



**Written Testimony of Danielle Pimentel, J.D.
Policy Counsel, Americans United for Life
In Opposition of House Bill No. 224
Submitted to the House Committee on Judiciary
February 15, 2023**

Dear Chairman Lynn, Vice-Chair Wallace, and Members of the Committee:

My Name is Danielle Pimentel, and I serve as Policy Counsel at Americans United for Life (“AUL”). Established in 1971, AUL is a national law and policy nonprofit organization with a specialization in abortion, end-of-life issues, and bioethics law. AUL publishes pro-life model legislation and policy guides on end-of-life issues,¹ tracks state bioethics legislation,² and regularly testifies on pro-life legislation in Congress and the states. Our vision at AUL is to strive for a world where everyone is welcomed in life and protected in law. As Policy Counsel, I specialize in life-related legislation, constitutional law, and abortion jurisprudence.

Thank you for the opportunity to provide written testimony against House Bill No. 224, “Repealing the Criminal and Civil Penalties from the Fetal Life Protection Act” (“HB 224” or “bill”). This bill would eliminate the civil and criminal penalties for violations of the Fetal Life Protection Act, which ensures that women receive justice for being harmed during a late term abortion. The Fetal Life Protection Act requires a health care provider to determine the gestational age of an unborn child before performing an abortion, requires the performance of an ultrasound if the provider knows that the unborn child is at least 24 weeks’ gestation, and prohibits abortions when the unborn child is 24 weeks’ gestation.

The civil and criminal penalties for violating the Fetal Life Act are laid out in §§ 329:46 to 329:48. Specifically, under § 329.46, a health care provider who knowingly performs or induces an abortion in violation of the Fetal Life Protection Act is guilty of a class B felony and subject to a fine. Section 329.47 allows pregnant women to bring civil actions and seek monetary damages for any psychological and physical injuries caused by a violation of the Fetal Life Protection Act.

I have thoroughly examined this bill, and it is in my opinion that the bill removes necessary protections for pregnant women’s health and safety by allowing

¹ *Pro-Life Model Legislation and Guides*, AMS. UNITED FOR LIFE (last visited Feb. 13, 2023), <https://aul.org/law-and-policy/>.

² *Defending Life: State Legislation Tracker*, AMS. UNITED FOR LIFE (last visited Feb. 13, 2023), <https://aul.org/law-and-policy/state-legislation-tracker/>.

abortion providers to escape legal culpability for illegal abortions that result in life-threatening complications to women. For these reasons, I urge you to oppose this bill.

I. Repealing §§ 329:46 to 329:48 Would Prevent New Hampshire Women from Seeking Justice if They Are Harmed During an Abortion

New Hampshire has a legitimate interest in protecting maternal health and safety, as noted by the Supreme Court in *Dobbs v. Jackson Women’s Health Organization*.³ Yet, HB 224 directly contradicts with the state’s legitimate interest to safeguard pregnant mothers because the bill removes commonsense protections for their life and health.

a. HB 224 Leaves Women Undergoing Abortions Unprotected and Subject to Life Threatening Complications at the Hands of Abortion Providers

This bill would remove criminal and civil liability for abortions in violation of the Fetal Life Protection Act that result in harm or death of pregnant woman. Unfortunately, abortion providers have caused the death of many women.⁴ Additionally, it is undisputed that abortions carry a higher medical risk when done later in pregnancy.⁵ As a result, 10% of pregnant women experience immediate complications from abortions such as blood clots, hemorrhage, incomplete abortions, infection, and injury to the cervix and other organs.⁶ Approximately 1/5 of these complications are life-threatening.⁷ After 20 weeks’ gestations, the risk of

³ See *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2284 (2022) (recognizing that states have an interest in the “respect for and preservation of prenatal life at all stages of development, the protection of maternal health and safety, the elimination of particularly gruesome or barbaric medical procedures; the preservation of the integrity of the medical profession; [and] the mitigation of fetal pain . . .”).

⁴ Some examples include Kermit Gosnell, who was found guilty of involuntary manslaughter, and Robert Rho, who botched an abortion that led to the death of the young woman. See 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/>; Associated Press, *Queens Doc who Killed Woman in Botched Abortion Gets Short Prison Sentence, Taking Plea Deal Moments Before Jury Verdict*, NY DAILY NEWS (June 26, 2018), <https://www.nydailynews.com/new-york/nyc-crime/ny-metro-queens-doctor-sentenced-botched-abortion-20180626-story.html>. In New Mexico, Keisha Atkins died following an elective 24-week abortion after the clinic instructed her to not seek emergency care. See Rachel Knapp, *Family Sues Clinic, UNM for Botched Abortion*, KRQE NEWS (Sept. 12, 2018), <https://www.krqe.com/news/family-sues-clinic-unm-for-botched-abortion/>.

⁵ See *How Safe Is An In-Clinic Abortion?*, PLANNED PARENTHOOD, <https://www.plannedparenthood.org/learn/abortion/in-clinic-abortion-procedures/how-safe-is-an-in-clinic-abortion> (last visited Feb. 13, 2023) (stating on Planned Parenthood’s national website that “[t]he chances of problems gets higher the later you get the abortion . . .”).

