

TALKING POINTS:

Unborn Child Protection from Dismemberment Abortion Act

Q: There is no such thing as a “dismemberment abortion.” There is no medical terminology as dismemberment, how will an abortionist know what is being prohibited?

A: The term “dismemberment abortion” is a legal term of art similar to the partial birth abortion. It has been passed in six states; Alabama, Kansas, Louisiana, Mississippi, Oklahoma, and West Virginia legally recognize what a dismemberment abortion is making this an official legal term. Also Supreme Court Justice Kennedy commented on using medical terminology to describe dismemberment abortions:

The Court’s approach in this regard is revealed by its description of the abortion methods at issue, which the Court is correct to describe as “clinically cold or callous.” Ante, at 3—4. The majority views the procedures from the perspective of the abortionist, rather than from the perspective of a society shocked when confronted with a new method of ending human life. Words invoked by the majority, such as “transcervical procedures,” “[o]smotic dilators,” “instrumental disarticulation,” and “paracervical block,” may be accurate and are to some extent necessary, ante, at 5—6; but for citizens who seek to know why laws on this subject have been enacted across the Nation, the words are insufficient. Repeated references to sources understandable only to a trained physician may obscure matters for persons not trained in medical terminology. Thus it seems necessary at the outset to set forth what may happen during an abortion. *Stenberg v. Carhart* (99-830) 530 U.S. 914 (2000), Kennedy dissenting)

Q: What is a dismemberment abortion?

A: “DISMEMBERMENT ABORTION” means, with the purpose of causing the death of an unborn child, purposely to **dismember a living unborn child** and extract him or her one piece at a time from the uterus through use of clamps, grasping forceps, tongs, scissors or similar instruments that, through the convergence of two rigid levers, slice, crush, and /or grasp a portion of the unborn child’s body to cut or rip it off. This definition does not include an abortion which uses suction to dismember the body of the developing unborn child by sucking fetal parts into a collection container.

Q: Aren’t dismemberment abortions rare?

A: NO. Dismemberment abortions are a common and brutal type of D&E abortion which involves dismembering a living unborn child piece by piece.

According to the National Abortion Federation Abortion Training Textbook – “D&E remains the most prevalent method of second-trimester pregnancy termination in the USA, accounting for 96% of all second trimester abortions”.¹

There are approximately 1 million abortions performed annually in this country.² Data from the most recent CDC report published in November 2014 indicates that almost 9% percent of abortions are performed on these very developed babies.³ These two numbers taken together show that roughly 100,000 unborn babies die each year after the first trimester.

Q: Dismemberment abortions are used to kill relatively undeveloped fetuses, aren't they?

A: NO. By three weeks and 1 day following fertilization, the unborn child has a beating heart and is making her own blood, often a different blood type than her mother's. At six weeks, she has brain waves, legs, arms, eyelids, toes, and fingerprints. By eight weeks, every organ (kidneys, liver, brain, etc.) is in place, and even teeth and fingernails have developed. The unborn child can turn her head and even frown. She can kick, swim, and grasp objects placed in her hand.⁴

Dismemberment abortions occur after the baby has met these milestones. Any unborn child aborted using the Dismemberment Abortion procedure after 20 weeks would feel the pain of being ripped apart during the abortion.⁵

Q: Isn't this really just a routine abortion procedure?

A: NO. Dismemberment abortion is the barbaric killing of a human being. The gruesome nature of dismemberment abortions was described by the Supreme Court in *Gonzales v. Carhart*: “[F]riction causes the fetus to tear apart. For example, a leg might be ripped off the fetus”⁶

Contrasting the partial birth or “intact D&E” abortion, the Court said, “In an intact D&E procedure the doctor extracts the fetus in a way conducive to pulling out its entire body, instead of ripping it apart.”⁷

“No one would dispute,” it wrote, “that, for many, D & E is a procedure itself laden with the power to devalue human life.”⁸

The author of the *Gonzales* opinion, Justice Anthony Kennedy, used an even more graphic description in his dissent in *Stenberg v. Carhart*,⁹ stating, “The fetus, in many cases, dies just as a human adult or child would: It bleeds to death as it is torn limb from limb.”

