

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Friday, April 09, 2021

TIME: 9:00 A.M.

PLACE: Room EW40

MEMBERS: Chairman Crane, Vice Chairman Armstrong, Representatives Palmer, Barbieri, Holtzclaw, Monks, Scott, Andrus, Young, Furniss, Hanks, Skaug, Gannon, Mathias

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheet will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

Chairman Crane called the meeting to order at 9:00 a.m.

MOTION: **Rep. Mathias** made a motion to approve committee minutes from March 8, March 9, and April 6, 2021. **Motion carried by voice vote.**

S 1183: **Rep. Harris** presented **S 1183**. This legislation prohibits abortion procedures when a fetal heartbeat can be detected, with exceptions included for rape, incest, and life of the mother. A detectable heartbeat is a key indicator, in law and medical practice, of the existence of life. This legislation becomes effective upon the issuance of any decision upholding a restriction or ban on abortion of a preborn child with a heartbeat by any United States appellate court.

Rep. Harris stated life begins at fertilization and the State has a compelling interest in protecting life of a baby in the first 9 months, through birth, and throughout life. Roe vs. Wade constructed a trimester framework and says states only have a compelling interest in the last trimester of pregnancy. Most abortions take place before the 24 week mark. Rep. Harris stated a preborn child, with a heartbeat, is 95% assured of reaching full-term. He said **S 1183** dramatically pushes the line of compelling interest to eight weeks. There are 12 other states who have passed a heartbeat bill. The effective date of the bill is pushed out and this legislation would preferably go to the Supreme Court. He hopes for a precedent validating viability of life at eight weeks, with a heartbeat, and acknowledgement states have a compelling interest at that time. Abortion stops a beating heart.

In response to questions, **Rep. Harris** said compelling interest is in findings and not in current statute. Standards say there are rights that cannot be infringed upon. He stated, currently, this bill is not enforceable nor is it illegal. It would be challengeable by the courts. **Rep. Harris** clarified a police report is not required for a woman who has been a victim of sexual violence. He also indicated when a physician performs an abortion intentionally and with willful disregard to the law, it is considered reckless. Finally, he stated the trigger bill from 2012 contains the same language as **S 1183**.

Blaine Konzatti - Family Policy Alliance of Idaho, said a heartbeat is an indicator of life and is an important indicator of a child's health throughout pregnancy. The heartbeat can be found as early as five and one-half to six weeks of gestational age, using standard medical practice. He said abortionists commonly perform a non-invasive ultrasound prior to an abortion procedure to locate the baby and find the baby's gestational age. **Mr. Konzatti** stated findings in this bill reiterate life begins at fertilization. The federal judiciary has long held states do not have a compelling interest in restricting abortion before viability. Heartbeat bills are arguing for a better definition of viability and whether the baby is overwhelmingly likely to survive to term. He said **S 1183** harmonizes the penalties with pro-life laws already passed by the legislature. There is no conflict with the criminal abortion trigger law passed last year and this bill was crafted to be defensible.

In response to questions, **Mr. Konzatti** clarified this bill is designed to work within the framework set up by the federal judiciary. He sees an opening to end abortion in Idaho. **Mr. Konzatti** said medical emergency standard is a higher standard than the health of the mother. Civil action would allow a mother to sue the doctor if an illegal abortion is performed. Under Idaho Law, a chemical abortion course cannot be prescribed without an exam by a doctor and an ultrasound is performed as part of the exam.

A committee member pointed out false statements relating to all Idahoans wanting Roe vs Wade to be overturned and viability is a standard for deciding when a baby gets to live. It was also noted the health of the mother standard could be almost anything. It was questioned how the word embryonic can be included in the definition of fetal.

Chairman Crane put the committee at ease 9:52 a.m..

Chairman Crane called the meeting back to order at 10:05 a.m.

Heather Lawless –Reliance Center, Lewiston, ID, **Alisha Wheeler** - Registered Nurse at Reliance Center, **Samantha Doty** – Physician's Assistant, **Tammy Payne** - Right to Life of Idaho Lobbyist, **Christian Welp** - Catholic Diocese of Boise testified **in support** of **S 1183**. Ms. Wheeler said when she conducts an ultrasound and women see their baby's heartbeat for the first time, it is life changing. It is a visual and audio indicator of life. We cannot take a person's life for any reason. Science agrees life begins at conception. This bill would effectively eliminate abortions in Idaho. Abortion is not women's healthcare. Pregnancy is a physiological function. If everyone can agree life ends when the heart stops, we should be able to agree that life begins when the heart beats. At a minimum, Idaho should protect babies as soon as a heartbeat is detected.

