

It's Still Infanticide: Liberals' Amendments to California Bill Don't Change Criminal Intent

Last month I told you about California Assembly Bill 2223 (co-sponsored by NARAL Pro-Choice California and Planned Parenthood Affiliates of California, among others), which contained language that would restrict the investigation and reporting of infant deaths and could effectively legalize infanticide.

In fact, a legal analysis prepared by legislative committee staff in California essentially agreed with our conclusion. According to the recent pro-abortion-majority California State Assembly Committee on the Judiciary staff analysis of California Assembly Bill 2223:

"[T]he 'perinatal death' language [included in the original bill] could lead to an unintended and undesirable conclusion[;] the bill could be interpreted to immunize a pregnant person from all criminal penalties *for all pregnancy outcomes*, including the death of a newborn for any reason during the 'perinatal' period after birth, including a cause of death which is not attributable to pregnancy complications."

In other words, it could effectively legalize infanticide up to 28 days after the baby is born (the perinatal period) "for any reason."

Subsequent to our analysis raising concerns about a similar bill in Maryland and due to the Committee staff analysis, the author of the bill – CA Assembly Member Buffy Wicks – made several amendments to the bill, adding the language in bold

below:

“(a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights *under this article*, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death *due to a pregnancy-related cause*.”

After our thorough legal review of this amended bill, which just passed another committee vote, we have concluded that the amendments do not resolve the original issues with the bill, and it still could allow infanticide in a number of ways.

The first amendment “under this article” was added because the analysis of the bill found that the bill could be interpreted to “immunize a pregnant person from not only all civil liability and criminal penalty for their pregnancy outcomes (consistent with existing law), but also from being ‘otherwise deprived of their rights’ for any of their actions with respect to their pregnancy.” The committee analysis of the bill noted that “existing law allows a pregnant person’s actions during pregnancy [such as drug use] to be considered in a manner that could impact their parenting rights,” and that the bill, as written, could affect those laws. So, the author of the bill added “under this article” to the text. However, that amendment does not impact our original analysis of this bill as our analysis specifically concerned the removal of criminal and civil penalties for pregnancy “outcomes,” which is unaffected by the addition of “under this article,” and is still problematic.

The second amendment, the addition of “due to a pregnancy-related cause,” does little to alleviate the concerns we have that this bill could effectively legalize some instances of infanticide. This is true for three different reasons.

First, the bill, as written and amended, states: "Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty ... based on their actions or omissions with respect to their ... pregnancy outcome."

The term "pregnancy outcome" has a specific meaning and is used in reference to both preborn children and newborns. A pregnancy outcome includes full-term birth, premature birth, spontaneous miscarriage, and abortion. Under each of these categories are subcategories that include vaginal or Caesarean birth, the birth of a healthy or sick baby (e.g., birth trauma, infection), stillbirth, or the birth of a child with congenital anomaly or birth defects.

Thus, under the bill, a person could not be subject to civil or criminal liability or penalty if they withheld (omitted) care from either a full-term or premature infant – born alive – who subsequently dies due to lack of care.

Second, the bill has specifically listed "abortion" as a pregnancy outcome, and it is well established that live births can occur following a failed abortion. Thus, according to this bill, there would be no civil or criminal liability or penalty for a woman (or any person aiding or assisting her) who "self-performs" an abortion (through the use of abortion pills) and then withholds care from an infant born alive after a failed abortion.

For example, just a few days ago, a report from the U.K. detailed how a baby died four days after being born alive following a botched medical abortion. According to the report, the baby's mother took mifepristone because she had "decided to legally abort the pregnancy on health grounds believing that she was 12 weeks [pregnant], when in fact she was more than twice that [30 weeks pregnant]." After the baby's death, an investigation revealed that "pre-natal scans were either not carried out or were done erroneously." While the baby in

this story did receive medical attention after his birth, bills like AB 2223 would ensure that medical attention for babies born alive in these kinds of cases is not required.

As I've detailed previously, the abortion industry is actively trying to reduce restrictions on and expand access to the exact medical abortion pills used by the woman in that story. Currently, medication abortions account for more than half of all abortions in the United States. And nearly 20% of the medication abortions occurring in the United States are taking place in California. Reduced restrictions on medication abortion pills allow women to access these pills without in-person physician visits or ultrasounds to verify the actual pregnancy stage and ensure that the woman is not experiencing an ectopic pregnancy.

For the rest of the article, visit our content partners at .
{eo}

Read articles like this one and other Spirit-led content in our new platform, CHARISMA PLUS.