Secretariat for Pro-Life Activities
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Dear Member of Congress:

As the 110th Congress returns for its final weeks of legislative activity, the Catholic bishops of the United States are gravely concerned about any possible consideration of the "Freedom of Choice Act" ("FOCA," S. 1173 and H.R. 1964). Pro-abortion groups and some of the bill's congressional sponsors have said they want this legislation enacted soon.

Despite its deceptive title, FOCA would deprive the American people in all 50 states of the freedom they now have to enact modest restraints and regulations on the abortion industry. FOCA would coerce all Americans into subsidizing and promoting abortion with their tax dollars. And FOCA would counteract any and all sincere efforts by government to reduce abortions in our country.

The operative language of FOCA is twofold. First it creates a "fundamental right" to abortion throughout the nine months of pregnancy, including a right to abort a fully developed child in the final weeks for undefined "health" reasons. No government body at any level would be able to "deny or interfere with" this newly created federal right. Second, it forbids government at all levels to "discriminate" against the exercise of this right "in the regulation or provision of benefits, facilities, services, or information." For the first time, abortion on demand would be a national *entitlement* that government must condone and promote in all public programs affecting pregnant women.

While some supporters have said FOCA would simply "codify" the Supreme Court's 1973 decision in *Roe v. Wade*, their own statements disprove this assertion. FOCA was introduced the day after the Supreme Court's decision in *Gonzales v. Carhart*, which upheld the federal ban on partial-birth abortions within the bounds of *Roe* – with FOCA's sponsors declaring that its primary purpose is to counteract this ruling and ensure that the grisly killing of partly-born children will once again be permitted nationwide. Sponsors also acknowledge that FOCA will require all Americans to support abortion with their state and federal tax dollars – despite a long line of Supreme Court decisions, consistent with *Roe*, upholding bans on public funding since 1975.

The National Organization for Women (NOW), in its materials supporting FOCA, has declared that it "would sweep away hundreds of anti-abortion laws [and] policies" – laws and policies that are in effect today because they do not conflict with *Roe*. These include modest and widely supported state laws to protect women from unscrupulous and dangerous abortionists (including those who are not licensed physicians), ensure informed consent, protect parental rights in the

case of minors undergoing abortions, and so on. The extreme and unprecedented scope of the "fundamental right" created by this bill is more fully documented in the attached legal analysis from the USCCB Office of General Counsel.

In recent months the national debate on abortion has taken a turn that may be productive. Members of both parties have sought to reach a consensus on ways to reduce abortions in our society. It is well documented, for example, that even modest abortion regulations such as public funding bans and laws protecting parental rights can substantially reduce abortions. Because many women have testified that they are pressured toward abortion by social and economic hardships, bipartisan legislation providing practical support to help women carry their pregnancies to term, such as the Pregnant Women Support Act (S. 2407, H.R. 3192), deserves Congress's attention. By contrast, there is considerable evidence that programs promoting contraceptive mandates and "emergency contraception" generally do *not* reduce abortions (see www.usccb.org/prolife/issues/contraception/index.shtml#2).

However, there is one thing absolutely everyone should be able to agree on: We can't reduce abortions by promoting abortion. We cannot reduce abortions by invalidating the very laws that have been shown to reduce abortions. We cannot reduce abortions by insisting that every program supporting women in childbirth and child care must also support abortion. No one who sponsors or supports legislation like FOCA can credibly claim to be part of a good-faith discussion on how to reduce abortions.

Therefore I urge all members of Congress to pledge their opposition to FOCA and other legislation designed to promote abortion. In this way we can begin a serious and sincere discussion on how to reduce the tragic incidence of abortion in our society.

Sincerely,

Justin Card. Rigali

Cardinal Justin Rigali
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