

Statement by Douglas Johnson  
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On Pro-Life Priorities for 2012  
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The Supreme Court's 1973 decision in *Roe v. Wade* was issued during the “Dark Ages” in terms of pre-natal medical science. In the ensuing decades, knowledge regarding the development of unborn humans, and their capacities at various stages of growth, has advanced in quantum leaps.

For example, improvements in ultrasound and other imaging technologies have allowed doctors to see smaller and smaller details of the unborn child’s anatomy. The first open-womb fetal surgery was performed in 1981, and such procedures are now routine at a number of facilities. During fetal surgery, physicians were able to observe unborn children reacting to painful stimuli, and this was one major factor that led to the current recommended practice of administering anaesthesia to the unborn child at around 20 weeks.

It is long past time for lawmakers to take note of these developments and the implications that they should have for abortion policy. As you have already heard, five states have already done so, during 2010 and 2011, by enacting the NRLC-backed Pain-Capable Unborn Child Protection Act. Those states are Nebraska, Kansas, Idaho, Oklahoma, and Alabama.

In these states, legislatures have adopted factual findings regarding the medical evidence that unborn children experience pain at least by 20 weeks after fertilization (which is about the start of the sixth month, in layperson’s terminology), and they therefore prohibit abortion after that point, with narrowly drawn exceptions. There has been no serious legal challenge mounted to any of these laws.

Additional state legislatures will be considering such legislation during the months ahead, including Virginia, Florida, and New Hampshire.

Under the U.S. Constitution, the members of these state legislatures have the primary responsibility for enacting laws to protect members of the human family within their respective borders -- although that responsibility is shared with the Congress. But under the Constitution, there is one substantial area in which legislative responsibility is invested *solely and directly* in the Congress, which is “such District . . . as may . . . become the seat of the government of the United States.”

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With respect to this Federal District, Congress shall “exercise exclusive legislation in all cases whatsoever,” according to the Constitution. You cannot get much plainer than that. Congress has chosen to delegate certain powers and municipal functions, but members of Congress cannot (absent a constitutional amendment) escape the fact that they alone hold ultimate responsibility for the laws that govern the Federal District.

We believe that it will come as a shock to many Americans to learn that in the federal city, the capital of our nation, abortion now is allowed for any reason at any point in pregnancy. Moreover, abortions are being performed on demand, and are openly advertised, far past the point at which an unborn child becomes pain capable.

Therefore, NRLC strongly supports a bill that will be introduced today, in the U.S. House of Representatives, by Congressman Trent Franks, Republican of Arizona, which would prohibit the abortion of unborn children in the Federal District after the point that the Congress finds substantial evidence exists that they experience pain, which this bill -- like the bills enacted by five states -- defines as 20 weeks after fertilization, which is 22 weeks in the “last menstrual period” system of calculation, or about the beginning of the sixth month in layperson's terminology. The bill contains carefully drawn exceptions for circumstances in which a pregnant woman suffers from an acute, life-endangering physical condition.

Again, on this matter – a matter of life and death, painful death – the buck stops entirely with Congress. If at the end of this congressional session, abortion remains unrestricted in the nation's capital, during the sixth, seventh, eighth, and ninth months, it will be because certain members of Congress, or the President, have obstructed this bill. If they do that, then they alone, under the Constitution, are fully accountable for that policy.

We believe that there is [abundant evidence](#) to support the findings contained in Congressman Frank's bill. Indeed, if it were not for what we might call the “abortion distortion” factor, there would not even be an argument about this. The evidence that unborn members of the species homo sapiens, by the beginning of the sixth month (if not well earlier), are capable of experiencing excruciating pain would be accepted without serious dispute, if it did not bear on the question of the availability of induced abortion.

Consider the words of the preeminent pioneer researcher in the pain-perception capacities of premature infants, Dr. Kanwaljeet S. Anand, who said [in a document accepted as expert by a federal court](#), “It is my opinion that the human fetus possesses the ability to experience pain from 20 weeks of gestation, if not earlier, and that pain perceived by a fetus is possibly more intense than that perceived by newborns or older children.”

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Infants born as early as 23 or 24 weeks now commonly survive long term in neonatal intensive care units. Neonatologists confirm that they react negatively to painful stimuli -- for example, by grimacing, withdrawing, and whimpering. When they must receive surgical procedures, they are given drugs to prevent pain.

Yet, some pro-abortion advocates want you to believe an unborn baby who is at exactly the same stage of development experiences no discomfort as her arms and legs are literally twisted off, by brute manual force, in the common procedure known as [dilation and evacuation](#) (or “D&E”), or stabbed through the heart with a needle. Some of the supposed medical authorities quoted in the press as asserting that human fetuses cannot feel pain until 29 weeks or later have themselves performed thousands of late abortions -- and all too often, that fact is not disclosed in the stories quoting these supposed voices of scientific authority.

In any event, the members of Congress will have the opportunity to evaluate these competing claims, and to determine whether the weight of evidence is sufficient to justify the findings in this legislation, and the public policy which it proposes to adopt for the Federal city on that basis.

### **LATE ABORTION PROVIDERS IN THE DISTRICT**

Certainly, members of Congress should take note of the facilities that are openly advertising late abortions in this jurisdiction for which the Constitution gives them sole ultimate responsibility. For example, they should study the claims made on the website [www.LateTermAbortion.net](http://www.LateTermAbortion.net), which advertises “late second and third trimester pregnancy terminations.” There are indications that these procedures are available at least to 32 weeks, and there is even one linked reference to 34 weeks, which would be about eight months in layperson’s terminology.

