



SPOTLIGHT

Saving Babies

Pro-life Strategy In North Carolina

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Whenever NC Family writes a story about laws or regulations that will decrease the number of abortions in our state, we often receive comments from pro-lifers wanting to know why lawmakers don't just introduce bills to ban all abortions. In these next few pages, we shed some light on that question through the words of one of North Carolina's most ardently pro-life former lawmakers, and from excerpts of actual debates on abortion-related bills in the NC General Assembly. Paul Stam is an attorney who served for 16 years in the NC General Assembly and has defended pro-life laws in court.

The primary purpose of the pro-life movement is to "Deliver those who are being taken away to death, And those who are staggering to slaughter, Oh hold them back" (Proverbs 24:11, NASB).

The United States Supreme Court created the problem in 1973 when it forced the legalization of abortion on every state in the nation through its ruling in *Roe v. Wade*. The anti-life majority on our nation's highest court is currently 5 to 4 with two aged abortion supporting Justices who are eligible to retire: Anthony Kennedy (81) and Ruth Bader Ginsburg (84). Real change on the national level requires a majority of Supreme Court Justices who will act to overturn that tragic decision.

Until then, what can be done legislatively? In North Carolina, we have emphasized measures that: 1) will actually save the lives of unborn babies; 2) are likely to have the necessary support to become law; and 3) could be successfully defended in court. North Carolina legislators have pushed through eleven such laws since 2011. (See "2016 Articles" on www.paulstam.info.) Among these:

- ***Woman's Right to Know Act of 2011* has saved thousands of lives each year.** It was improved upon in 2015 by increasing the informed consent waiting period (after detailed information is provided to a woman considering abortion) 72 hours instead of 24 hours prior to an abortion. All but one section was upheld in court.
- **The statute requiring parental consent for abortion was upheld in 1997 and has saved the lives of thousands of unborn children,** while also reducing the teenage abortion rate.
- **The end to state and local government funds for almost all abortions became law in 2011 and 2013, and will save thousands of lives.**

These measures were virtually immune from successful legal attack.

There is a tactical reason laws should only be pursued if they have a reasonable chance of saving lives and getting through the legislature and the courts. Bills introduced without a prospect of becoming law often taint the issue in the minds of some legislators. Acting too quickly can affect legislation well into the future. Years later, even when prospects have changed and it is judged that the bill could make it through the courts, too many legislators would have already concluded that it was not a measure to support.

In addition, while most current legislators vote pro-life, only a large minority are "convictionally" pro-life. The remaining votes are often brought along on the momentum of success. A painful defeat may cause some lawmakers to change their vote next time.

NC Leading In Opposition To Late-Term Abortion

Seventeen states and the U.S. House have passed what is known as the "pain capable abortion prohibition." If it ever becomes federal law, it would stop almost all abortions after 20 weeks. The bill cites numerous findings that the unborn child feels intense pain at that stage. However, these late-term abortions have already been stopped in North Carolina. In the 2015 legislative session, as part of a larger bill, the North Carolina pro-life legislature passed a "technical correction" that has stopped virtually all post 18-week (fetal age) abortions for the last two years, saving hundreds of lives. It has been challenged in court and is pending in federal district court. If Justices Kennedy or Ginsburg retire and pro-life Justices are sworn in before it is heard there, it will likely be approved by the U.S. Supreme Court. Until then, its fate in the federal courts is unknown, especially in the Fourth Circuit Court of Appeals which has become the second most liberal in the nation.

However, **until a Justice dies or retires, North Carolina may have neared the limit on what it can do to curtail abortion on the state level.** The 2016 U.S. Supreme Court decision in *Whole Woman's Health vs. Hellerstedt*^A overturned some state abortion-related laws in Texas, and made it relatively clear that North Carolina has already passed many of the pro-life laws that would likely be approved by the courts, at least while Justices Kennedy or Ginsburg are on the U.S. Supreme Court.

