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HB 90 “ABORTION LAW AMENDMENTS”

This bill would impose a post-viability ban on abortions in Utah, and would create criminal penalties for physicians who perform abortions in violation of this law. The bill does provide an exception in the event that an abortion is needed to avert the death of the woman seeking the abortion or serious risk of substantial and irreversible impairment of a major bodily function of the woman, but this exception is very narrow. Additionally, the bill as currently amended allows for post-viability abortions in the event that two physicians who practice maternal fetal medicine concur that the fetus is “uniformly diagnosable and uniformly lethal.” Finally, the bill defines “viability” as the stage when a fetus is potentially able to live outside the womb by natural or artificial life-supportive systems.

- HB 90 is constitutionally suspect because it does not provide for sufficient health and safety exceptions for the woman. The bill should allow for post viability abortions “where necessary, based on appropriate medical judgment, for the preservation of the life or health of the woman.”
- The definition of viable used in HB 90 is constitutionally questionable and has never been upheld by the Supreme Court in the context of a ban on abortions. The Supreme Court has always maintained that viability should be determined by physicians, not by the legislature.
- Physicians should not be exposed to criminal liability for their role in working with families to make difficult decisions about their health.

HB 222 “UNBORN CHILD PAIN PREVENTION ACT”

This bill would require that prior to performing an abortion of a fetus of 20 weeks gestational age or later, physicians provide information to the woman regarding anesthetic to alleviate fetal pain. The bill also requires that the Department of Health produce a brochure including information on both sides of the issue, related to the ability of a fetus to experience pain during an abortion. Finally the bill requires that a doctor administer anesthetic to a woman during an abortion of a fetus of 20 weeks gestational age or later, if the woman so requests.

- There is no medical consensus as to when a fetus feels pain.
- This bill fails to explicitly require the attending physician to inform the woman seeking an abortion that the administration of anesthetic may create risks for her own health and safety and may otherwise complicate the abortion procedure