In response to questions, Ms. Doty stated a four-chambered heart pumps blood and is a heartbeat. She said embryology states there is a primitive heart chamber with two distinctive tubes pumping blood.

Karen Simpkins – Self, **Lynette Claypool** - Self, **Sandra Casey** - BSU Nursing student and **Charles Willer** - BSU Student, testified **in support** of **S 1183**. Miss Claypool shared her miscarriage during an unplanned pregnancy was emotionally damaging. All life should be accepted and allowed to thrive. There are resources available for support. They said God has a special purpose for each of us and a person is a person, no matter how small. Stand up and speak for those voices that cannot be heard. Mr. Willer said college students are portrayed as being liberal, but many are not. **S 1183** provides an opportunity to show young people, as well as all Idahoans, what Idahoans believe.

Tracy Olsen - Self, Scott Watson – Self, Naomi Watson - Self, Sofia Grigg - Self, Paul Smith - Self, Steph Simmons - Self, Benji Graves - Pastor, Mr. Chase - Self, JoAllison Smith - Self, Arlene Herndon - Self, testified in opposition of S 1183. Concern was expressed about how little the legislative body cares about women who have been traumatized by rape, referring to Idaho Code 18-8703. Idaho should prevent all abortions and abortifacients. It is a baby, or it is not a baby. It was stated, the beginning of life should not be up for debate. **S 1183** endorses murder of babies within the womb. The legislature says it values babies but puts bills forward, legitimizing a person's right to have an abortion. It was stated this bill encodes unconstitutional judicial supremacy into Idaho law when it requires federal appellate courts to decide if this law will ever go into effect.

In Closing, **Mr. Conzatti** stated an edit needs to be made on Page 3 Line 8, changing the word "defined" to "in violation of". The same change needs to be made to Line 18. He stated Roe vs. Wade needs to be overturned and asked the committee to take a step in the right direction. He also clarified the Attorney General's opinion is women are required to have a physical examination prior to having an abortion. Mr. Conzatti will provide this opinion to the committee.

The following handouts were provided to the committee: Family Policy Alliance of Idaho (Attachment 1); Written Testimony from Rick Small (Attachment 2); Written Testimony from the ACLU (Attachment 3); Sexual Assault Survivors and Advocates Against Intimate Partner Violence: An Open Letter in Opposition to SB 1183 (Attachment 4).

MOTION:

Rep. Palmer made a motion to send **S 1183** to **General Orders** to make corrections to Page 3 Lines 8 and 18, as described by **Mr. Conzatti**.

During discussion, comments from the committee included **S 1183** would be unenforceable because it is speculative as to what future courts will do. Police reports are not made public during investigations and language is needed to address this issue. The legislation is seen as flawed. It was noted this bill replaces one arbitrary deadline for another, however, brings legislation more in line with Idaho Code 18-622. There is already has a law in place and this is a step backward. Forcing rape victims to have a police report is going to retraumatize them and forcing them to have a transvaginal ultrasound is hypocritical. The definition of fetal heartbeat is misleading. A court will say the State's alleged interest is not strong enough. It was also noted the fiscal note is off by a quarter million dollars in court fees.

SUBSTITUTE MOTION:

Rep. Mathias made a substitute motion to **Hold S 1183** in Committee.

During discussion, it was noted a woman must report the act of sexual assault and the police can verify the submission of a report. The investigation would not have to be completed.

ROLE CALL VOTE:

Roll call vote was requested. **Motion failed by a vote of 4 AYE and 10 NAY.** **Voting in favor** of the motion: **Reps. Barbieri, Scott, Gannon, Mathias.** **Voting in opposition** of the motion: **Reps. Crane, Armstrong, Palmer, Holtzclaw, Monks, Andrus, Young, Furniss, Hanks, Skaug.**

ROLL CALL VOTE ON ORIGINAL MOTION:

Roll call vote was requested. **Motion carried by a vote of 12 AYE and 2 NAY.** **Voting in favor** of the motion: **Reps. Crane, Armstrong, Palmer, Barbieri, Holtzclaw, Monks, Scott, Andrus, Young, Furniss, Hanks, Skaug.** **Voting in opposition** of the motion: **Reps. Gannon, Mathias.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:33 a.m.

Representative Crane
Chair

Kelly Staskey
Secretary