

**Testimony of Sharon Toborg, Vermont Right to Life Committee concerning H.57
Presented to the Vermont House Human Services Committee on January 30, 2019**

My name is Sharon Toborg and I am here today on behalf of the Vermont Right to Life Committee to testify on H.57. Vermont Right to Life was founded in 1971 and our mission is to achieve universal recognition of the sanctity of human life from conception through natural death. In pursuit of that mission, VRLC through peaceful, legal means, seeks changes in public opinion, public policy, the law, and individual behavior that respect the right to life and reject abortion, euthanasia, and other actions that deny the right to life.

I would like to begin by offering additional information relating to points made by others who have testified previously on H.57.

With regard to the “born alive” rule: Vermont District Court ruled in 1988 that Edward Ramcke could not be charged with manslaughter even though he was alleged to have kicked his pregnant wife in the abdomen fracturing the skull, injuring the brain, and causing the death of his unborn daughter. The Vermont Supreme Court similarly ruled that a fetus is not a person under existing Vermont law. However, both Courts indicated that the Legislature is free to amend Vermont law to extend the definition of person to include a viable fetus. Numerous states have enacted some form of Fetal Homicide legislation. Vermont has not, but that does not mean it cannot. See *State of Vermont v. Ramcke* and *State of Vermont v. Oliver*

Are babies sometimes born alive instead of dying as a result of an abortion? Yes. There is a website, see www.abortionsurvivors.com, that details some of their stories. Dr. Lauren McAfee, in a presentation entitled *Updates on Family Planning Services at UVMHC* given on February 15, 2018 stated that UVMHC would offer elective abortions through 22 weeks 6 days of pregnancy, (and abortions later in pregnancy with involvement of the Ethics Committee) to be in line with colleagues in the Neonatal Intensive Care Unit who offer full resuscitation for neonates born at 23 weeks and beyond. McAfee noted that before 23 weeks, outcomes are variable so resuscitation is offered in some but not all cases. I doubt a child born alive as a result of an abortion would be among those who would receive such care.

While Dr. McAfee in her testimony last week indicated that she always makes sure to kill the fetus in utero by injecting it with a drug to stop the heartbeat, or by clamping the cord which causes the baby to suffocate, this Committee needs to be aware that this does not always work, nor do all abortionists follow her procedures. And of course, if this legislation were to become law an abortionist **could not** be required to follow her procedures. See <https://www.abortionprocedures.com> to hear Dr. Anthony Levatino describe the various abortion procedures performed at different stages of pregnancy.

While testimony from January 23rd appears not to have been recorded, I have been told by someone in attendance that there seemed to be some doubt about the reality of partial-birth abortion. Here I agree with Dr. McAfee who noted in both her 2018 presentation and her testimony that partial birth abortions are prohibited by federal law.



According to Title 18 of the U.S. Code:

(1) the term “partial-birth abortion” means an abortion in which the person performing the abortion—

(A) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

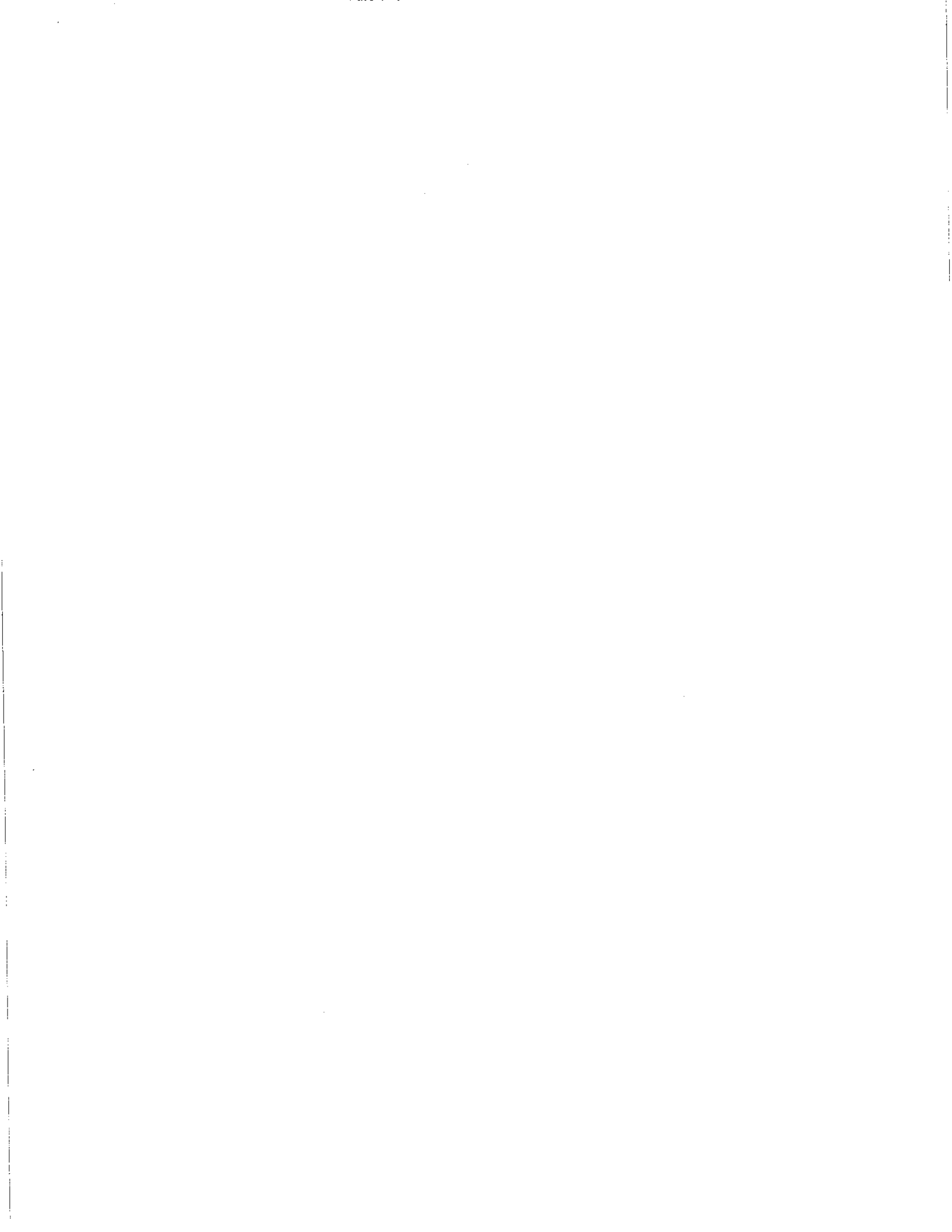
(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus

