pressures in law firms.¹⁶

Sex trafficking victims are also among the number of women who suffer reproductive control. A 2014 study found that 66 sex trafficking victims had a total of 114 abortions.¹⁷ The sex trafficking victims “reported that they often did not freely choose the abortions they had while being trafficked,” with a majority indicating “that one or more of their abortions was at least partly forced upon them.”¹⁸

Appropriating federal funds to cover abortion does anything other than give women a “choice.” Rather, public funding of abortion exacerbates the pressure women feel to abort by tilting the economic comparison in favor of abortion. This skews women’s decision-making between abortion and childbirth, especially for low-income women. Given the massive federal deficits, it

¹⁴ See Adrienne P. Samuels, *Police Say Maine Couple Kidnapped Daughter, Intent on Forcing Abortion*, BOS. GLOBE (Sept. 18, 2006), http://archive.boston.com/news/local/articles/2006/09/18/police_say_maine_couple_kidnapped_daughter_intent_on_forcing_abortion/; Damon Sims, *Cleveland Man Accused of Beating 16-Year-Old Pregnant Daughter*, CLEVELAND.COM (July 8, 2008), http://blog.cleveland.com/metro/2008/07/cleveland_man_accused_of_beati.html; Associated Press, *Girl, 16, Forced to Drink Turpentine to Induce Abortion*, N.Y. SUN (Sept. 27, 2006), <https://www.nysun.com/article/national-girl-16-forced-to-drink-turpentine-to-induce>; Welch Suggs, *Former Coach at Berkeley is Accused of Pressuring Assistant to Have an Abortion*, CHRON. HIGHER EDUC. (Sept. 17, 2002), <https://www.chronicle.com/article/coach-is-accused-of-urging-assistant-to-have-an-abortion/>; Jessica Hopp et al., *Mystics Coach Was Cited in Pregnancy Suit*, WASH. POST (September 16, 2002), <https://www.washingtonpost.com/archive/politics/2002/09/16/mystics-coach-was-cited-in-pregnancy-suit/75f3fd03-184c-4292-9264-3ba074460c4c/>.

¹⁵David Shulkin & Merlem Bari, *Letter to the Editor*, 324 N. ENG. J. MED. 630 (1991).

¹⁶ Joan H. Stern, *Female Talent at Lawfirms*, NATL. L. J., Mar. 18, 1991, at 15–16.

¹⁷ Laura J. Lederer & Christopher A. Wetzel, *The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities*, 23 ANNALS HEALTH L. 61, 73 (2014).

¹⁸ *Id.*

makes zero sense for Congress to fund abortion with taxpayer dollars, especially when it violates the conscientious objections of many Americans and when there is already private funding for abortion throughout the country.¹⁹

Pro-life Appropriations Riders Are Integral Conscience Protections

Pro-life appropriations riders protect the religious, moral, and ethical convictions of taxpayers and medical professionals who conscientiously object to supporting or participating in abortions. Fundamentally, conscientious objections to abortion are refusals to violate human dignity and take a human life.

Funding restrictions are an important safeguard for taxpayers' conscience rights.²⁰ The most prominent abortion funding restriction is the Hyde Amendment. In introducing his amendment, Congressman Hyde explained, "we who seek to protect that most defenseless and innocent of human lives, the unborn—seek to inhibit the use of Federal funds to pay for and thus encourage abortion as an answer to the human and compelling problem of an unwanted child."²¹ Research has credited the Hyde Amendment with saving over 2.4 million unborn lives.²²

Abortion funding restrictions are critical for social welfare appropriations. "Abortion presents a profound moral issue on which Americans hold sharply conflicting views."²³ Yet, since 2008, polling data has shown "a consistent and clear consensus of Americans who support restrictions on abortion," including funding restrictions.²⁴ In the 2023 Knights of Columbus-Marist

¹⁹ ROBIN MARTY, HANDBOOK FOR A POST-ROE AMERICA 66–72, 163–278 (2019) (detailing the National Network of Abortion Funds (NNAF) and listing other abortion funds available in "every state in the nation.").

²⁰ This is especially important because in virtually all cases, federal courts do not have jurisdiction to hear taxpayer suits to enjoin federal appropriations. *Massachusetts v. Mellon*, 262 U.S. 447, 486–489 (1923).

²¹ 122 Cong. Rec. 20,410 (1976) (statement of Rep. Henry Hyde).

²² Michael J. New, *Addendum to Hyde @ 40: Analyzing the Impact of the Hyde Amendment*, CHARLOTTE LOZIER INST. (July 21, 2020), <https://lozierinstitute.org/addendum-to-hyde-40-analyzing-the-impact-of-the-hyde-amendment/>.

²³ *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228, 2240 (2022).

²⁴ See Michael Mead, *New 2023 Knights of Columbus-Marist Poll: Post Roe, A Majority of Americans Continue to Support Legal Limits on Abortion*, KNIGHTS OF COLUMBUS 1, 2 (Jan. 18, 2023),

Poll, 60% of Americans said they opposed taxpayer funding of abortion.²⁵ Instead of becoming embroiled in the abortion debate, Congress has determined to restrict the scope of its appropriations, thus facilitating the passage of important social welfare legislation.

Pro-life riders also protect the conscience rights of medical professionals. The Weldon Amendment, for example, is an anti-discrimination provision that defends the conscientious objections of healthcare professionals, institutions, and insurance plans that refuse to “provide, pay for, provide coverage of, or refer for abortions.”²⁶ As Representative David Weldon explained, his amendment “is a continuation of the Hyde policy of conscience protection” and a response to aggressive litigation attempts to infringe on conscience rights.²⁷ The Weldon Amendment, like other pro-life riders, helps protect “[t]he right of conscience [which] is fundamental to our American freedoms.”²⁸ Thus, pro-life appropriations riders are essential conscience protections.

Conclusion

Pro-life riders are an integral part of the annual appropriations bill. I urge the Subcommittee to maintain the rich legal tradition of protecting women from coercion and safeguarding the conscientious objections of taxpayers and medical professionals.

Sincerely,

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<https://www.kofc.org/en/resources/communications/polls/majority-americans-still-support-abortion-limits.pdf>
(citation omitted).

²⁵ *Id.* at 1.

²⁶ Pub. L. No. 117-328, div. H, tit. V, § 507(d), ___ Stat. ___.

²⁷ 150 Cong. Rec. H10,090 (referencing, *e.g.*, *Valley Hosp. Ass’n, Inc. v. Mat-Su Coal. for Choice*, 948 P.2d 963 (Alaska 1997) (requiring a nonprofit hospital to perform elective abortions at its facility over the hospital’s conscientious objections)).

²⁸ *Id.*