Therefore, pro-life legislators in North Carolina did what they could in 2017 to give more unborn babies a chance at life. **They appropriated five times more money for pro-life programs than had ever been appropriated in**

North Carolina before, primarily for the provision of ultrasound equipment for pregnancy resource centers and for training personnel to use the machines. This strategy stems from research, which indicates that high-resolution ultrasound pictures are making a profound difference in the choices and attitudes of young women and young men when confronted with an abortion decision. They have been able to see with their own eyes and with intricate detail what an unborn child looks like and how he or she acts while in the womb.

The author served in the General Assembly for 16 years- House Republican Leader (2007-2010), House Majority Leader (2011-2012), and House Speaker ProTem (2013-2016). He can be contacted at paulstam@stamlawfirm.com.



EDITOR'S NOTE: *On the next two pages, we get a glimpse into the often turbulent debates surrounding attempts to create pro-life laws.*

You'll see the impassioned arguments on both sides as lawmakers battle to push back the number of abortions in our state as much as current federal laws will allow. Following are excerpts² of a dramatic debate over the state's Right to Know Act in 2011, which mandated that women seeking an abortion receive specific information and that they observe a waiting period prior to an abortion. Since its enactment, which took place over the veto of then Governor Beverly Perdue, the law has been credited with saving thousands of unborn North Carolina children.

Glimpses of the Battle

HB 854—Selected Remarks in House Judiciary Subcommittee B May 11, 2011

FORMER REP. STAM (R-WAKE)

[We] have a letter that's been handed out from Dr. John Thorp [...] Distinguished Professor of OB/GYN, Director of the Women's Primary Healthcare at Chapel Hill. [...] Attached to his letter is a review of the evidence—a published review that, if you read it, indicates that women are simply not being told of the problem of the possible risks [of abortion].

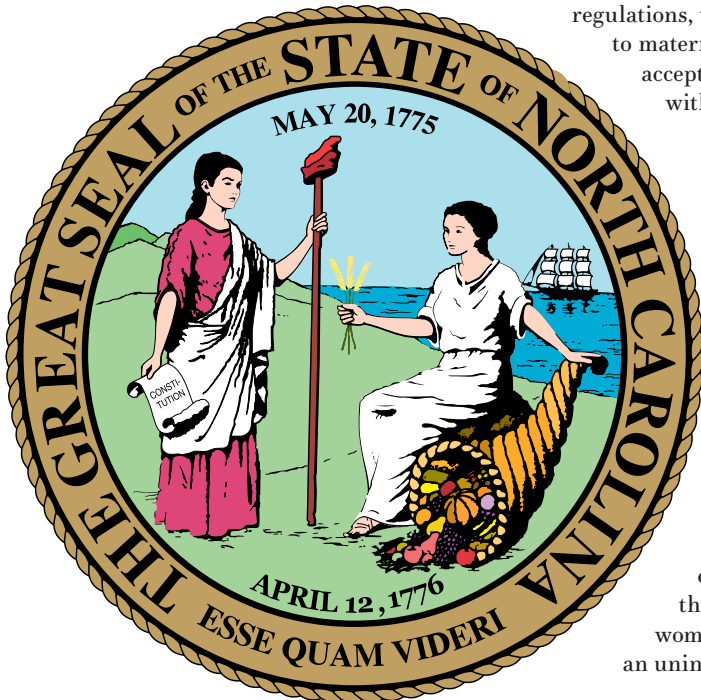
FORMER REP. RICK GLAZIER (D-CUMBERLAND)

A woman's right to have an abortion, particularly in the first trimester, is a fundamental right protected by the substantive Due Process Clause of the Fourteenth Amendment. In *Roe v. Wade*, the Supreme Court overturned the Texas statute prohibiting abortions unless abortion was necessary to save the life of the mother. The court held that the right of personal privacy includes the right to have an abortion. That right is not unqualified and must be considered against important state interests and regulation. [...] According to the Court, the State's interest in those cases is preserving and protecting the health of the mother and protecting potential human life as it increases its substantiality while the woman nears term.

