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Assembly Health Committee  
1020 N Street, Room 390  
Sacramento, California 95814

**SUBMITTED VIA CALIFORNIA LEGISLATURE  
POSITION LETTER PORTAL**

April 12, 2022

**Re: Assembly Bill 2223 – OPPOSE**

Dear Committee Members,

Life Legal Defense Foundation strongly opposes AB 2223 for the following reasons.

1. AB 2223 removes all civil and criminal penalties for “people’s actual, potential, or alleged pregnancy outcomes,” including perinatal death due to a pregnancy-related cause. Perinatal death is not defined in the bill, but in every other context includes the death of neonates (newborns) at least through 7 days after birth. Many entities include the death of newborns up to one month old in their definition of perinatal death.<sup>1</sup> The term “pregnancy-related” is likewise undefined in the bill, but would likely encompass situations where a viable baby is born alive and then killed or dies from neglect following an abortion performed without medical supervision. In such a case, the child’s mother would escape criminal prosecution, as would anyone she enlisted to assist in the abortion. The death of a newborn at the hands of a mother suffering from post-partum depression or any other “pregnancy-related cause” would also be shielded from investigation and prosecution under AB

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<sup>1</sup> For example, the American Academy of Pediatrics includes in its definition of perinatal death “infant deaths that occur at less than 28 days of age and fetal deaths with a stated or presumed period of gestation of 20 weeks or more.” Available at: <https://publications.aap.org/pediatrics/article/128/1/177/30361/Standard-Terminology-for-Fetal-Infant-and>

2223. In short, the bill, if passed, will legalize infanticide in certain circumstances.

2. AB 2223 conflicts with the Reproductive Privacy Act, in that AB 2223 provides for an absolute right to any pregnancy outcome at any stage of pregnancy, including perinatal death. The Reproductive Privacy Act limits the right of abortion after the age of viability in keeping with U.S. Supreme Court precedent.

3. AB 2223 interferes with the function of coroners by deleting the existing requirement for inquiries into the death of babies – including babies delivered alive – following a self-induced or criminal abortion. Moreover, if a coroner finds that a baby was born alive and then intentionally killed up to one month after birth, the bill would prohibit using the coroner’s statement for the purpose of criminal prosecution or civil damages. These provisions are meant to suppress evidence of what would otherwise be prosecuted as infanticide.

4. AB 2223 grants a private right of action against state actors in cases where a woman or someone assisting her is prosecuted for a perinatal death due to any pregnancy-related cause, including a self-induced abortion without medical supervision. The effect of this provision will be to deter prosecution in cases where late-term and even newborn babies are intentionally killed.

5. AB 2223 creates a right to “self-managed abortion,” which is defined as “ending one’s own pregnancy outside of the medical system” during any stage of pregnancy. Instead of protecting women from unscrupulous and unlicensed abortionists, the bill opens the floodgate to back-alley abortions, including late-term abortions that carry numerous health risks such as hemorrhage, infection, embolism, thrombosis, injury to internal organs, and maternal death. These health risks are substantial even when late-term abortions are performed in medical settings. Many of the risks associated with second and third trimester abortions require immediate medical attention, yet the sponsors of AB 2223 want women to be free to perform surgical procedures on themselves or each other without any medical oversight whatsoever. The state already disregards the lives of unborn children, but permitting the amateur induction of early labor that results in the delivery of a living baby outside the medical system exhibits a profound and reckless disregard for the physical and emotional well-being of women.

AB 2223 is based on the unconstitutional premise that women and those who assist them have an absolute “right” to a successful abortion – that is a procedure that results in a dead child – at any stage of pregnancy or beyond. It strips vulnerable late-term babies and even newborns of any protection from crimes committed against them at the hands of those upon whom they are completely dependent. This is antithetical to US Supreme Court jurisprudence since *Roe*.

AB 2223 was allegedly drafted out of fear that *Roe v. Wade* may be limited or overturned altogether by the Court in *Dobbs v. Jackson Women's Health*. This is a farce. Even if *Roe* is overturned, abortion access in California would not be affected in the slightest. California already allows abortions throughout all nine months of pregnancy without any meaningful restrictions whatsoever. There is no justification for this unprecedented expansion of abortion into legalized infanticide.

For the above reasons, we strongly urge this Committee to allow this bill – rather than untold numbers of women and newborns – to die.



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