



**Written Testimony of Danielle Pimentel, J.D.  
Policy Counsel, Americans United for Life  
In Support of House Bill No. 591  
Submitted to the House Committee on Judiciary  
February 16, 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,<sup>1</sup> tracks state bioethics legislation,<sup>2</sup> 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 in support of House Bill No. 591, “Prohibiting Abortions after Detection of Fetal Heartbeat” (“HB 591” or “bill”). I have thoroughly examined HB 591, and it is in my opinion that the bill protects the health and safety of pregnant women and preborn children, the bill recognizes that women deserve better than abortion, and the bill is consistent with other states that have enacted strong pro-life laws after *Roe v. Wade* was overturned. For these reasons, I urge you to support this bill.

**I. This Bill Protects the Welfare of Women and Unborn Children**

New Hampshire has a legitimate interest in protecting the lives of women and unborn children. In *Dobbs v. Jackson Women’s Health Organization*, the United States Supreme Court recognized 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 . . . .”<sup>3</sup> Under our federalist system, New Hampshire has the

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<sup>1</sup> *Pro-Life Model Legislation and Guides*, AMS. UNITED FOR LIFE, <https://aul.org/law-and-policy/> (last visited Feb. 14, 2023).

<sup>2</sup> *Defending Life: State Legislation Tracker*, AMS. UNITED FOR LIFE, <https://aul.org/law-and-policy/state-legislation-tracker/> (last visited Feb. 14, 2023).

<sup>3</sup> *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2284 (2022) (internal citations omitted).

authority to create and enforce laws that improve the health and welfare of its citizens, including the youngest members of the human family.

a. *Later-term Abortions Pose Greater Risks to Women Seeking Abortion*

New Hampshire allows abortions up to 24 weeks' gestation. Recently, state representatives have put forth legislation that would allow abortion-on-demand throughout pregnancy, which would subject pregnant women and their unborn children to numerous health and safety risks. Abortions carry a higher medical risk when done later in pregnancy. For example, 10% of women experience immediate complications from an abortion, including blood clots, hemorrhaging, incomplete abortions, infection, and injury to the cervix and other organs.<sup>4</sup> Approximately one-fifth of these complications are life-threatening.<sup>5</sup> Even Planned Parenthood states on its national website that abortion becomes riskier later in pregnancy.<sup>6</sup>

The incidence of major complications is significantly higher after 20 weeks' gestation.<sup>7</sup> Specifically, after 8 weeks' gestation, the relative risk of mortality increases by 38% for each additional week.<sup>8</sup> Further, it may not be possible to reduce the risk of death in later-term abortions because of the “inherently greater technical complexity of later abortions.”<sup>9</sup> This is because in later-term abortions there is a greater degree of cervical dilation needed, the increased blood flow predisposes to hemorrhage, and the myometrium is relaxed and more subject to perforation.

HB 591 prohibits abortions after a fetal heartbeat is detected, which often occurs around 6 weeks' gestation. This limit on abortion safeguards women's health and safety because it greatly reduces the risks of health complications and maternal deaths that especially occur as abortion is performed at later gestational ages.

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<sup>4</sup> 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); REPORT OF THE SOUTH DAKOTA TASK FORCE TO STUDY ABORTION 48 (2005).

<sup>5</sup> *Id.*

<sup>6</sup> See Planned Parenthood, *supra* note 4 (stating that “[t]he chances of problems gets higher the later you get the abortion . . .”).

<sup>7</sup> 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, <https://emedicine.medscape.com/article/795001-overview> (updated Jan. 25, 2022) (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).

<sup>8</sup> Bartlett, *supra* note 7; 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).