Several years, and in fact several decades later, the court reaffirmed its commitment to *Roe* in *Planned Parenthood v. Casey* when the court established the "undue burden" test of determining whether a statute that restricts abortion would pass constitutional muster. Under *Casey*, a statute is invalid on its face if it places an undue burden on a woman's right to have an abortion before the fetus obtains viability. And an undue burden exists under the law if the state regulation has the effect of placing a substantial obstacle in the path of a woman's choice to obtain an abortion before the fetus obtains viability. [...]

It is evident, I think, that the State of North Carolina has a legitimate interest at the outset of a pregnancy of protecting the health of a woman seeking an abortion. And that interest is sufficiently important to allow the State to regulate

abortion providers and how the process works. However, *Casey* and its predecessors teach us that health regulations, which are not reasonably related to maternal health, or which depart from accepted medical practice cannot withstand constitutional scrutiny.



FORMER REP. ALICE BORDSEN
(D-ALAMANCE)

I think this has actually provided us an excellent opportunity to really see writ large what a sham this whole thing is. [...] From a quick read of this bill, one could draw one of two conclusions that the bill sponsors [audio unclear]... One: women are really stupid, and two: women lack a moral compass. How else can you explain the micromanaging and the condescending approach to women who are trying to terminate an unintended pregnancy?

FORMER (LATE) REP. RUTH
SAMUELSON (R-MECKLENBURG)

A lot of people have suggested that they know what my motives are and my intents in running this bill. [...] You don't really think that I think that women are stupid or immoral. In fact, my motive behind this bill has to do with the fact that I think women are very intelligent and very moral, but they are not always informed. [...] This is about making sure that women know what they need to know before they make a very serious decision. I'm not downplaying it; I'm not implying that the mother somehow flippantly makes this decision. I'm recognizing the seriousness of it and her need to have that information and to have it ahead of time.

SUBCOMMITTEE CHAIRMAN:

By a vote of nine to five the bill carries. Thank you.

Remarks on House Floor, 2nd Reading June 8, 2011

FORMER REP. ALMA ADAMS (D-GUILFORD)

Propaganda that we receive from the Right to Life folks claims that African-American women are targeted [by abortion clinics] and have more abortions. I want to speak to that as one of the six women who fit in that category on this floor. As an African-American woman, I'm offended at this deliberately skewed, one-sided opinion that doesn't give the real picture. [...] Abortion rates are higher among African-American women, yes, and other ethnic racial minorities, because they have higher rates of unintended pregnancies. That is a proven fact. Because of that they're more likely than other women to seek abortion.

FORMER REP. BILL FAISON (D-ORANGE)

To invade that [abortion decision] process legislatively, to have healthcare providers working on the guilt aspect of a woman's mind over a matter that she has already decided—in consultation with her religious counselors and advisors, in consultation with her family, in consultation with her significant other, in consultation with her friends—is just simply wrong.

Excerpts of the Debate on the Right To Know Law

Remarks on Senate Floor 2nd and 3rd Reading June 15, 2011

SEN. WARREN DANIEL (R-BURKE)

There are few decisions in life that can be considered as important as a woman's decision about an abortion. It's literally a life and death decision and one that should be deliberated with great care. This bill would protect a woman's right to know the medical risks associated with an abortion, its alternatives, and will provide nonjudgmental, scientifically accurate medical facts about the development of her unborn child before making a permanent, life-affecting decision. North Carolina is currently one of only two Southern states without a "Woman's Right to Know" law. There are approximately 30,000 abortions performed in our state every year, and a "Woman's Right to Know" law has statistically shown to reduce that number dramatically by as much as 10%. This bill is designed to make sure people have full information to make the decision that is best for them to live with for their entire life. We believe that it accomplishes this in such a way, which respects women and the lives they are carrying.

FORMER SEN. WILLIAM
PURCELL (D-SCOTLAND)

Some seem to believe they know what God wants done and the rest of us just don't seem to understand. I am obviously not a theologian, but I wish religion and God's will were that simple. But it's not that simple in so many cases, and I believe that this is one of them.