⁶ *Id.*

⁷ REPORT OF THE SOUTH DAKOTA TASK FORCE TO STUDY ABORTION 48 (2005).

experiencing a major complication during an abortion is significantly higher.⁸ For example, after 8 weeks' gestation the relative risk of mortality increases by 38 percent each additional week.⁹ Thus, if a health care provider performs an abortion after 24 weeks' gestation in violation of the Fetal Life Protection Act, the provider is subjecting a pregnant woman to numerous life-threatening health complications. However, if HB 224 is passed, women cannot maintain a lawsuit arising under the Fetal Life Protection Act against abortion providers who perform illegal abortions and cause them physical harm.

Additionally, the Fetal Life Protection Act requires a health care provider to perform an ultrasound before an abortion if the provider knows the unborn child is 24 weeks' gestation. Ultrasounds enable healthcare providers to date the gestational age of a child more accurately. Accurate dating of the unborn child's gestational age protects women by ensuring that the appropriate abortion procedure is performed and provides the women with relevant information necessary to make an informed decision, since the risk of abortion increases as gestational age increases.¹⁰ Under HB 224, health care providers will not be held accountable if a woman experiences major health complications as a result of their failure to perform an ultrasound in accordance with the Fetal Life Protection Act. By removing the criminal and civil penalties from the Fetal Life Protection Act, New Hampshire would be giving physicians free rein to severely injure pregnant women and violate their Hippocratic Oath to "do no harm."

b. This Bill Eliminates Women's Protections Against Psychological Injuries from Abortions

HB 224 removes civil liability for abortions done in violation of the Fetal Life Protection Act that result in psychological injuries to women. Currently, aggrieved individuals under § 329.47 can seek monetary damages for both physical and psychological injuries. This is an important remedy for pregnant women given that "[p]regnancy loss (natural or induced) is associated with an increased risk of mental health problems."¹¹ Recent research on the impacts of early pregnancy loss as a result

⁸ Linda A. Bartlett et al., *Risk Factors for Legal Induced Abortion-Related Mortality in the United States*, 103 OBSTETRICS & GYNECOLOGY 729, 731 (2004); Janet P. Pregler & Alan H. DeCherney, WOMEN'S HEALTH: PRINCIPLES & CLINICAL PRAC. 232 (2002). See also Slava V. Gauferg, *Abortion Complications*, MEDSCAPE (updated Jun. 24, 2016) (recognizing several large-scale studies have revealed that abortions after the first trimester pose more serious risks to women's physical health than first trimester abortions).

⁹ Bartlett, *supra* note 8; PROFESSIONAL ETHICS COMM. OF AM. ASSOC. OF PRO-LIFE OBSTETRICIANS & GYNECOLOGISTS, INDUCED ABORTION & THE INCREASED RISK OF MATERNAL MORTALITY, Comm. Op. 6 (Aug. 13, 2019).

¹⁰ See, e.g., John M. Thorp Jr., *Public Health Impact of Legal Termination of Pregnancy in the U.S.: 40 Years Later*, 2012 SCIENTIFICA (Oct. 15, 2012), <https://www.hindawi.com/journals/scientifica/2012/980812/>.

¹¹ David C. Reardon & Christopher Craver, *Effects of Pregnancy Loss on Subsequent Postpartum Mental Health: A Prospective Longitudinal Cohort Study*, 18 INT'L J. ENV'T RSCH. & PUB. HEALTH 1, 1 (2021).

of elective induced abortions “indicates an increased correlation to the genesis or exacerbation of substance abuse and affective disorders including suicidal ideation.”¹² Scholarship shows “that the emotional reaction or grief experience related to miscarriage and abortion can be prolonged, afflict mental health, and/or impact intimate or parental relationships.”¹³ Similarly, “[s]everal recent international studies have demonstrated that repetitive early pregnancy loss, including both miscarriage and induced abortions, is associated with increased levels of distress, depression, anxiety, and reduced quality of life scores in social and mental health categories.”¹⁴

Abortion not only destroys the life of a preborn child, but it also causes grave harm to a woman’s mental health. HB 224 incentivizes abortionists to completely disregard the impact of abortion on women’s mental wellbeing by eliminating civil liability for psychological injuries arising from actions performed in violation of the Fetal Life Protection Act. As a result of this bill, women will be forced to suffer from the harms of abortion in silence while health care providers continue to violate the law free from culpability.

II. Conclusion

The criminal and civil penalties under the Fetal Life Protection Act are some of the last remaining regulations in place that protect the life, health, and safety of the women who choose to have an abortion in New Hampshire. If this bill is passed, New Hampshire will become a safe haven for unscrupulous abortion doctors. Ultimately, this bill should be rejected because it decriminalizes late-term abortions and strips away necessary protections for women. For these reasons, I urge the Committee to oppose HB 224.

Respectfully Submitted,



Danielle Pimentel, J.D.

Policy Counsel

AMERICANS UNITED FOR LIFE

¹² Kathryn R. Grauerholz et al. *Uncovering Prolonged Grief Reactions Subsequent to a Reproductive Loss: Implications for the Primary Care Provider*, 12 FRONTIERS IN PSYCH. 1, 2 (2021).

¹³ *Id.*

¹⁴ *Id.*; see, e.g., Louis Jacob et al., *Association Between Induced Abortion, Spontaneous Abortion, and Infertility Respectively and the Risk of Psychiatric Disorders in 57,770 Women Followed in Gynecological Practices in Germany*, 251 J. AFFECTIVE DISORDERS 107, 111 (2019) (finding “[a] positive relationship between induced abortion . . . and psychiatric disorders”).