The [LateTermAbortion.net](http://LateTermAbortion.net) website describes the method used: “A sonogram sector scan is placed on the patient's abdomen and the fetal abdominal cavity is isolated. A spinal needle is guided slowly into the fetal heart where a feticide agent or 50 cc's of air is injected via a syringe to stop the fetal heart beat.” The website states, “The location in Washington D.C. where the procedure is performed is not publicly disclosed . . .”

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One whole section of this website is devoted to the subject to “Teenage Late Term Abortion,” which is not surprising, because there is abundant evidence that most late abortions involve no medical issue at all, either of mother or baby, but a substantial percentage do involve minors.

Now, the doctor speaking in the first person on this website states, “I am a highly trained Board Certified Ob/Gyn Physician and have completed a two year fellowship in Maternal-Fetal Medicine. I have been performing pregnancy terminations for 25 years and I have helped thousands of women in late second trimester and late term pregnancies in need of an abortion.” He goes on to say: “LateTermAbortion.net is able to provide the expertise from a physician with over 25 years of experience performing late term abortions, and the first in the United States to induce labor using RU486 and Cytotec in second trimester and late term abortions. LateTermAbortion.net is prohibited from performing this specialized procedure in our Florida offices because at this time, Florida laws prevent termination of pregnancy beyond 24 weeks.”

The individual who is speaking in those statements is James S. Pendergraft IV. If you put into Google the words “James Pendergraft” and “abortion“ and read the public documents and press reports that turn up, you will learn many interesting things which are not recited on the LateTermAbortion.net website. We have assembled a number of public documents and press reports that may be of interest, which we will share with serious-minded journalists who wish to subject this matter to more detailed scrutiny.

You can learn from public documents and press reports about the \$36 million malpractice judgment leveled against James Pendergraft last year in connection with an attempted abortion conducted at his Florida clinic on a woman determined to be between 22 and 23 weeks of her pregnancy, who subsequently gave birth to a baby who was born alive, but suffered “catastrophic and permanent bodily injuries, impairment, disability, (and) disfigurement,” according to the *Orlando Sentinel*.

You will learn that the Florida Board of Medicine has suspended James Pendergraft's license three times. In fact, it appears that the Florida license is currently suspended today as we speak. This suspension resulted from a 2009 case in which, according to an administrative law judge's findings of fact, James Pendergraft managed to tear a portion one leg off an unborn baby, but then he noticed that the woman's uterus may have been perforated, so he sent the woman off to a hospital for emergency treatment, but neglected to mention to doctors at that hospital that he had retained the baby's detached body part, so apparently those doctors understandably spent a lot of time looking for it inside the poor woman.

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You may learn of other sanctions for infractions involving prescription of steroids, described by an administrative law judge. You can read about how James Pendergraft pleaded guilty to a federal charge of being accessory after the fact to making a false statement – this was in connection with a federal case involving charges of extortion and perjury, as reported in the *Orlando Sentinel*.

**Now, I want to make it clear, we don't know if Pendergraft himself is stabbing unborn humans in the heart with a needle, inside of the Federal District, or not. On the website, Pendergraft speaks in the first person, and at one point he does say “in Washington, D.C.” But perhaps this is sloppy language, or misdirection. Perhaps the facility actually is in Maryland.**

As far as we can tell, James Pendergraft currently has no active medical license in Maryland, or in the District, or in Virginia, but perhaps Pendergraft has hired licensed confederates to do the actual baby-stabbing procedure. But even if that is so, this cries out for official scrutiny.

I take note that in Maryland, a grand jury recently issued indictments for fetal homicide against an unlicensed abortionist, Steve Brigham, who has been involved in providing late abortions in that state for years, and in fact they indicted his collaborator as well, even though she did have a medical license in Maryland. Apparently the authorities involved in Maryland did not buy Brigham’s claim that he was allowed to engage in his grisly enterprise merely because he had a confederate who held a medical license. **But again, in the case of the Pendergraft enterprise, we do not suggest that any law is being violated, but only that these questions should be asked, given the information that is presented in the public documents.**

Even if James Pendergraft is not killing pain-capable children in utero within the Federal District, quite clearly there are other people who are. I would refer you, for example, to the website of the Washington Surgi-Clinic, which offers terminations on request “up to 26 weeks of pregnancy (from the first day of the last menstrual period),” which would be 24 weeks fetal age. The website specifies that [the D&E procedure](#) is used for these abortions. That is the procedure in which the baby is literally torn limb-from-limb, by brute manual force.

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### THE OBAMA RECORD

National Right to Life will work diligently this year to advance the District of Columbia Pain-Capable Unborn Child Protection Act, but we realize we face an uphill battle, because the current President is the most pro-abortion president ever to hold that office. In a newly updated one-page factsheet, "[The Presidential Record on Life](#)," NRLC summarizes how Barack Obama has done more damage to the pro-life cause, in just three years, than any President in history.

Quietly, relentlessly, President Obama has worked to entrench abortion on demand, and to expand access to unrestricted and government-subsidized abortion. He has done so by championing enactment of a massive health-care restructuring law that contains numerous anti-life provisions, by undermining pro-life efforts in Congress (employing, among other tools, formal veto threats), by issuing anti-life executive orders, by aggressive pro-abortion advocacy overseas through Hillary Clinton's State Department, and -- most ominously of all, in the long run -- through two appointments to the U.S. Supreme Court.

NRLC's factsheet is merely a summary -- we have produced far more detailed critiques on all of the issues mentioned here, and there are others. During the months ahead, we will continue and accelerate our efforts to educate the public regarding the Obama abortion agenda.

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