<sup>9</sup> Bartlett, *supra* note 7, at 735.

b. *Later Term Abortions Cause Fetal Pain to Preborn Children as Young As 12 Weeks' Gestation*

In addition to protecting mothers, states also have a legitimate interest in preventing fetal pain, as noted by the Supreme Court in *Dobbs*.<sup>10</sup> There is substantial medical evidence that a preborn child can experience pain at least 20 weeks after fertilization, if not earlier.<sup>11</sup> In 2019, scientists found evidence of fetal pain as early as 12 weeks' gestation.<sup>12</sup> Another study from 2010 found that “the earlier infants are delivered, the stronger their response to pain”<sup>13</sup> because the “neural mechanisms that inhibit pain sensations do not begin to develop until 34-36 weeks[] and are not complete until a significant time after birth.”<sup>14</sup> As a result, preborn children display a “hyperresponsiveness” to pain.<sup>15</sup> According to one group of fetal surgery experts, “[t]he administration of anesthesia directly to the fetus is critical in open fetal surgery procedures.”<sup>16</sup> It is well within the legitimate interests of New Hampshire to minimize fetal pain as much as possible.<sup>17</sup> Many states have acted on this legitimate interest of protecting both maternal health and preborn children, as discussed below in Section III.

Ultimately, New Hampshire's laws regulating abortion are insufficient to protect human life, whether that is the life of the unborn child or the mother. Enacting HB 591 will protect unborn children after 6 weeks' gestation while also greatly reducing the risks women face when seeking an abortion. Thus, this bill is necessary to further New Hampshire's legitimate interest to protect the health and safety of its citizens in and out of the womb.

## II. This Bill Recognizes that Women Deserve Better than Abortion

Despite the cultural narrative that abortions are necessary for women's health and equality in America society, women are increasingly rejecting abortion, recognizing the humanity of their unborn child, and taking advantage of the resources available to help them parent or adopt. For example, the current abortion rate is nearly half of what it was at the high point in the 1980s after the Supreme

<sup>10</sup> See *Dobbs*, 142 S. Ct. at 2284.

<sup>11</sup> Federal Pain Capable Act, S. 160, 116th Cong. § 2(1)–(11) (2019).

<sup>12</sup> Stuart W.G. Derbyshire & John C. Bockmann, *Reconsidering Fetal Pain*, 46 J. MED. ETHICS 3 (2020).

<sup>13</sup> Lina K. Badr et al., *Determinants of Premature Infant Pain Responses to Heel Sticks*, 36 PEDIATRIC NURSING 129 (2010).

<sup>14</sup> *Fact Sheet: Science of Fetal Pain*, CHARLOTTE LOZIER INST. (Sept. 2022), [https://lozierinstitute.org/fact-sheet-science-of-fetal-pain/#\\_ednref14](https://lozierinstitute.org/fact-sheet-science-of-fetal-pain/#_ednref14).

<sup>15</sup> Christine Greco & Soorena Khojasteh, *Pediatric, Infant, and Fetal Pain*, in CASE STUDIES PAIN MGMT. 379 (Alan Kaye & Rinno Shah ed., 2014).

<sup>16</sup> Maria J. Mayorga-Buiza et al., *Management of Fetal Pain During Invasive Fetal Procedures. Lessons Learned from a Sentinel Event*, 31 EUROPEAN J. ANAESTHESIOLOGY 188 (2014).

<sup>17</sup> *Gonzales v. Carhart*, 550 U.S. 124, 163 (2007) (“The Court has given state and federal legislatures wide discretion to pass legislation in areas where there is medical and scientific uncertainty.”).

Court decided *Roe*.<sup>18</sup> Notably, the claim that abortions are necessary for women’s success has never been substantiated by reliable empirical evidence.<sup>19</sup> Rather, even prior to the Supreme Court deciding *Roe* in 1973, women have been steadily gaining access and esteem within the workforce,<sup>20</sup> and have continued to choose life and carry their pregnancies to term.

Over the past 50 years, pregnancy resource centers have played a central role in empowering women to choose life. According to CareNet and the Charlotte Lozier Institute, over 2,700 pregnancy centers served 1,848,376 people in the United States in 2019 alone.<sup>21</sup> This included 486,213 free ultrasounds and counseling, 731,884 free pregnancy tests, 160,201 free STI/STD tests and counseling, and 1,290,079 free packs of diapers.