[...] I began practicing medicine when there was no legal way to terminate an unwanted pregnancy, in the United States. [...] I personally cared for two young women, one about age 18 and one about age 19, who came to our emergency room on separate days. For whatever reasons—it could have been fear of their father, or whatever, I don't know the reasons—both of them found their pregnancies to be so threatening that they had to terminate them, and both attempted to do it using a coat hangers (sic). I watched as both of them bled to death right in front of me as we pumped blood and did everything else that we could to try to save their lives. I shall never forget the look of despair on

their faces as they died. You can say they shouldn't have done that, and I agree.

But you know they will do it again across this state if you succeed in making it extremely expensive, difficult or almost impossible for a woman to have a pregnancy terminated by placing more and more barriers in her way. There are many issues that we face today where right and wrong are not clear. And I believe that anyone who is intellectually honest will agree that this is one of them.

Remarks on House Floor, Veto Override July 26, 2011

On the veto override vote, four Democrats from the House joined Republicans in voting for the bill: William Brisson, Jim Crawford, Dewey Hill and Tim Spear came through.

FORMER REP. FRANK MCGUIRT (D-UNION)

George Orwell was right: 1984 is here! It took it until 2011 to get here, but it's here! That's what I thought when I first read this bill, because this is Big Brother! This is Big Brother bashing his way into the O.R., bashing his way into the relationship between a doctor and his patient, and this is wrong.

FORMER (LATE) REP. RUTH SAMUELSON (R-MECKLENBURG)

We've heard a lot this afternoon, very impassioned and dramatic. [...]

The one that speaks to most of us more is the whole issue of rape. [...]

I am also a rape victim, and I will tell you that for fifteen years, I could not stand to have anyone touch me whom I did not know well. It impacted just about everything I did in my life. To tell me that somehow or another a woman who has been raped, let alone by someone she is related to who may very well have brought her to the clinic, that somehow or another it's better for her not to know what's going to happen to her once again? To not have the chance to weigh her alternatives once again? To act like somehow or another saying, "Look, this is what's going on and here's some time to think about it," respecting her choice is traumatic and victimizing? I'll tell you what traumatic and victimizing is! I know I am not the only woman here who could stand up and say the same thing. I urge you: respect the women, whether they've been raped or got pregnant willingly. Respect them. Give them the information they need. Honor their choices. Override this veto.

Remarks on Senate Floor, Veto Override July 28, 2011

SEN. WARREN DANIEL (R-BURKE)

I would like to make a couple of comparisons to current laws we have on the books in North Carolina that have a waiting period. The first is divorce. A person who wants to file a petition for a divorce has to wait a year after separation before they can seek a divorce. [...] The second is home refinance loans. If you want to refinance your house you have to wait three days from the time you sign the documents before the loan becomes final and money is disbursed. The attorney is required to give the borrower three copies of a form that would allow them to cancel the transaction for the next 72 hours.

PRESIDENT PRESIDING OVER THE NC SENATE

Further debate? Hearing none, the question before the Senate is the motion to override the Governor's veto of the second Committee Substitute of House Bill 854. Those in favor of the override will vote aye, those opposed will vote no. Five seconds will be allowed for the voting. The Clerk will record the vote...Twenty-nine having voted in the affirmative and 19 in the negative—that is 3/5^{ths}—the motion passes and House Bill 854 becomes law, notwithstanding the Governor's objection.

Endnotes

1. SCOTUS Blog. *Whole Woman's Health v. Hellerstedt*. Retrieved from <http://www.scotusblog.com/case-files/cases/whole-womans-health-v-cole/> on April 28, 2018.
2. Stam, P. (Ed.). (2016). A Collection of Selected Debates In the North Carolina General Assembly 2009 - 2016. Retrieved from <http://paulstam.info/wp-content/uploads/2016/11/Collection-of-Debate-Transcripts-North-Carolina-General-Assembly-2009-2016.pdf>



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