



Testimony in Support of House Bill 78  
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Ohio Right to Life  
House Health & Aging Committee  
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Thank you Chairman Wachtmann, Vice Chair Goodwin, Ranking member Fende and members of the committee for the opportunity to testify today in support of House Bill 78.

House Bill 78 would require physicians to perform viability testing on infants when the mother is seeking an abortion at 20 weeks gestation or later. Many people do not realize that Ohio law currently permits an abortion up to the moment of birth, **through all nine months of pregnancy**. While most abortions are obtained in the first trimester of a woman's pregnancy, many abortions are still performed on women at 20 weeks and later.

In 2009, 613 children were killed at twenty weeks of life or later in Ohio. 116 of those suffered death after 24 weeks. One case was documented at **35 weeks**.

The U.S. Supreme Court has consistently named viability as a standard when ruling in favor of abortion restrictions (see *Planned Parenthood v. Casey*, 1992, and *Gonzales v. Carhart*, 2007). In the decision on *Roe v. Wade*, the Court stated, "With respect to the State's important and legitimate interest in potential life, the 'compelling' point is at viability... State regulation protective of fetal life after viability thus has both logical and biological justifications." In 1995, Ohio adopted a ban on post-viability abortions (ORC 2919.17 and 2919.18), as part of its first attempt to ban partial birth abortion practices. The Federal Sixth Circuit Court of Appeals affirmed a District Court decision which found this law to be unconstitutional in part because it lacked a mental health exception (*Womens Medical Professional Corp v. Voinovich* 130 F 3d 187). However, the U.S. Supreme Court has never considered – and therefore never approved – the kind of health exception such a ban would have to include.

Six states – Alabama, Indiana, Pennsylvania, Nebraska, Kansas and Montana - have passed similar laws which are in effect that have never been challenged in court. Thirty-nine states in total have some form of restriction or prohibition on late term abortions. Women's health has not suffered as a result of these restrictions. In fact, the American Medical Association does not recommend that abortions be performed in the third trimester, stating, "Except in extraordinary circumstances, maternal health factors which demand termination of the pregnancy can be accommodated without sacrifice of the fetus, and the near certainty of the independent viability of the fetus argues for ending the pregnancy by appropriate delivery."<sup>i</sup> The American College of Obstetricians and Gynecologists opposes the abortion of a healthy child that has attained viability inside a healthy mother's womb.<sup>ii</sup>

It should be noted that this bill does not prohibit all abortions after 20 weeks. It requires viability testing beginning at 20 weeks gestation. Most physicians agree that viability begins between 23 and 24 weeks gestation, and most experts agree that a child can feel pain by 20 weeks.

The bill would prohibit late term abortions when the child is viable (capable of living outside of the mother's womb) except when necessary to prevent the death of the mother or a serious risk of the substantial and irreversible impairment of a major bodily function. The physician performing the abortion would have to perform viability testing to see if the baby could survive outside of the mother's womb, with or without life-sustaining treatment, and would have to obtain the opinion of a second physician. If the abortion is still to be performed because of serious health concerns for the mother, a method most likely to result in a live birth would have to be used, and a second physician would have to be present to care for the child when it is born. Criminal penalties in the bill would apply to the physician only.

While this bill will not save every child facing abortion in this state, it will save more than 600 lives every year. While we believe that all babies should be protected from the time of conception, there is compelling evidence that voters are more supportive of restrictions on abortions as the pregnancy progresses. According to polling conducted by the Human Family Research Center, **77% of Ohioans support a ban on late term abortions.**

This bill is not an attack on women's rights. To the contrary, women deserve respect and deserve to be empowered to be mothers. When women suffer from complications in pregnancy, they should receive treatment. With today's technology, that does not have to come at the expense of their unborn child. When women suffer from mental illness, they should be treated for the disease that afflicts them – pregnancy is not the disease. Women's health can be protected while their child, capable of living on its own outside the womb, is equally protected.

This legislation is endorsed by Americans United for Life, the Catholic Conference of Ohio, Democrats for Life of Ohio, Ohio Christian Alliance (Chris Long, President), and the Life Issues Institute. It is also endorsed by the following Ohio Right to Life affiliated chapters: Cleveland Right to Life, Greater Toledo Right to Life, Dayton Right to Life, Right to Life of Greater Cincinnati, Clark County Right to Life, Right to Life of Stark County, Right to Life of New Riegel, Minster New Bremen Right to Life, Miami County Right to Life, Darke County Right to Life, Northwest Cuyahoga County Right to Life, Right to Life of Northeast Ohio, Ashtabula County Friends for Life, Mercer County Right to Life, Henry County Right to Life, Right to Life Society of Lima and Allen County, and Belmont County Right to Life.

Chairman, members of the committee, thank you for allowing me to testify today on behalf of Ohio Right to Life and our statewide membership on this important legislation. I urge you to support House Bill 78 to protect the lives of unborn children in our state.

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<sup>i</sup> HEALTH AND ETHICS POLICIES OF THE AMA HOUSE OF DELEGATES;H-5.982 Late-Term Pregnancy Termination Techniques

<sup>ii</sup> American College of Obstetricians and Gynecologists, Guidelines for Women's Health Care[:] A Resource Manual (3d ed. 2007) at 432.