



Written by [Lisa Shaw](#) on August 23, 2015

New Texas Law Allows Parents to Bury Stillborn Infants

Who would disagree that the right to a proper burial is widely accepted and even taken for granted, considering that there are over two million funerals each year in the United States alone? Yet there is disagreement regarding the age at which a burial may be allowed.

Until now, stillborn children under 20 weeks could be considered “medical waste” by Texas hospitals and disposed of as such, without allowing parents access to the body. Thanks to Joshua and Erica Raef of Amarillo, Texas, a new law will take effect on September 1 permitting parents to properly bury their stillborn infants, regardless of the stage of development.



Thirteen weeks into pregnancy, the Raefs discovered that their unborn baby no longer had a heartbeat. The grief that automatically comes with such news was compounded by their discovery that, if Erica delivered in a hospital, they could not have their baby’s body for burial. Though believing the hospital to be the safer route, the Raefs chose to deliver at home in order to have and bury their child, Liam, as they wished. Hours after the miscarriage, Erica began to hemorrhage and was rushed to the hospital to receive the necessary care.

Speaking to a Texas House Committee in April, Erica said of the ordeal, “It was a very traumatic experience that I wouldn’t wish on anyone.” Yet the Raefs do not regret their decision of home delivery. “In the end, going through all that, it was still worth it to have our baby to bury,” Joshua told lawmakers. Erica further explained their position by stating, “This is ultimately why we are here today, to make sure this doesn’t happen anymore.”

Lawmakers, stirred by Erica’s experience, unanimously passed House Bill 635, enabling parents to obtain the remains of their unborn children regardless of size or development. According to Charles Bailey, lawyer and senior vice president with the Texas Hospital Association, “Texas hospitals have had different policies on releasing fetal remains. Many will give the remains of stillborn infants to parents if asked, but some interpret state law to classify fetal remains less than 350 grams as medical waste.” Bailey added, “The hospital association supported HB 635, which the Texas House and Senate unanimously passed, because it clarifies the law and allows hospitals to honor parents’ requests.”

Dismissing the deceased preborn baby as nothing more than “medical waste” is based on the false notion that there was nothing special about the dead baby to begin with — just a bunch of cells. Of course, there was something special: The dead baby was once a live baby. In fact, it would not make any sense to refer to a stillborn baby as having died unless the baby were previously alive.

By 18 weeks a preborn baby is beginning to hear sounds and can already feel pain. His organs are functioning and his hair is growing. At 19 weeks he has the same sleep patterns of a newborn, with favorite sleeping positions. Having reached 20 weeks, the baby can be startled as he is able to hear



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better and respond to sounds outside the womb. He is also able to recognize familiar voices, especially his mother's. Yet, according to many states this same child isn't human enough to escape incineration as "pathology waste" if he were to die.

North Carolina, for example, requires the growing child to look like a baby and be at least 27 weeks into gestation before being allowed a decent burial. The [applicable N.C. law](#) says, "All hospitals, other medical facilities, or medical or research laboratories shall dispose of fetal remains by burial, cremation or incineration in accordance with 15A NCAV 13B.1200, except that burial or cremation shall be the only methods of disposal of recognizable fetuses," and, "For purposes of this Rule, a recognizable fetus means a fetus that has developed beyond completion of the second trimester of gestation, consistent with G.S. 90-210.20 (c1)."

At 27 weeks gestation, the point at which North Carolina deems a baby suitable for burial, the little one has already grown to about 2 lbs, his already-formed eyes are beginning to open and his organs, which began developing in his first week, are getting stronger; he is continuing to grow as he has from the beginning.

There are states, however, that acknowledge the presence of life from conception and afford grieving parents the opportunity and respect to lay their children to rest in a decent manner. Missouri, for example, allows parents access to the bodies of their deceased infants in all instances and stages of pregnancy. The law there says, "In every instance of fetal death, the mother has the right to determine the final disposition of the remains of the fetus, regardless of the duration of the pregnancy. The mother may choose any means of final disposition authorized by law or by the director of the department of health and senior services."

Sadly, no other process of life is as belittled as that of human growth in the womb. However, if more states like Texas and Missouri listened to more people like the Raefs, we might have fewer legislators making decisions outside their realm of knowledge. These laws, deciding the value and advancement of life, can only prove the vanity of those who pretend to know what only God can know.

The devaluing of life doesn't begin and end with pregnancy; it finds its way into the mindset of everyday life, determining how all people are viewed, for ill or for good.

So, remembering the words of Horton, Dr. Seuss' courageous elephant, we fight this fight "Because after all, a person's a person, no matter how small."



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