



Written by [Dave Bohon](#) on August 4, 2011

Federal Judge Suspends Kansas Law Defunding Planned Parenthood

In its lawsuit Planned Parenthood argued that the Kansas measure is part of a national effort by pro-life organizations to cut off federal funding of the group. Similar laws to either partially or completely cut off abortion funding have been passed in Indiana, New Hampshire, North Carolina, Tennessee, Texas, and Wisconsin. But in late June a federal judge granted Planned Parenthood's request for a temporary injunction against the measure in Indiana, opening the door to challenges in other states.



In a court filing in the case, Planned Parenthood attorney Lee Thompson complained that in every state where a law banning abortion funding was passed, "lawmakers were focused on Planned Parenthood's advocacy for abortion rights and abortion services, even though federal law already prohibits government funding of abortions."

Planned Parenthood also challenged the state's insistence that there was no "legislative intent" to target the abortion giant, "and that the budget provision itself does not mention abortion," reported the [Kansas City Star](#). "The entity's attorneys noted media reports that Republican Gov. Sam Brownback spoke to the state GOP caucus before the vote saying Kansas would become only the second state in the nation to 'zero out funding of Planned Parenthood.'"

Additionally, noted Planned Parenthood lawyers, several Republican state legislators had boasted on the floor and in media postings "about defunding Planned Parenthood and touting it as a victory for the anti-abortion movement," reported the *Star*.

Marten ultimately agreed with Planned Parenthood's arguments, ruling that not only did the Kansas law impose unconstitutional restrictions on federal Title X funding, but that it intentionally punished the abortion giant because of its advocacy for the deadly procedure, thus infringing on the group's rights of association guaranteed by the Fourteenth Amendment. "The purpose of the statute was to single out, punish, and exclude Planned Parenthood," wrote Marten in his ruling.

Planned Parenthood noted that without the injunction it faced a loss of \$330,000 a year in federal funding for its Kansas clinics, and would have been forced to close facilities in such outlying areas as the western community of Hays. "It contended its 5,700 patients would face higher costs, longer wait or travel times for appointments and have less access to services," reported the [Washington Post](#).

Peter Brownlie, president of Planned Parenthood of Kansas and Mid-Missouri, applauded the ruling, saying in a statement: "We take comfort in the fact that the judge said we have a strong likelihood of prevailing on the merits when the full case is heard."

But Kathy Ostrowski, legislative director of [Kansans for Life](#), criticized Marten's decision, saying that the "simplified issue is whether the federal government has taken over complete control of health care



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allocations to benefit its own priorities, or whether the state can make its own prudent priorities.”

Ostrowski challenged the notion that without Planned Parenthood many Kansas women would be left without the non-abortion services the abortion provider says it provides. “Kansas has approximately 80 public health clinics, as well as many other full service health outlets, that can provide the elementary examinations, contraceptives, and disease testing typically reimbursed under Title X,” she observed, adding, “These services require ordinary medical talent not unique to Planned Parenthood.”

The pro-life website [LifeNews.com](#) reported that Ostrowski “was not surprised that Marten sided with Planned Parenthood given ‘the national press campaign portraying women’s health as being in jeopardy without abortion giant Planned Parenthood, the hard line the Obama administration took against Indiana in a similar assertion of state control over tax-funded health care, and Marten’s 2005 ruling against the 2003 AG opinion that abortion clinics were non-discretionary mandatory reporters.’”

Ostrowski said that the case “is without clear precedent and under a national microscope with a press campaign portraying women’s health in jeopardy without the involvement of abortion giant Planned Parenthood. Judges do not operate in a media vacuum and are likely aware the Obama administration came out hard against Indiana in a similar assertion of state control over tax-funded health care.”

Kansas State Representative Lance Kinzer told the *Kansas City Star* that cutting Planned Parenthood funding “is consistent with the general will of the people in Kansas and it sends an important message with respect to where the vast majority of Kansans are with respect to any tax dollars spent by Planned Parenthood. I think if we can provide those Title X services through an entity like county health departments that everybody has confidence in and aren’t providing abortions, then there is really no downside to providing those services in that fashion.”

Dr. Robert Moser, Secretary of the Kansas Department of Health and Environment, pointed out that “Title X was not intended to be an entitlement program for Planned Parenthood. Other providers are already offering a fuller spectrum of health care for Kansas patients. This highly unusual ruling implies a private organization has a right to taxpayer subsidy. The people of Kansas disagree.”

Kansas Attorney General Derek Schmidt said the state would appeal Marten’s ruling to the 10th U.S. Circuit Court of Appeals in Denver. “It appears that the court declared a duly enacted Kansas statute unconstitutional,” Schmidt said in criticism of Marten’s decision, “without engaging in the fact-finding one would expect before reaching such a conclusion.”

Photo: Kathy Ostrowski, the legislative director of Kansans for Life, meets with Joseph Kroll, director of the Kansas Department of Health and Environment bureau (out of picture) at the Statehouse in Topeka, Kan.: AP Images



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