

Key Points on Pain-Capable Unborn Child Protection Act

- **Nationwide protection of pain-capable unborn babies.** The Pain-Capable Unborn Child Protection Act provides nationwide protection for unborn children who are capable of feeling pain, beginning at 20 weeks fetal age (or “22 weeks of pregnancy,” the beginning of the sixth month).
- **“Torn limb from limb.”** Late abortions are performed using a variety of techniques, including 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. “The fetus, in many cases, dies just as a human adult or [born] child would: It bleeds to death as it is torn limb from limb.” (Justice Kennedy’s dissent, *Stenberg v. Carhart*). A medical illustration of this common method (“D&E”) is posted here: <https://www.nrlc.org/abortion/pba/deabortiongraphic/> To view video of the graphic 2012 congressional testimony of former abortionist Dr. Anthony Levatino, demonstrating how this type of abortion is performed, go here: <http://www.youtube.com/watch?v=t--MhKiaD7c>
- **Medicine confirms pain of unborn humans.** By 20 weeks after fertilization, all the physical structures necessary to experience pain have developed. Unborn children at 20 weeks fetal age react to painful stimuli, and their hormonal reactions consistent with pain can be measured. For the purposes of surgery on unborn children, fetal anesthesia is routinely administered and is associated with a decrease in stress hormones compared to their level when painful stimuli are applied without such anesthesia. Neonatologist Dr. Colleen A. Malloy from Northwestern University testified before Congress that: “We resuscitate patients at this age and are able to witness their ex-utero growth and development. ... There is no reason to believe that a born infant would feel pain any differently than that same infant were he or she still in utero” Extensive evidence that unborn children have the capacity to experience pain, at least by 20 weeks fetal age, is available on the NRLC website at: <https://www.nrlc.org/abortion/fetalpain/> and also here: <http://www.doctorsonfetalpain.com>
- **Polling demonstrates broad support.** In a nationwide poll of 1,003 registered voters in March 2013, The Polling Company found that 64% would support a law such as the Pain-Capable Unborn Child Protection Act prohibiting abortion after 20 weeks — when an unborn baby can feel pain — unless the life of the mother was in danger. Only 30% opposed such legislation. Women voters split 63%-31% in support of such a law, and 63% of independent voters supported it.
- **140 or more abortionists would be affected.** A 2008 study, “Abortion in the United States: Incidence and Access to Services, 2005” released by the Guttmacher Institute (which was originally founded as a special affiliate of the Planned Parenthood Federation of America,

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currently the nation's largest abortion provider) found that, in 2005, there were at least 1,787 abortion providers in the United States. Of the 1,787 providers, the study found that “[t]wenty percent of providers offered abortions after 20 weeks [LMP], and only 8% at 24 weeks [LMP]...” This translates to at least 300 abortion providers who will perform abortions after 20 weeks LMP and around 140 willing to perform abortions at 24 weeks LMP. The 140 or more abortion providers who perform abortions at 22 weeks LMP and later would be the providers directly affected by the Pain-Capable Unborn Child Protection Act.

- **Late abortions are not “rare.”** It is also misleading to conclude that the abortions which Warren Hern, Leroy Carhart and their ilk are performing are “rare.” According to a May 2010 briefing by the Guttmacher Institute, 1.5% of the estimated more than 1.2 million elective abortions performed annually in the United States are on unborn children at 21 weeks LMP (19 weeks postfertilization) or older. This translates to roughly 18,000 abortions annually – a substantial number of which probably occur at 22 weeks LMP or later, which is past the point that the best evidence indicates that the unborn child is fully capable of feeling pain (a point that may well occur earlier).

The Kermit Gosnell case and recent hidden-camera videos issued by the organization Live Action provide further evidence that a great deal of the late abortion iceberg is below the water. Some of the jurisdictions with the most liberal abortion policies have no reporting requirements — for example, California, Maryland, and D.C. — or do not collect data on stage of pregnancy (Florida, for example). Other jurisdictions have reporting requirements but don't enforce them — the Grand Jury report on Gosnell said (page 171) that between 2000 and 2010, Gosnell reported only one second-trimester abortion to the state. Yet it appears (pp. 26-27, 88) that Gosnell probably performed thousands of second-trimester and third-trimester abortions during that decade. Multiple other practitioners who perform large volumes of late abortions have also failed to report or not been required to report.

- **Legislators Stand with Pain-Capable Unborn Children.** The Pain-Capable Unborn Child Protection Act (H.R. 1797) passed the U.S. House of Representatives on June 18, 2013, by 228-196. (Note, the Obama White House issued a veto threat on the bill on June 17, 2013). Ten states protect pain-capable unborn children: Nebraska, Kansas, Idaho,* Oklahoma, Alabama, Georgia,* Louisiana, Arkansas, North Dakota, and Texas. (*The Idaho and Georgia laws are enjoined pending litigation. The Georgia challenge is a state court suit under the state constitution).

- **Unborn babies at 20 weeks may experience pain more severely than an infant or adult.** For more information, see “The pain may be worse for unborn babies aborted at 20 weeks,” by Randall K. O’Bannon, Ph.D., at <http://nrlc.co/pain0713>