

7/18/2015

Protecting Unborn Children and Pregnant Women

Democrats for Life of America

Congress's consideration of the Pain-Capable Unborn Child Protection Act, which would ban abortions occurring more than 20 weeks after fertilization, offers this nation the chance to protect both unborn children and pregnant women. We can do that by combining the 20-week ban with a series of measures that will support pregnant women and their families.

A. THE 20-WEEK BAN

The ban on abortions after 20 weeks (i.e. after about 22 weeks from the last menstrual period (LMP)) would enact the sensible principle that our society should, at least, protect children in the womb who can feel pain and many of whom are viable.¹ Polls show that a substantial majority of Americans favor prohibiting these late-term abortions.² Recent unguarded video comments by one of Planned Parenthood's top officials have exposed again the dehumanizing effects of the abortion culture. The "heart, lung, liver" that she so casually spoke of preserving to sell are well-developed human organs in a 20-week child in the womb.

As DFLA executive director Kristen Day has urged, Congress should "recognize that late-term abortions are never necessary"—and that "providing more support for pregnant women will make late-term abortions obsolete."³ Most late-term abortions are performed on healthy babies and healthy mothers. Most of the mothers are poor and either lacked the money for an earlier abortion or did not know they were pregnant. A small percentage choose abortion because of serious physical anomalies in the child; as we now discuss, these women and families greatly need support.

B. MEASURES TO SUPPORT PREGNANT WOMEN

In protecting the unborn, we cannot leave women to face difficult pregnancies without societal support. Our concern for the vulnerable must extend to women in such circumstances; as Democrats we believe that government can and should help, together with private organizations. Providing support to pregnant women is necessary to build a pro-life consensus; it is also simply the right thing to do. By combining the 20-week legislation with measures supporting women, we can indeed make late-term abortions obsolete.

1. Support for Perinatal Hospices

Certain rare, lethal abnormalities in an unborn child are often not diagnosed until 20 weeks or after. Pro-choice advocates point to these situations as a reason to allow such children to be aborted. Our society should respond not by denying the child protection, but by providing mothers and families support in these rare, but very difficult situations.

Among the most important forms of support is the work of perinatal hospices. For families who have received a diagnosis of lethal fetal abnormality, these hospices offer multiple services from the diagnosis through the birth, the child's death, and the grieving process. These help parents to embrace their child's life, however short, and to make the most of their time as parents. Services before birth include grief counseling and frequent ultrasounds to emphasize the meaningfulness of the child's life. For babies who survive beyond birth and hospital discharge, hospices arrange home care emphasizing comfort measures and symptom management. They continue to provide grief counseling, up to a year after the baby's death.

While medical costs (pregnancy and childbirth) and hospice-care costs are covered by Medicaid and private insurance, there are shortfalls. Prenatal counseling is especially important, but because it focuses on the family's emotional needs, it may not qualify as "medically necessary" under Medicaid or private medical insurance. Even assuming that grief counseling qualifies as an essential behavioral health benefit under the Affordable Care Act, states and insurers have differing regulations concerning frequency of visits, sometimes restricting parents' access to the emotional care that is fundamental to a perinatal hospice program.

To ensure families are aware of perinatal hospice services, Congress should enact the model Perinatal Hospice Information Act, which requires that parents seeking an abortion of a child with a lethal abnormality must receive, at least 24 hours before the abortion, information about perinatal hospice services and a list of providers.⁴ Congress should also support prenatal counseling, ultrasounds, and other hospice services by appropriating money for grants to support such measures, or legislating to increase Medicaid and insurance-coverage requirements.

2. Paid Family Leave

Parents who want to care for their unborn child with a terminal abnormality may need to take leave from work for the weeks or months that the child lives. If leave is unpaid, the economic shortfall may discourage them from carrying their child to term. Moreover, the absence of paid leave almost certainly has broader effects on abortion by increasing women's economic vulnerability. Living in poverty or modest circumstances significantly increases the

likelihood of having an abortion. Between 2/3 and 3/4 of women seeking abortion give as one major reason that they cannot afford having or caring for a baby. In 2000, 60 percent of all women having abortions had incomes less than twice the poverty line, and these numbers are worsening.⁵