Indeed, the Ginsberg dissent in *Gonzales and Stenberg* stated:¹⁰

Nonintact D&E could equally be characterized as "brutal," . . . , involving as it does "tear[ing] [a fetus] apart" and "ripp[ing] off" its limbs,¹¹ "[T]he notion that either of these two equally gruesome procedures . . . is more akin to infanticide than the other, or that the State furthers any legitimate interest by banning one but not the other, is simply irrational."¹² *Stevens, concurring with Ginsburg in Stenberg*

Q: Is “dismemberment” too harsh a description?

A: NO. Dismemberment abortion is an accurate description of this brutal procedure. As Leroy Carhart, the abortionist who challenged the partial birth abortion ban said in testimony leading up to *Stenberg v. Carhart*, “[W]hen you rupture the membranes, an arm will spontaneously fall out through the vaginal opening ... My normal course would be to dismember that appendage and then go back and try to take the fetus out whether foot or skull first, whatever end I can get to first.”

When asked how he performed this “dismemberment,” he replied: “Just pulling and rotation, grasping the portion that you can get hold of which would be usually somewhere up the shaft of the exposed portion of the fetus, pulling down on it through the opening, using the internal opening [of the uterus] as your counter-traction and rotating to dismember the shoulder or the hip or whatever it would be.”

Then he explains that “Sometimes you will get one leg and you can’t get the other leg out.” The attorney next asks: “In that situation, when you pull on the arm and remove it, is the fetus still alive?” Carhart answers: “Yes.” He adds: “I know that the fetus is alive during the process most of the time because I can see fetal heartbeat on the ultrasound.”

Justice Kennedy, widely considered the swing vote on abortion cases, has himself described the procedure in a simple and powerful way, when he wrote:

“The fetus, in many cases, dies just as a human adult or child would: It bleeds to death as it is torn from limb from limb. The fetus can be alive at the beginning of the dismemberment process and can survive for a time while its limbs are being torn off.”¹³

and ...

“The doctor, often guided by ultrasound, inserts grasping forceps through the woman's cervix and into the uterus to grab the fetus. The doctor grips a fetal part with the forceps and pulls it back through the cervix and vagina, continuing to pull even after meeting resistance from the cervix. The friction causes the fetus to tear apart. For example, a leg might be ripped off the fetus as it is pulled through the cervix and out of the woman. The process of evacuating the fetus piece by piece continues until it has been completely removed. A doctor may make 10 to 15 passes with the forceps to evacuate the fetus in its entirety, though sometimes removal is completed with fewer passes. Once the fetus has been evacuated, the placenta and any remaining fetal material are suctioned or scraped out of the uterus. The doctor examines the different parts to ensure the entire fetal body has been removed.”¹⁴

Q: Does dismemberment abortion have wide support in the medical community?

A: NO. The violent and dehumanizing nature of dismemberment abortion undermines the

public's perception of the appropriate role of a physician and confuses the medical, legal, and ethical duties of physicians to preserve and promote life.

There are many accounts, even by current abortionists, regarding the brutal nature of the procedure. Dr. Warren Hern, a Boulder, Colorado abortionist who has performed numerous D&E abortions and has written a textbook on abortion procedures, has stated "there is no possibility of denial of an act of destruction by the operator [of a D&E abortion]. It is before one's eyes. The sensations of dismemberment flow through the forceps like an electric current."¹⁵

Q: Are dismemberment abortions ever necessary to preserve the life and health of the mother?

A: NO. Dismemberment abortions are never medically necessary to preserve the life of a mother in acute medical emergencies – dilation of the cervix alone can take at least 36 hours. Additionally, according to the National Abortion Federation Abortion Training Textbook, dismemberment abortions are a preferred method, in part, --not because they are necessary, but because they are cheaper than other available methods.¹⁶

Q: Isn't this just another law that will be struck by the courts? ...that it is just another doomed attempt to reverse *Roe v. Wade*?

A: NO. The states enacting the Unborn Child Protection from Dismemberment Abortion Act are *not* asking the Supreme Court to overturn or replace the 1973 *Roe v. Wade* holding that the state's interest in unborn human life becomes "compelling" at viability. Rather, the states are applying the interest the Court recognized in the 2007 *Gonzales* case, that states have a separate and independent compelling interest in fostering respect for life by protecting the unborn child from death by dismemberment abortion. Further, the state is recognizing their compelling interest in protecting the integrity of the medical profession with passage of this law.

