



**Written Testimony of Catherine Glenn Foster, M.A. J.D.  
President & CEO, Americans United for Life  
On S.B. 152, the Reproductive Health Act  
Submitted to the Senate Judiciary Committee  
May 13, 2019**

Dear Chair Lynch 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 original and most active organization advocating for life-affirming support and protections for the most vulnerable members of our communities. Established in 1971, AUL has dedicated nearly 50 years to advocating for everyone to be welcomed in life and protected in law.

Thank you for the opportunity to provide legal testimony on S.B. 152, the Reproductive Health Act, which would enshrine expansive pro-abortion measures in Rhode Island law. It is my legal opinion that the Act has severe consequences for the health of women and the unborn. It expands abortion allowances beyond *Roe v. Wade* and its progeny, rejects the state's legitimate interest in protecting life, and prohibits commonsense protections for women's health.

***The Act Effectively Expands Abortion Up Until Birth***

The Act expands abortion beyond what was permissible in *Roe v. Wade* to any time, including after viability, when it is "necessary to preserve the health or life of that individual." No definition of "health" is provided in the Act. The U.S. Supreme Court considers "health" to include all factors, including "physical, emotional, psychological, familial, and the woman's age" for the purposes of post-viability abortions.<sup>1</sup> By failing to define or limit "health," the Act allows for abortion up to the moment of delivery of the child and effectively creates abortion on demand at any point in the pregnancy.

This Act also rejects the supposition in *Roe* that "a State may properly assert important interests in safeguarding health, in maintaining medical standards, and in protecting potential life."<sup>2</sup> The language of the Act explicitly removes this important role by prohibiting restrictions on "preventing, commencing, continuing, or terminating" a pregnancy, even after viability. Most recently in *Whole Woman's Health v. Hellerstedt*, the Court reiterated that the "State has a legitimate interest in seeing to it that abortion, like

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<sup>1</sup> *Doe v. Bolton*, 410 U.S. 179, 192 (1973). This was later circumscribed by legitimate state interests. See *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833 (1992).

<sup>2</sup> *Roe v. Wade*, 410 U.S. 113, 154 (1973).

any medical procedure, is performed under circumstances that insure maximum safety for the patient.”<sup>3</sup> As a reflection of a state’s legitimate interest in protecting life, a state may pass common-sense health and safety abortion regulations, including provisions to ensure the informed consent and health of a woman who chooses to have an abortion.<sup>4</sup>

The Supreme Court has “confirmed the validity of drawing boundaries to prevent certain practices that extinguish life and are close to actions that are condemned.”<sup>5</sup> Contrary to this, S.B. 152 removes the state ban on the gruesome partial-birth abortion procedure,<sup>6</sup> decriminalizes the willful killing of an unborn child, and prevents all future protections for the health of the mother and child, including protections against coerced abortion, sex-selective abortion, and abortion based on genetic anomalies such as Down syndrome. Thus, in blatant disregard of the State’s prerogative, the Act not only circumscribes Rhode Island’s ability to act upon its legitimate state interest in protecting life and ensuring the mother’s health, but also rejects that Rhode Island has any affirmative interest in the life of the unborn altogether.

### ***The Act Removes Necessary Regulatory Oversight***

The Act prohibits regulations of abortion providers that could be considered a restriction on an individual from having an abortion. The Act thereby engenders a regulatory regime that is akin to the one in Pennsylvania that allowed the infamous abortion provider, Kermit Gosnell, to operate his “House of Horrors” for many years. Gosnell, who was ultimately convicted of involuntary manslaughter, was able to provide unsafe, unsanitary, and deadly abortions for many years because, according to the Grand Jury report, the Pennsylvania Department of Health thought it could not inspect or regulate abortion clinics because that would interfere with access to abortion.<sup>7</sup> By lowering professional accountability, abortion providers in Rhode Island will be free to operate without regulation and oversight, to the detriment of women and young girls.<sup>8</sup> If Rhode Island passes the Act, it will turn a blind eye to unsafe abortion practices by abdicating its proper duty to protect women.

In conclusion, I urge this Committee to further Rhode Island’s important state interests in preserving human life and protecting women’s health and reject S.B. 152.

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<sup>3</sup> 790 F.3d 563, 567 (2016) (quoting *Roe*, 410 U.S. at 150).

<sup>4</sup> See *Casey*, 505 U.S. 833.

<sup>5</sup> *Gonzales v. Carhart*, 550 U.S. 124 at 158 (2007).

<sup>6</sup> The partial-birth abortion procedure consists of the abortion practitioner pulling the baby out of the birth canal until only his or her head remains inside. The abortion practitioner then forces a pair of scissors into the base of the baby’s skull, suctions the brain out from the hole created, and proceeds to deliver the dead baby. See *Gonzales v. Carhart*, 550 U.S. 124 (2007) (“Congress found . . . [a] moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion . . . is a gruesome and inhumane procedure that is *never* medically necessary and should be prohibited.” (emphasis added)).

<sup>7</sup> See, e.g., Conor Friedersdorf, *Why Dr. Kermit Gosnell’s Trial Should Be a Front-Page Story*, ATLANTIC (Apr. 12, 2013), <https://www.theatlantic.com/national/archive/2013/04/why-dr-kermit-gosnells-trial-should-be-a-front-page-story/274944/> (discussing the case of Kermit Gosnell).

<sup>8</sup> See, e.g., AMS. UNITED FOR LIFE, UNSAFE (2d ed. 2018) (report documenting unsafe practices of abortion providers and harm to women’s health and safety).

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine". The signature is fluid and cursive, with a large initial "C" that loops around the first part of the name.

Catherine Glenn Foster, Esq.  
President & CEO  
Americans United for Life