

The Pain-Capable Unborn Child Protection Act:

A summary of the bill to be introduced in the U.S. Senate the week of June 8, 2015

The federal Pain-Capable Unborn Child Protection Act would generally ban abortion nationwide after 20 weeks fetal age (equivalent to 22 weeks of pregnancy, about the beginning of the sixth month), on the basis that by that point in development (and probably earlier) the unborn child is capable of experiencing great pain during an abortion. The House of Representatives passed this legislation on May 13, 2015. Sen. Lindsey Graham (R-SC) intends to introduce companion legislation in the U.S. Senate during the week of June 8, 2015. Some key provisions:

- The bill contains an exception for abortion to prevent the death of the mother.
- There is an exception for cases of rape or incest in which the victim is a *minor*, provided that there is documentation that the crime has been reported either to (1) a law enforcement agency, or (2) a government agency authorized to act on reports of child abuse. The bill establishes a federal requirement that the abortionist comply with any state law designated by the state's attorney general pertaining to reporting of such crimes. In addition, the bill establishes a federal requirement that the abortionist must comply with all state laws regarding parental involvement in their minor daughter's abortion decision; the bill gives parents the right to sue an abortionist who fails to fulfill these requirements or other requirements in the bill.
- There is an exception for cases involving an *adult* woman who is the victim of rape, if the rape has been reported to law enforcement authorities, or alternatively if there is documentation that the woman has received medical treatment or counseling for the rape or for an injury related to the rape at least 48 hours prior to the abortion. The counseling must be provided by licensed personnel at a facility that does not perform abortions (unless a hospital), or by a victims rights advocate provided by a law enforcement agency. In addition, the bill would establish a federal requirement that the abortionist must comply with any state law designated by the state's attorney general regarding the reporting of such crimes.
- Any abortion performed under the above-described exception clauses must be performed by the method that "provides the best opportunity for the unborn child to survive" (unless another method is necessary to prevent risk to the mother of death, or substantial and irreversible physical impairment of a major bodily function). If the baby "has the potential to survive outside the womb," a second physician must be present to provide neonatal resuscitation. Any child born alive must receive appropriate medical care, including prompt transportation to a hospital; all clinic employees are required, on pain of federal criminal penalties, to report any failure to fulfill this requirement.
- Prior to the abortion, the abortionist must inform the woman of the bill's requirements, including the live-birth requirements, and obtain her informed consent. The bill provides the woman with a right to sue the abortionist if he fails to give her the required information, or if he violates any of the other requirements contained in the bill. These right-to-sue provisions are in addition to the federal criminal penalties (up to five years incarceration) applicable to violations.

More information about the pain of the unborn child and the bill can be found on National Right to Life's website: www.nrlc.org/abortion/fetalspain. NRLC 06/01/15 1120