



STATE OF WEST VIRGINIA
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EARL RAY TOMBLIN
GOVERNOR

March 28, 2014

The Honorable Natalie Tennant
Secretary of State
State Capitol
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, West Virginia 25305-0770

Re: Enrolled House Bill 4588

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 4588. I am advised the bill is unconstitutional under controlling precedent of the Supreme Court of the United States. *See Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 879 (1992) (holding a state "may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability"); *see also Isaacson v. Horne*, 716 F.3d 1213 (9th Cir. 2013), *cert. denied*, 134 S. Ct. 905 (Jan. 13, 2014) (declaring unconstitutional Arizona's fetal pain statute prohibiting the termination of pregnancy at twenty weeks gestation, before the fetus is viable).

The bill is also problematic because it unduly restricts the physician-patient relationship. All patients, particularly expectant mothers, require the best, most unfettered medical judgment and advice from their physicians regarding treatment options. The medical community has made it clear to me that the criminal penalties this bill imposes will impede that advice and those options to the detriment of the health and safety of expectant mothers. West Virginia has a need for qualified, competent physicians. I fear this bill, if signed into law, would make it difficult for the Mountain State to attract and retain the obstetricians and gynecologists it requires.

In disapproving and returning the bill, I wish to highlight that I have the utmost respect for the legislative process and for the views of my able friends in the West Virginia Senate and House of Delegates on both sides of this difficult issue – an issue that, as Justice Blackmun observed, "raises moral and spiritual questions over which honorable persons can disagree sincerely and profoundly." *See Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 772 (1986). I believe there is no greater gift of love than the gift of

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life. I have stated this time and again throughout my career and it is reflected in my legislative voting record. However, as the Governor of West Virginia, I am duty bound to "support the Constitution of the United States and the Constitution of this State." See W. Va. Const. art. IV, § 5. It is in this role that I disapprove and return Enrolled House Bill 4588.

Sincerely,



Earl Ray Tomblin
Governor

cc: The Hon. Jeffrey Kessler ✓
President of the Senate

The Hon. Timothy R. Miley
Speaker of the House of Delegates