

To: Members of the Texas Senate Health and Human Services Committee
From: Joe Kral, MA, President of the Society of St. Sebastian
Re: Testimony in Favor of SB 23
Date: March 18, 2019

Dear Committee Members,

Greetings; my name is Joe Kral and I am the President of the Society of St. Sebastian and editor-in-chief of its publication *The Journal of Bioethics in Law & Culture*. In the last 22 years not only was I formerly the legislative director for Texas Right to Life, I have also consulted several prominent pro-life organizations within Texas on pro-life legislation. My written testimony is not on behalf of any organization, but rather my own professional opinion.

I am writing in favor of Senate Bill 23, the Texas Born Alive Infants Protection Act. As I am sure you all are aware, Texas has a law¹ that already states that when a child is “born alive after an abortion or premature birth is entitled to the same rights , powers, and privileges as are granted by law of this state to any other child born after the normal gestation period.” However, as this law stands, there is a deficiency. It has become clear that there is little enforcement provision within the current law that prevents abortionists from not providing care to a child. In essence, as it stands, an abortionist merely needs to say that the child is not his patient and he need do nothing to help the patient survive the harm caused by him.

This bill will help further enshrine the moral principle that one who causes harm to another has a moral duty to help the harmed person. Take for example the case of a two car crash where one party is injured because of the wrongful actions of another. Common sense dictates that the wrongful one should help the injured person. In the case where the injured party needs medical attention, that may mean calling 911 to ensure that the harmed person gets the medical attention he/she needs. Simply put, if the person who caused the accident leaves the scene not only is he/she acting immorally, but he/she could be charged with a crime. This same principle needs to be applied in the case of abortion as well. In this case, the abortionist has caused harm to the child and, as a result, has a moral responsibility to care for the injured party (the surviving child). Failure to recognize this duty under the law will only result in more children dying from a lack of care that could have been provided by the perpetrator who is also a physician. One must remember, when *Roe v. Wade* and *Doe v. Bolton* were decided, the majority of the United States Supreme Court never said that anyone has a right to a dead baby. That is the fallacy perpetrated by those who are in the business of advocating for or providing abortion. The Court only said that the woman has a right to terminate her pregnancy. So, the question becomes what is the moral responsibility when the pregnancy is terminated, and a child is born alive having survived an abortion or attempted abortion?

¹ See Texas Family Code §151.002.

SB 23 helps to answer this question by establishing the aforementioned principle in law by doing three things: 1) that a physician-patient relationship is established with the child, when the abortionist (who is performing an abortion), is born alive after an abortion or attempted abortion², 2) that the abortionist must help preserve the life and health of the child born at that gestational age with the same degree of professional care as someone who is a degreed physician³, and 3) take responsibility for failure to act upon, not only his moral, but legal duty⁴. The abortionist has caused a clear harm in harming the child bodily and/or caused harm by having the child born prematurely. Since not only did the abortionist cause the harm, but also since he is a degreed physician, he has a responsibility to care for the child. It is not sufficient for an abortionist to merely argue that they have no responsibility since only the mother was the patient. That argument denies the urgent responsibility that the doctor has. One must remember the abortionist has created the harm; as such he has a duty to care for the harmed patient in the most diligent fashion as afforded by his extensive training in medicine. Furthermore, if enacted, SB 23 also recognizes the consequence the abortionist must face for failing to act upon his responsibilities of causing harm to another. If a person who merely causes a “fender bender” and leaves the scene can be charged with a crime for not living up to his legal (and moral) duties for causing harm to another person’s property (such as failure to stay and give insurance information), then it is only consistent to ensure that a doctor who causes harm to another give medical assistance to the harmed.

In conclusion, this bill is needed. It has become quite clear in the last two months that some are advocating for a doctrine that goes even beyond *Roe v. Wade*⁵. They insist that there is a so-called right to a dead child. This, of course, is due to the desensitization of human life in general through the practice of abortion. This bill helps stop that desensitization. SB 23 is, indeed, a very necessary step to help establish a very clear line that infanticide will not be tolerated. Furthermore, it also helps establish another clear line that abortionists must live up to their responsibilities when it comes to a child that is born alive in their care; that their duty does not merely stop with the mother, it must to extend to that born child.

As always, thank you for all your hard work for the State of Texas.

Cc:

Joe Pojman, Executive Director, Texas Alliance for Life
Kyleen Wright, President, Texans for Life Coalition

² See SB 23, introduced version, page 1, lines 13-16.

³ See SB 23, introduced version, page 1, lines 16-20.

⁴ See SB 23, introduced version, page 1 line 24 – page 2, lines 1-17.

⁵ See <https://www.lifenews.com/2019/01/30/virginia-gov-ralph-northam-defends-infanticide-infant-would-be-resuscitated-if-thats-what-the-mother-desired/>.