Written by **Warren Mass** on June 23, 2014

Congressional Bill Would Undermine State Anti-abortion Laws

A bill entitled the "Women's Health Protection Act" (S. 1696) that was introduced in the Senate last November would override state and local laws restricting abortion. The bill gathered 34 cosponsors in the Senate from November through May, just 17 short of a majority.

A companion bill, H.R. 3471, was introduced in the House and has 115 cosponsors, the latest being added on June 17.

S. 1696 was introduced in the Senate by Richard Blumenthal (D-Conn.) and its cosponsors include some of the most liberal members of the Senate, including Tammy Baldwin (D-Wis.), Barbara Boxer (D-Calif.), Dianne Feinstein (D-Calif.), and Chuck Schumer (D-N.Y.).

H.R. 3471 was introduced in the House by Rep. Judy Chu (D-Calif.) and has been cosponsored by more than one-fourth of the House membership.

The text of the legislation laments:

> Since 2010, there has been an equally dramatic increase in the number of laws and regulations singling out abortion that threaten women's health and their ability to access safe abortion services by interfering with health care professionals' ability to provide such services. Congressional action is now necessary to put an end to these restrictions. In addition, there has been a dramatic increase in the passage of laws that blatantly violate the constitutional protections afforded women, such as bans on abortions prior to viability.

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The intrusive, anti-states' rights aspect of this legislation is apparent from its definition of those governments it intends to curtail: "The term 'government' includes a branch, department, agency, instrumentality, or individual acting under color of law of the United States, a State, or a subdivision of a State."

And, lest any court interpret the law (if enacted) in a way that affirms states' rights, the bills reads: "No State or subdivision thereof shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law that conflicts with any provision of this Act."

Among the state or local laws that this legislation would prohibit are those that mandate:

• A requirement that a medical professional perform specific tests or follow specific medical procedures in connection with the provision of an abortion.

• A limitation on an abortion provider's ability to provide abortion services via "telemedicine."

• A requirement or limitation concerning the physical plant, equipment, staffing, or hospital transfer arrangements of facilities where abortions are performed, or the credentials or hospital privileges or status of personnel at such facilities.

• A requirement that, prior to obtaining an abortion, a woman make one or more "medically unnecessary visits" to the abortion provider or to any individual or entity that does not perform abortions.

• A requirement or limitation that prohibits or restricts medical training for abortion procedures.

Most of these prohibitions allowed an exception: "unless generally required for the provision of medically comparable procedures."

However, the bill does not mention what other "medically comparable procedures" result in the death of an unborn human child.

As for the possible motivations of those legislators supporting these two pieces of legislation, some history is necessary.

The Supreme Court's *Roe v. Wade* and *Doe v. Bolton* decisions in 1973 overturned anti-abortion laws in Texas and Georgia, respectively, and declared abortion as a constitutional right — which, by implication, overturned most laws against abortion throughout the United States. (All state laws prohibiting abortions during the first trimester of pregnancy were invalidated, and state laws limiting abortions during the second trimester were upheld only when the restrictions were for the purpose of protecting the health of the pregnant woman. After "viability" of the unborn child (a state of development about which not all medical professionals agree), the states, under *Roe*, retain the authority to "regulate, or even proscribe abortion" as long as the life and health of the mother is protected.)

Since *Roe v. Wade* and *Doe v. Bolton* back in 1973 already reversed decades of precedent under which the states had outlawed practically all abortions, it might be asked what more pro-abortion advocates want. The answer is, those who favor legal abortion are both disturbed by the piecemeal chipping away at unrestricted abortion at the state level and also fearful of the day when *Roe* and *Doe* may be overturned.

In an article in January we quoted an optimistic observation from Janice Shaw Crouse of Concerned Women for America's Beverly LaHaye Institute: "Clearly, the relatively small pro-life organizations are winning the hearts of the American public — and its legislators — over the giant abortion industry and its powerful allies in the government and the media, and among the elites."

We also quoted from an article posted January 2 on the website of the Guttmacher Institute (which had its origins as a division of Planned Parenthood, the nation's largest abortion provider):

> Twenty-two states enacted 70 abortion restrictions during 2013. This makes 2013 second only to 2011 in the number of new abortion restrictions enacted in a single year. To put recent trends in even sharper relief, 205 abortion restrictions were enacted over the past three years (2011–2013), but just 189 were enacted during the entire previous decade (2001–2010).

The writer stated: "This legislative onslaught has dramatically changed the landscape for women needing abortion," but did not specify exactly which medical conditions indicated a medical "need" for abortion.

The pro-life victories at the state level have continued. Louisiana Governor Bobby Jindal signed legislation on June that placed new restrictions on abortion, a law that critics have said will force three of the state's five clinics to close. The law, which is similar to a law enacted by Texas last year amidst a hard-fought legal challenge, requires physicians who perform abortions to have admitting privileges at

a hospital within 30 miles of the place where the procedure is performed.

About a third of the Texas abortion clinics have closed since that state's law took effect late last year.

Oklahoma governor Mary Fallin signed such a measure last month also requiring the abortionist to have admitting privileges at a hospital within 30 miles of his facility. The law also requires abortion facilities to report any injured abortion patients to the state Board of Health and "appropriate licensing and regulatory boards" in writing, as well as if any "born-alive" babies are injured. Similar laws have been enacted in Kansas, North Dakota, Tennessee, and Utah.

The "Women's Health Protection Act" is an act of desperation by pro-abortion members of Congress who fear that there is still a sufficient residue of states' rights left to prevent unlimited, unrestricted access to abortions. It naturally has a better chance of passing the Senate than the Republican-dominated House, but, bearing in mind that not all Republicans are pro-life, it is worth keeping an eye on these bills to ensure that they will not be sneaked through using some slippery parliamentary maneuvers, such as a voice vote at midnight or during a lame-duck session of Congress.

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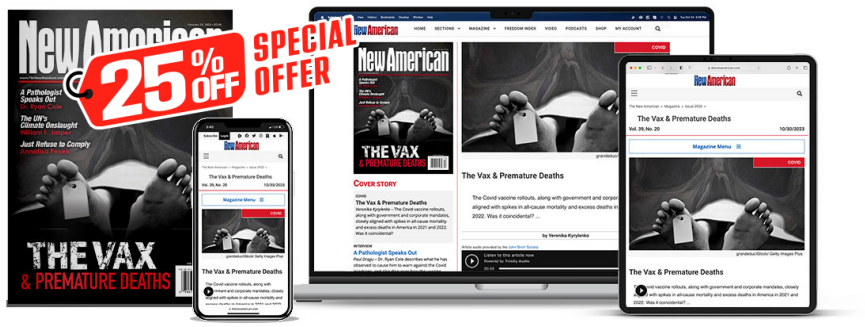

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