New Hampshire has around 18 pregnancy resource centers throughout the state. These pregnancy resource centers have been faithfully serving the women of New Hampshire, offering free resources, counseling, and material support. When women are offered options other than abortion, they choose life. Upon the passage of HB 591, numerous secular and faith-based nonprofits in New Hampshire stand ready to assist women throughout their pregnancies, as they have done in the past.

Women deserve better than to be subjected to the false claim that abortions are necessary for their continued success in American society, especially when women are increasingly rejecting abortion and have support from non-profit organizations such as pregnancy resource centers. Nor do women deserve to be subjected to dangerous abortion procedures that create grave risks to their physical and mental health, which this bill recognizes by enacting limits that will protect and promote maternal and fetal life.

### **III. This Bill is Consistent with Numerous States that Have Enacted Strong Pro-Life Limits After the Supreme Court overturned *Roe v. Wade***

In *Dobbs*, the United States Supreme Court overturned *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey* and held that “[t]he Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision.”<sup>22</sup> Now that the Supreme Court has recognized that the federal Constitution does not protect abortion as a purported fundamental right,

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<sup>18</sup> CTRS. FOR DISEASE CONTROL & PREVENTION, 69 SURVEILLANCE SUMMARIES 1, ABORTION SURVEILLANCE—UNITED STATES, 2018 (Nov. 27, 2020).

<sup>19</sup> Helen M. Alvaré, *Nearly 50 Years Post-Roe v. Wade and Nearing Its End: What is the Evidence that Abortion Advances Women’s Health and Equality?* 34 REGENT U.L. REV. 165, 208 (2022) (documenting the testimony in legislative hearings in several states).

<sup>20</sup> *Id.*

<sup>21</sup> Charlotte Lozier Institute, *Pregnancy Centers Stand the Test of Time* (2020), [https://lozierinstitute.org/wp-content/uploads/2020/10/Pregnancy-Center-Report-2020\\_FINAL.pdf](https://lozierinstitute.org/wp-content/uploads/2020/10/Pregnancy-Center-Report-2020_FINAL.pdf).

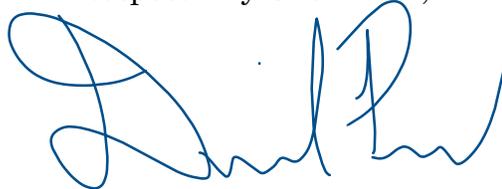
<sup>22</sup> *Dobbs*, 142 S. Ct. at 2252–53.

the abortion issue has been returned to the People and the democratic process. As a result, many states have set strong pro-life limits post-*Dobbs*. For example, 18 states have laws that completely abolish abortion at any gestational age,<sup>23</sup> and 3 states have laws that abolish abortion at 6 weeks' gestation.<sup>24</sup> In order to protect some of its most vulnerable citizens, New Hampshire should join the number of states that have implemented strong pro-life laws that are consistent with the Supreme Court's holding in *Dobbs*.

#### IV. Conclusion

In sum, this bill promotes the health and safety of pregnant mothers and their preborn children, acknowledges that women deserve better than abortion, and is consistent with other states that have enacted strong pro-life laws after *Dobbs*. For these reasons, I urge the Committee to support HB 591.

Respectfully Submitted,



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AMERICANS UNITED FOR LIFE

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<sup>23</sup> The eighteen states that have laws abolishing abortions at any gestational age are Alabama, Arkansas, Arizona, Idaho, Indiana, Kentucky, Louisiana, Missouri, Mississippi, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, Wisconsin, West Virginia, and Wyoming. Some of these abortion bans are enjoined due to ongoing litigation.

<sup>24</sup> The three states that have laws that abolish abortion at six weeks' gestation are Iowa, Ohio, and Georgia. Some of these state abortion bans are enjoined due to ongoing litigation.