See Title 18 of the U.S. Code

Congress voted to prohibit partial-birth abortion in 2003. The legislation was supported by both pro-life and pro-choice lawmakers. Even pro-choice Senator Patrick Leahy voted in favor of the ban. Planned Parenthood challenged the law, but it was upheld by the U.S. Supreme Court in 2007. See *Gonzales v. Planned Parenthood Federation of America*

In her testimony last week, Megan Gallagher, CEO of Planned Parenthood of Northern New England, encouraged passage of H.57 claiming it represents the people of Vermont’s position on abortion. It does not. While most Vermonters consider themselves pro-choice, that does not mean that they support unrestricted abortion throughout all nine months of pregnancy for individuals of any age as H.57 proposes. In a poll commissioned by Vermont Right to Life in 2000, 59% of Vermonters called themselves pro-choice, but only 11% said abortion should always be legal. 72% of Vermonters said excluding abortion, it should be a crime in Vermont for someone to hurt or kill an unborn child in the womb either intentionally or through negligence. 72% also supported requiring a physician or clinic to notify a parent before performing an abortion on a daughter who is under 18 years of age. While this polling data is from some years ago, a May 2018 Gallup Poll also demonstrates that being pro-choice does not equal support for the full agenda of the abortion lobby. It found that 48% of Americans consider themselves pro-choice, but only 13% said abortion should be generally legal in the last three months of pregnancy. In 2011, the most recent year Gallup asked the question, 71% of respondents supported a law requiring women under 18 to get parental *consent* for any abortion even though 47% of respondents considered themselves pro-choice. H.57 would prohibit abortion regulations and fetal homicide laws favored by Vermonters

Many Legislators have questioned why this bill is being proposed now, when it does not change the legality of abortion in any way. I think we need to look beyond the first section of the bill, which has gotten most of the attention in this Committee. There are provisions which could potentially represent significant changes. However, since terms such as “interfere with,” “deprive,” and “restrict” are undefined in the bill, it is unclear what the true impact of this legislation might be. For instance, many states have passed provisions requiring women be given information about fetal development and alternatives prior to an abortion. I would consider this an effort to make sure a woman is making an informed decision. However, abortion advocates like Planned Parenthood have challenged such provisions in court, calling them a restriction on abortion. Under this



Bill, would providing such information constitute interfering? Would school counselors be prevented from informing a student about alternatives to abortion? Would our public school and municipal libraries be forced to remove books that present a pro-life perspective or describe fetal development? Would our schools have to abandon policies that insure both sides of controversial issues are discussed? If that is the intent or result of H.57, our legal counsel has advised us it would be actionable.

With "public entities" playing an increasingly larger role in our health care system, I wonder: Would H.57 result in even more taxpayer funding of abortion? Would abortion have to be given funding priority over other procedures? If an abortionist wants to set up a new facility in Vermont, would it be exempt from the certificate of need process and other regulatory burdens placed on other medical facilities?

The abortion lobby calls nearly every regulation intended to protect the health and safety of women having abortions, interference with the right to choose. The Senate has introduced S.25, which would eliminate all civil, criminal, and administrative liability for those performing a legal abortion in Vermont, and we anticipate a move to add the language of S.25 to H.57 if the Bill reaches the Senate. How would Vermont be able to protect women from abortion providers like Kermit Gosnell, who is currently in prison for killing two of his patients and murdering infants born alive? What tools would the State have to put someone like him out of business? None.

Proponents of this Bill have stated that it is important for the Legislature to make it clear where they stand on abortion. I agree. When the roll is called on H.57, each and every Legislator will have to go on record as being for or against unrestricted abortion throughout pregnancy. For or against a parent's right to know. For or against placing abortion in a privileged place in our public policy. Will they declare by their votes that Vermont is indifferent to the health and safety of women seeking abortion? Indifferent as to whether a viable unborn baby is born or aborted, lives or dies? I hope not.

