

POLICY BRIEF

HB1887

The Pain-Capable Unborn Child Protection Act

Sponsors: Rep. Andy Mayberry, Sen. Jason Rapert

Summary: There is substantial medical evidence that an unborn child is capable of experiencing pain by 20 weeks after fertilization. Knowing this fact and recognizing that the State of Arkansas has always valued life, HB1887 prohibits abortion after it is determined by a doctor that an unborn child is 20 weeks old.

Current Law

- ❖ Arkansas currently has no law protecting an unborn child from being subjected to undue pain.

Points to Consider

- ❖ At 20 weeks, an unborn child's pain receptors, spinal cord, nerve tracts, thalamus, and cortex are in place, and all anatomical links needed for pain transmission to the brain for feeling pain are present.¹
- ❖ It is reasonable to assume that abortion procedures performed on or after the twentieth week of pregnancy are painful for an unborn child, because they can include the following:
 - Dismemberment of the unborn child by a pair of sharp, metal forceps.
 - Inhalation of a saline solution designed to suffocate the unborn child.
- ❖ Nebraska passed the Pain-Capable Unborn Child Protection Act last year, and several other states, including Kansas, Kentucky, Georgia, Indiana and Minnesota, are considering similar laws. The Oklahoma House recently passed a similar bill, and the State Senate will hear it soon.²
- ❖ Some claim anesthesia may be used to prevent fetal pain. There are two basic forms of anesthesia that may be used: Maternal and fetal.
 - A dose of anesthesia given to the mother would be life-threatening if it were strong enough for both her and her baby.
 - Anesthesia administered directly to the unborn child may sufficiently curb the pain of an abortion. However, it is believed by some experts that most clinics currently lack the basic equipment and expertise necessary to properly administer fetal anesthesia, and could endanger the life and health of the mother if they were required to do so³.

¹ National Right to Life Committee *Pain of the Unborn* http://www.nrlc.org/abortion/fetal_pain/FetalPain091604.pdf 2004

² LifeNews.com *Oklahoma House Passes Fetal Pain-Based Abortion Ban* <http://www.lifenews.com/2011/03/10/oklahoma-house-passes-fetal-pain-based-abortion-ban/> March 10, 2011

³ "The First Ache". Paul, Annie Murphy. *The New York Times*. February 10, 2008.



How Does Maternal anesthesia Work during an Abortion?

- ❖ For maternal anesthesia to provide adequate pain protection for the unborn child, it would have to avoid metabolism by the mother's liver, enter her blood stream, cross the placental membrane, reach the unborn child's circulation system in sufficient concentration, and cross the child's blood/brain barrier. The dose of anesthesia necessary to pass all five steps would endanger the mother.⁴

What Experts Say about Fetal Anesthesia

- ❖ A 2008 article in the *New York Times* examined the possibility of a law requiring abortion doctors to use fetal anesthesia on unborn children. Here are the findings of one expert:

“Laura Myers, an anesthesia researcher at Children’s Hospital Boston and Harvard Medical School who analyzed the Unborn Child Protection Act for the abortion-rights organization Physicians for Reproductive Choice and Health, concluded that abortion clinics do not have the equipment or expertise to supply fetal anesthesia. ‘The handful of centers that perform fetal surgery are the only ones with any experience delivering anesthesia directly to the fetus,’ Myers says...Even these specialized centers have no experience providing fetal anesthesia during an abortion; such a procedure would be experimental and would inevitably carry risks for the woman, including infection and uncontrolled bleeding.”⁵

⁴ National Right to Life Committee *Pain of the Unborn* http://www.nrlc.org/abortion/fetal_pain/FetalPain091604.pdf 2004.

⁵“The First Ache”. Paul, Annie Murphy. *The New York Times*. February 10, 2008.