Q: What about an unborn child with a fetal abnormality, shouldn't there be an exception for this pregnancy?

A: NO. It is a sad truth that some unborn babies start their lives having serious medical conditions. These unborn children have disabilities – not unlike adults. For a society that prides itself on welcoming people with disabilities (we cut our curbs, make our public buildings and transportation accessible, pass laws to protect the rights of the disabled), it should be unacceptable to solve 'disability' by killing those who have the 'disability' before they are born. Surely we can do better.

Any diagnosis does not negate the fact that a child will feel pain from the abortion procedure at 20 weeks post-fertilization, if not earlier.

Prenatal diagnoses can often be incorrect or inaccurate, unnecessarily putting pressure on a mother to procure an abortion when all she needs is more information and resources about the diagnosed disability, information about perinatal hospice or other services, or more time to see if the diagnosis is correct.

For those children with profound disabilities or conditions incompatible with life, perinatal hospice offers a positive alternative to the trauma of aborting a child. It honors and respects the dignity of the life of every human being. It offers the mother carrying a child with a diagnosed disability extensive counseling and birth preparation involving the combined efforts of Maternal Fetal Medicine specialists, OB/GYN doctors, neonatologists, anesthesia services, chaplains, pastors, social workers, labor and delivery nurses, and neonatal nurses.

Regardless of any diagnosis received, abortion is an irreversible decision that exacerbates the grieving process and deprives an unborn child of her right to life, which exists no matter what condition a child may have.

¹ Paul, Maureen, et al., eds. *Management of unintended and abnormal pregnancy: comprehensive abortion care*. John Wiley & Sons, 2009 at p157.

² Jones, R. K., & Jerman, J. (2014). Abortion incidence and service availability in the United States, 2011. Perspectives on sexual and reproductive health, 46(1), 3-14. <https://guttmacher.org/pubs/journals/psrh.46e0414.pdf>

³ Pazol, Karen, Creanga, Andreea, Burley, Kim Jamieson, Denise, and Centers for Disease Control and Prevention (CDC). "Abortion surveillance—United States, 2011." MMWR Surveill Summ 63, no. 11 (2011): 1-41. http://www.cdc.gov/mmwr/preview/mmwrhtml/ss6311a1.htm?s_cid=ss6311a1_w

⁴ National Right to Life Education Trust Fund. The Basics. A compilation of recent and noteworthy information on the abortion issue. May 2006. Web. December 17 2014. <http://www.nrlc.org/uploads/factsheets/FS02TheBasics.pdf>

⁵ Doctors on Fetal Pain: The Basics. Web. December 18, 2014 <http://www.doctorsonfetalpain.com/>

⁶ *Gonzales v. Carhart*, 550 U.S. 135 (2007).

⁷ *Id.* at 137; see also 152.

⁸ *Id.* at 158.

⁹ *Stenberg v. Carhart*, 530 U.S. 914 (2000) (Kennedy, J., dissenting)

¹⁰ *Gonzales*, 550 U.S. at 182 (Ginsburg, J., dissenting).

¹¹ *Internal citations to majority opinion omitted.*

¹² Quoting *Stenberg v. Carhart*, 530 U.S. 914, 946-947 (2000)(Stevens, J., concurring).

¹³ *Stenberg v. Carhart*, 530 U.S. 914, 958 (U.S. 2000) (Kennedy, J., dissenting)

¹⁴ *Gonzales v. Carhart*, 550 U.S. 124, 136 (U.S. 2007)

¹⁵ Warren M. Hern, M.D., and Billie Corrigan, R.N., *What About Us? Staff Reactions to the D & E Procedure*,

paper presented at the Annual Meeting of the Association of Planned Parenthood Physicians, San Diego, California, (October 26, 1978).

¹⁶ Paul, Maureen, et al., eds. *Management of unintended and abnormal pregnancy: comprehensive abortion care*. John Wiley & Sons, 2009 at p157-159.