

The Truth about the Pain Capable Unborn Child Protection Act

By Denise Leopold, Executive Director, Right to Life of Northeast Ohio 1/7/2015

Whether or not they agree with them, those who work every day in pro-life organizations understand the laws regarding abortion fairly well. However, many average but dedicated pro-life advocates often don't realize how federal laws concerning abortion like Roe vs. Wade, Doe vs. Bolton and those that followed affect the laws regarding abortion in their own individual states.

I am often asked why we can't just pass a law or vote on a ballot initiative to just ban abortion completely in my state of Ohio. They don't understand that generally speaking, the most we can do in each state is to create strong health and safety regulations regarding abortion prior to viability (20-24 weeks), and to ban abortion completely after viability. Because of the Supreme Court's interpretation of the law, banning abortion prior to 20 weeks would place an "undue burden" on a woman wishing to end the life of her unborn child. We can pass all the ban abortion laws and ballot initiatives that we want, but they are likely never going to be enacted simply because of federal law taking precedence.

In Ohio, the Viable Infants Protection Act was passed in 2011 which effectively bans abortions after 20 weeks, or about the earliest time a child is known to be able to survive outside of a mother's womb. Other states have passed bans on abortion after 20 weeks based on the ability of the child to feel pain. In 2013, riding on a wave of shock from the Kermit Gosnell trial in Philadelphia, Trent Franks (R-AZ) introduced the Pain Capable Unborn Child Protection Act to the United States Congress which intended to ban abortions on a federal level after 20 weeks based on pain, even though we know that the brain, spinal cord and nervous system start to develop at about 5 weeks after conception. However, 20 weeks (or viability) is the earliest in the pregnancy where abortion can be banned.

All of this frustrates me to no end, and here's why. It is a scientific fact that life begins at conception. Pro-abortion advocates will tell you that this life is not a baby, and they're right. A baby is a term for a stage of development in a human life. That new life is not a baby, a toddler, or a senior citizen either. However, it IS an unborn, living human being at a stage of development. Our own Declaration of Independence spells out our right to life. Our Constitution guarantees that right to life for "us and our posterity"....meaning all those yet to come. Hello? Those yet to come are UNBORN! In addition, the 14th amendment says that no one may be deprived of the right to life without due process of law. In 1973, the Supreme Court virtually ignored the Constitution when it made abortion legal under a woman's right to privacy.

The problem with the Pain Capable Unborn Child Protection Act, widely endorsed by almost every pro-life organization across the country, started the day before it was almost certain to be passed by Congress. Eric Cantor (R-VA) added a rape and incest exception because of media frenzy to misunderstood remarks made by Rep. Franks about the incidence of pregnancies following rape. With lots of time and money spent to back this popular bill, many pro-life organizations continued to back the bill after it passed and did nothing to fight the exceptions after the bill was sent to the senate. This was unfortunate, since the likelihood of this mostly republican sponsored bill passing the democratically controlled senate was almost non-existent. As expected, the bill expired without ever coming to the floor for a vote during the 114th congressional session.

Last fall, voters across the United States overwhelmingly elected pro-life candidates, and the 115th congressional session opened in January of 2015 with a republican majority in both the house and the senate. On January 6, the Pain Capable Unborn Child Protection Act (HR 36) was re-introduced to congress with the rape exceptions still included. This bill could most certainly pass the house and senate without these exceptions. To support this or ANY legislation with rape, incest or fetal anomaly exceptions is totally contrary to what being pro-life means.

Abortion is a sad reality in this country, and we should do all that we can to bring it to an end. In the meantime, we cannot ignore that all unborn life should be protected, and not make exceptions for how that child was conceived or for the quality of their life. There should be no compromise. If we want bills like the Pain Capable Unborn Child Protection act to pass, then we should demand justice for those it seeks to protect by contacting our elected representatives to remove the exceptions.