



**Written Testimony of Catherine Glenn Foster, Esq.
President & CEO, Americans United for Life
On H.B. 339, The Pain Capable Unborn Child Protection Act
Submitted to the House Children and Families Committee
February 12, 2019**

Dear Chair Franklin and Members of the Committee:

My name is Catherine Glenn Foster, and I serve as President and CEO of Americans United for Life (AUL), America's oldest and most active pro-life nonprofit advocacy organization. Founded in 1971, two years before the Supreme Court's decision in *Roe v. Wade*, AUL has dedicated nearly 50 years to advocating for comprehensive legal protections for human life from conception to natural death.

I write to strongly support H.B. 339, the Pain Capable Unborn Child Protection Act, which would protect maternal health, as well as the lives of unborn children who can feel pain by limiting the availability of abortion after 20 weeks except when necessary to protect the life or physical health of the mother.

Later-Term Abortions Carry High Risks.

It is undisputed that abortion carries a higher medical risk when performed later in pregnancy. Gestational age is the strongest risk factor for abortion-related mortality, and the incidence of major complications is significantly higher after 20 weeks gestation.¹ For example, compared to an abortion at 8 weeks gestation, the relative risk of mortality increases exponentially (by 38 percent for each additional week) at higher gestations.² Specifically, the risk of death at 8 weeks is one death per one million abortions; at 16 to 20 weeks, that risk rises to 1 per every 29,000 abortions; and at 21 weeks or more, the risk of death is 1 per every 11,000 abortions.³

In other words, a woman seeking an abortion at 20 weeks is 35 times more likely to die from abortion than she was in the first trimester. And at 21 weeks or more, she is 91 times more likely to die from abortion than she was in the first trimester.

¹ L.A. Bartlett et al., *Risk Factors for Legal Induced Abortion—Related Mortality in the United States*, OBSTETRICS & GYNECOLOGY 103(4):729, 731 (2004); J.P. Pregler & A.H. DeCherney, WOMEN'S HEALTH: PRINCIPLES AND CLINICAL PRACTICE 232 (2002).

² Bartlett, *supra* note 1.

³ *Id.*

Even Planned Parenthood, the largest abortion provider in the United States, agrees that abortion becomes riskier later in pregnancy. On its national website, Planned Parenthood states: “The chances of problems gets higher the later you get the abortion, and if you have sedation or general anesthesia . . . ,” which would be necessary for an abortion at or after 20 weeks of gestation.⁴ To put this in context, later-term abortions account for approximately 51,000 abortions annually—with 36,000 taking place between 16 and 20 weeks, and 15,600 occurring after 20 weeks.⁵

H.B. 339 is Constitutional.

From its inception in *Roe v. Wade*, the abortion “right” has been explicitly qualified. In *Roe*, while the Court established a constitutional “right” to abortion, it simultaneously expressed that “[t]he State has a legitimate interest in seeing to it that abortion, like any other medical procedure, is performed under circumstances that [ensure] maximum safety for the patient.”⁶ Affirming what is considered the essential holding of *Roe*, the U.S. Supreme Court in *Planned Parenthood v. Casey* asserted that “it is a constitutional liberty of the woman to have some freedom to terminate her pregnancy. . . . The woman’s liberty is not so unlimited, however, that from the outset [of pregnancy] the State cannot show its concern.”⁷ In both *Casey* and later in *Gonzales v. Carhart*, the Court continued to affirm its “essential holding” that states have “legitimate interests from the outset of the pregnancy in protecting the health of the woman.”⁸ This means the states can enact regulations aimed at protecting the health of the mother from the earliest stages of pregnancy. Thus, the medical basis for H.B. 339 supports its constitutionality.

Many states have acted on this legitimate interest of protecting maternal health and the unborn child. Currently 19 states maintain a limitation on abortion at 20 weeks postfertilization: Alabama, Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, North Carolina⁹, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, West Virginia, and Wisconsin. By passing the Pain Capable Unborn Child Protection Act, Missouri will continue to add to its already strong commitment to protecting life.

⁴ See Planned Parenthood, *How Safe Is An In-Clinic Abortion?*, <https://www.plannedparenthood.org/learn/abortion/in-clinic-abortion-procedures/how-safe-is-an-in-clinic-abortion> (last visited Feb. 11, 2019).

⁵ P.K. Coleman et al., *Late-Term Elective Abortion and Susceptibility to Posttraumatic Stress Symptoms*, J. PREGNANCY 2010:1, 7 (2010).

⁶ *Roe v. Wade*, 410 U.S. 113, 150 (1973).

⁷ *Planned Parenthood v. Casey*, 505 U.S. 833, 869 (1992).

⁸ *Id.* at 846; see also *Gonzales v. Carhart*, 550 U.S. 124, 145 (2007).

⁹ This law is currently in litigation.

Today, I strongly encourage this Committee to protect maternal health and unborn children who feel pain and pass H.B. 339.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine", written in a cursive style.

Catherine Glenn Foster
President and CEO
Americans United for Life