

January 25, 2018

**RE: Pain-Capable Unborn Child Protection Act (S. 2311)**

Dear Senator:

Majority Leader McConnell has indicated that on Monday, January 29, the Senate will vote on cloture on the motion to proceed to the *Pain-Capable Unborn Child Protection Act* (S. 2311) sponsored by Sen. Lindsey Graham. The National Right to Life Committee (NRLC), the nationwide federation of state right-to-life organizations, urges you to vote “aye” with Leader McConnell on this motion. We intend to include the roll call in our scorecard of key right-to-life roll calls of the 115th Congress.

S. 2311 currently has 46 cosponsors. The operative language is identical to H.R. 36, approved by the House of Representatives on October 3, 2017. This legislation extends general protection to unborn children who are at least 20 weeks beyond fertilization (which is equivalent to 22 weeks of pregnancy—about the start of the sixth month).

There is abundant evidence—summarized in the findings of the bill—that by this point in development (and probably earlier), the unborn child has the capacity to experience excruciating pain during typical abortion procedures. On this basis, the bill prohibits abortion after that point, except when an acute physical condition endangers the life of the mother, or in cases of rape, or cases of incest against a minor. The bill spells out the procedural requirements that abortionists must follow when performing an abortion under these exceptions, including seeking to preserve the life of the child whenever this is feasible. The bill also creates specific requirements for the protection of infants who are born alive during these late abortions.

It is now commonplace to read about evidence that, by 20 weeks fetal age and even earlier, an unborn child responds to many forms of stimuli, including music and the mother’s voice. Claims that the same child is nevertheless insensible to the violence done to her body during an abortion should engender strong skepticism. Abortions at this stage are performed using a variety of techniques, but most often by a method in which the unborn child’s arms and legs are twisted off by brute manual force, using a long stainless steel clamping tool. A medical illustration of this common method is posted here: <https://www.nrlc.org/abortion/pba/deabortiongraphic/>

Some of the extensive scientific evidence that unborn children have the capacity to experience pain, at least by 20 weeks, is available online:

[www.nrlc.org/abortion/fetelpain/](http://www.nrlc.org/abortion/fetelpain/)  
<http://www.doctorsonfetelpain.com>  
<http://www.nrlc.org/uploads/fetelpain/AnandPainReport.pdf>

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Late abortions are not “rare.” At least 275 facilities offer abortions past 20 weeks fetal age. In a nationwide poll of 2,729 respondents, a December 2017/January 2018 Marist Poll found that 63% of Americans support such legislation, while just 33% oppose it. Fifty-six percent of Democrats, as well as 56% of those who identify as “pro-choice” support such legislation.

Should you have any questions, please contact us at (202) 626-8820, or via e-mail at [federallegislation@nrlc.org](mailto:federallegislation@nrlc.org). Thank you for your consideration of NRLC’s position on this vital legislation.

Respectfully,



Carol Tobias  
President



David N. O’Steen, Ph.D.  
Executive Director



Jennifer Popik, J.D.  
Legislative Director