Sadly, paid leave is too often unavailable, especially for low-income workers. The Family and Medical Leave Act (FMLA) guarantees 12 weeks of leave, but not any pay. In recent surveys, only 41 percent of women taking leave for more than 10 days received full pay, while 31 percent received no pay; only 13 percent of employers provided full pay; and among women with unmet need for leave, 46 percent said the reason was that they could not afford to take leave.⁶ Astonishingly, the United States is the only high-income nation in the world that does not have guaranteed paid leave.⁷

To protect pregnant women and unborn children, Congress should pass a paid-leave law like the proposed Family And Medical Leave Insurance (FAMILY) Act.⁸ That bill would provide employees in all businesses up to 12 weeks of partial pay (up to 2/3 of their monthly wages, with a cap) for reasons such as pregnancy, childbirth and recovery, adoption, and the serious health condition of a child.⁹

3. Pregnancy Assistance Fund Expansion

Finally, Congress should pass the Pregnancy Assistance Fund Expansion Act, introduced by pro-life Democrat Sen. Robert Casey (PA). This bill would bolster the Pregnancy Assistance Fund (PAF), an important source of support for women, by authorizing \$25 million in additional funding in each of fiscal years 2016-19. The PAF, created in 2010 in the Affordable Care Act, subsidizes services by states and Native American tribes that help “expectant and parenting teens, women, fathers, and their families” to complete their education and “gain access to health care, child care, family housing, and other critical supports. The funds are also used to improve services for pregnant women who are victims of domestic violence, sexual violence, sexual assault, and stalking.”¹⁰ All these services address factors that create incentives to abort, such as economic vulnerability, conflicts between giving birth and completing one’s education, and living with an abusive partner.¹¹

CONCLUSION

The abortion rate has reduced substantially in recent years, for a combination of reasons: societal supports like the PAF, reasonable restrictions on abortion (such as informed-consent and

waiting-period laws), contraceptive use, education, and a greater awareness of unborn life through means such as ultrasound images. A package that likewise bans late-term abortions and supports pregnant women can move us close to making those abortions obsolete. Indeed, only such a package—support as well as restrictions—has a chance of achieving that goal.

¹ See, e.g., “Between-Hospital Variation in Treatment and Outcomes in Extremely Pre-Term Infants,” *New England J. Medicine* 372: 1801-1811 (2015), <http://www.nejm.org/doi/full/10.1056/NEJMoa1410689> (study showing 23 percent of children born at 22 weeks LMP survived when given active treatment).

² See, e.g., <http://www.quinnipiac.edu/news-and-events/quinnipiac-university-poll/national/release-detail?ReleaseID=2115Cite>, Question 49 (2014 poll showing 60 percent favoring 20-week ban, including 46 percent of Democrats); <http://www.cbsnews.com/news/poll-majority-of-americans-support-20-week-abortion-ban/> (2013 poll showing 56 percent favoring).

³ <http://democratsforlife.org/index.php/articles-and-op-eds/press-releases>.

⁴ Perinatal Hospice Information Act, http://www.aul.org/downloads/2015-Legislative-Guides/Abortion/Perinatal_Hospice_Information_Act_-_2015_LG.pdf.

⁵ Lawrence B. Finer, Lori F. Frohwirth, Lindsay A. Dauphinee, Susheela Singh and Ann M. Moore, “Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives,” *Perspectives on Sexual and Reproductive Health*, vol. 37, issue 3 (Sept. 2005), <http://www.guttmacher.org/pubs/journals/3711005.html>.

⁶ U.S. Department of Labor, Wage and Hour Division, and Abt Associates (2012, revised 2014), Family and Medical Leave in 2012: Technical Report, <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.

⁷ Sen. Kirsten Gillibrand (R-NY), The American Opportunity Agenda: Expanded Paid Family and Medical Leave, <http://www.gillibrand.senate.gov/issues/paid-family-medical-leave>.

⁸ <http://www.nationalpartnership.org/research-library/work-family/paid-leave/family-act-fact-sheet.pdf>.

⁹ *Ibid.*

¹⁰ <http://www.hhs.gov/ash/oah/oah-initiatives/paf/home.html>.

¹¹ For explanation of the connections, see http://democratsforlife.org/documents_etc/95-10/95-10%20Document%20TCB_.pdf.