

Veto No. 1984-1

SB 750

July 3, 1984

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I have before me for action Senate Bill 750, Printer's No.2145, which, as originally introduced, provides for court appointment of interpreters to assist parties in a civil proceeding who are deaf and which, through amendment, also incorporates other unrelated provisions. These other provisions (a) require that the Commonwealth bear the costs and expenses resulting from the prosecution and trial of any person against whom an indictment is returned by a multicounty investigating grand jury, (b) authorize the temporary assignment of senior Municipal Court judges to other courts subject to general rules of the Supreme Court, (c) require the Administrative Office of Pennsylvania Courts to implement procedures insuring that budget requests for judicial chambers are reasonable, (d) deny individuals in certain circumstances access to the courts and (e) exempt physicians from negligence liability in certain circumstances.

I find acceptable for signature the provisions of S.B.750 related to providing interpreter services for the deaf, financing, with Commonwealth revenues, the trial of defendants indicted as a result of action by multicounty investigating grand juries and mandating that the costs of judicial chambers be reviewed and, only upon a determination of reasonableness, be approved by the Court Administrator. With reference to authorizing the temporary reassignment of senior Philadelphia Municipal Court judges, I have before me a separate bill, House Bill 88, addressing the same matter, which I also find acceptable.

Likewise, I have no objection to the provisions in this bill which would bar as a defense in certain tort and support actions the claim that the child involved should have been aborted.

I have serious reservations, however, about the portion of this bill which would close the courts to cases of so-called "wrongful birth" claims. Under current law, Pennsylvania courts have not recognized actions for so-called "wrongful life." Only three of the 50 states have enacted statutes which bar claims for "wrongful birth."

I recognize and concur in the belief expressed by proponents of S.B.750 that every life is sacred and that the life of a handicapped or retarded child is of no lesser value than the life of a healthy child. However, the issue presented by S.B.750 is not one of the comparative value of lives, but whether prospective parents are entitled to relevant information regarding the risks of conception and birth to the mother and the child so they might make an informed decision and whether medical staff should be held legally liable for the effective delivery of care.

I reiterate here my opposition to abortion on demand, my conviction that abortion should not be viewed or used as a means of birth control and my support for the type of restrictions on abortion that I signed into law in 1982.

I do not believe, however, that the proposed restriction on "wrongful birth" actions in S.B.750 would reduce the number of abortions that are performed. Indeed, I fear that it could have the opposite effect.

Whatever my or your views on the issue of abortion may be, and whether we like it or not, the Supreme Court of the United States has clearly held that a woman has a constitutional right to an abortion, at least during the first trimester of her pregnancy. Under these circumstances, the intelligent exercise of that right should not be made to depend on the competence, diligence, integrity or philosophical views of a particular attending physician.

If a pregnant woman knows that she has no legal recourse for improper medical advice or treatment that results in the birth of a seriously diseased or defective infant, it may have the unfortunate effect of causing some women to resolve all doubts and concerns in favor of terminating pregnancy, leading to the performance of more, not fewer, abortions.

Also, the enactment of blanket immunity for doctors, hospitals and medical personnel for acts of neglect or malpractice in these situations could unfortunately lead to a reduction in the level of care and quality of treatment in certain cases of pregnancy. As a result, opportunities which exist to detect and mitigate certain potential diseases and defects in the developing fetus could be lost.

In the absence of sufficient evidence to date that "wrongful birth" litigation, given the constitutional right to abortion decreed by the Supreme Court, has resulted in serious and otherwise avoidable harm, the reservations I have set forth cause me sufficient concern to reject the imposition of the blanket legal immunity provided for in this measure. Accordingly, I am herewith returning S.B.750 without my signature.

DICK THORNBURGH