

September 29, 2025

South Carolina Senate Medical Affairs Committee
Attention: Research Director
PO Box 142, 412 Gressette Building
Columbia, SC 29202

Dear Chairman Cash and Members of the Medical Affairs Subcommittee,

My name is Emily Hoegler, 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, tracks state bioethics legislation, 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 S. 323. I have thoroughly examined S. 323, and I urge the Committee to oppose this bill. Although S. 323 contains many provisions that recognize and protect life from its earliest stages, it also contains a problematic provision that crosses out the protections for women from being prosecuted for their abortions that are currently codified under South Carolina Code Annotated § 44-41-670. Thank you for the opportunity to submit written testimony opposing S. 323, the so-called Unborn Children Protection Act.

- It is Inconsistent with this Nation's History and Tradition to Prosecute Women for Abortion.

Prosecuting women for abortion is inconsistent with the history of American abortion law. "A comprehensive review of the law reports of all fifty States prior to *Roe* fails to disclose a single case anywhere in the United States in which a woman was prosecuted, convicted, and sentenced either for inducing her own abortion, or for consenting to an abortion performed upon her by another."

Historically, states have viewed women as a second victim of abortion, rather than an accomplice. "Abortion was traditionally viewed as an assault upon the woman because, in the words of the Oregon Supreme Court, she 'was not deemed able to assent to an unlawful act against herself . . .'" This was a general rule of common law that applied to both men and women. Women were also considered victims of abortion "at least in part because of the relative dangerousness of the operation."

In addition to being viewed as a second victim of abortion, women were also not prosecuted for abortions for practical reasons. First, a legal prohibition was seen as unlikely to successfully deter self-abortion because self-abortion was

already associated with a high risk of death or physical injury. Second, lawmakers did not want to deter women who had attempted self-abortion from seeking medical help for fear of criminal punishment. This is especially significant today in light of the high rate of serious adverse effects of the abortion pill, which has become the most common method of abortion in America. It would be detrimental to the health and safety of women to criminalize abortion and dissuade women who have taken the abortion pill and experience a serious adverse reaction from seeking medical attention for fear of prosecution. Finally, women upon whom abortions were performed were not historically prosecuted for their abortions to ensure that they could testify against the abortion provider in a criminal proceeding, because women's testimony was often necessary to prosecute abortion providers, and because women could not be forced to testify and incriminate themselves if they could be held as an accomplice.

South Carolina's current prohibition on abortion—the Fetal Heartbeat and Protection from Abortion Act—emphasizes that the state's policy is not to penalize women upon whom abortions are performed. In South Carolina, a physician, healthcare professional, or other person who violates South Carolina abortion law can be prosecuted and sent to jail, sued in civil court for monetary damages, or sanctioned by state professional licensure boards. However, the woman upon whom an abortion is performed is specifically exempted from these penalties. It is clear that South Carolina's lawmakers see the pregnant woman as outside the scope of prosecution under abortion laws, and future laws should be drafted to conform with this historical policy. Abortion regulations today still reflect this policy, as nearly every state explicitly exempts women from the penalties and punishments associated with violating an abortion law.

- Women's Culpability for Abortion is Complicated by Coercion and Other Factors.

Simplistic claims that women who undergo abortions are culpable overlook the complex psychological and social factors influencing many of these decisions. In criminal law, culpability refers to a person's legal responsibility or blameworthiness for a crime, judged in light of their mental state. Women's culpability for abortion is clouded by numerous factors, including the high rate of poverty among women who seek abortion, the prevalence of coerced abortion (including abusers and traffickers), and public misinformation about abortion, among other factors. Due to these factors, it is not appropriate to apply a blanket judgment of culpability to women who seek abortions.

To prosecute women for abortion would disregard the high rates of abortion coercion in America. One study found that only "one in three women described their abortions as both wanted and consistent with their own values and preferences," "[t]wo-thirds experienced their abortion decision as a violation of their own values and preferences, with twenty-four percent describing their abortions as unwanted or coerced," and sixty-one percent reporting receiving pressure to abort. Other research has found that sixty-four percent of women report feeling pressured to receive an abortion. That abortion is often coerced

and involuntary can also be seen by the fact that nearly half of women who receive abortions experience persistent post-abortion distress disorder for decades following their abortion.

Intimate partner violence also plays a role in abortion coercion. Researchers have found that the prevalence of intimate partner violence is nearly three times greater for women seeking an abortion compared with women who were continuing their pregnancies. Studies have found “high rates of physical, sexual, and emotional IPV [intimate partner violence] were found across six continents among women seeking a TOP [termination of pregnancy].” This data suggests that women seeking abortions often lack a safe or supportive partner, highlighting how frequently abortion decisions are influenced by coercion and abuse.

Women have extensively reported that they only received an abortion because they were forced by a partner. Additionally, forty-five percent of men who were interviewed at abortion clinics admitted to urging a partner to receive an abortion, including thirty-seven percent of married men. Reports have also been made of women whose male partners have tricked them into an abortion by slipping the abortion pill into their drink. These statistics and examples reveal that many abortions are not the product of free and autonomous decision-making, but rather the result of external pressures that limit women’s agency.

In addition to coercion, economic constraints and lack of support often make women feel they have no real choice but abortion. Most women who seek abortions do so because they are not financially able to raise a child. Some women also report that they were forced to receive an abortion by a parent, would have been kicked out of the home, or did not have sufficient support to raise a child. “A majority of women who had abortions [sixty percent] reported they would have carried to term if they had received more support from others and/or had more financial security.”

There is no evidence that prosecuting women would decrease the rates of abortion in South Carolina. As discussed above, women who receive abortions are often coerced by their partners or do not feel that they have adequate support and finances to raise a child. Punishing women does not solve any of these problems. It does not make our society more life-affirming, but rather causes further harm to women who are already suffering from the physical and psychological damage caused by abortion. It is precisely because of the force and coercion so many women face that the majority of states, including South Carolina, have historically treated women as a second victim of abortion, deserving of laws that protect and empower them alongside their children. “The cause for life needs to be on the side of women, and their flourishing, because of the negative effect of elective abortion. And it cannot be on the side of women by promoting the prosecution of women for abortion. Advocates of prosecution need to decide whether they want to punish women *or* reduce elective abortion.”

- Conclusion

For these reasons, I strongly encourage the members of this Committee

to vote against S. 323 and continue to pursue alternative pro-life bills that protect the sanctity of unborn life and the health and safety of pregnant women.

Respectfully Submitted

A handwritten signature in blue ink that reads "Emily Hoegler". The signature is written in a cursive, flowing style.

Emily Hoegler, J.D.
Policy Counsel
Americans United for Life