



South Dakota Unborn-Child Defense Bill Dead, for Now

The measure, [HB 1171](#), would have expanded the definition of justifiable homicide to include the use of deadly force by an individual “in the lawful defense of ... his or her husband, wife, parent, child, master, mistress, or servant, or the unborn child of any such enumerated person.” Supporters say it is meant to prevent violence against pregnant women and their pre-born babies.



But after provoking a media firestorm and furious condemnation from groups like the American Civil Liberties Union, NARAL Pro-Choice America, People For the American Way, and others, lawmakers voted 61 to 4 to table the proposal and consider it at a future time. Earlier last week, it passed in the House’s Judiciary Committee 9 to 3.

The bill attracted national attention after several media outlets reported that it would make killing abortionists into “justifiable homicide” in many cases. Among the publications making the claim were *Mother Jones* and the feminist, pro-abortion [Ms. Magazine](#). The proposal “could in theory allow a woman’s father, mother, son, daughter, or husband to kill anyone who tried to provide that woman an abortion — even if she wanted one,” [wrote](#) Kate Sheppard in a piece for *Mother Jones*.

Critics of the measure offered similar analyses. “This bill could allow those bent on killing abortion providers to do so with impunity,” ACLU of South Dakota Director Robert Doody [said](#) in a statement. “This law would place those that wish to provide badly needed medical care to South Dakota women in grave danger. It would be irresponsible and dangerous to pass this law.”

Michael Keegan, president of the leftist group People For the American Way, also [blasted](#) the proposal. “This bill is an appalling attempt to further restrict the reproductive rights of women in South Dakota, while forcing abortion providers to risk their lives to provide care,” he said in a statement. “The attempt to legalize the murder of abortion providers exposes the uncompromising zealotry of the [pro-life] movement.... I urge South Dakota legislators to examine their consciences before voting on a bill that would force women to seek illegal and unsafe abortions, and endanger the lives of health care providers.”

The pro-abortion Guttmacher Institute, which tracks abortion-related legislation, attacked the bill as well, noting that it was likely the first proposal of its kind in America. “We have not seen anything like this before,” policy analyst Elizabeth Nash [told](#) Reuters. “It’s really chilling.”

A parade of other “pro-choice” groups, including an association of abortionists called the National Abortion Federation, lined up to target the legislation, too. However, as *Mother Jones* [reported](#), the bill also had a coalition of supporters including the Family Heritage Alliance, Concerned Women for America, the Eagle Forum of South Dakota, and Family Matters in South Dakota — all of which testified



Written by [Alex Newman](#) on February 20, 2011

in support of the measure.

Of course, the author of the bill insists that it was not meant to legalize the killing of abortion providers. “There’s no way in the world that I or any other representatives wish to see abortion doctors [sic] murdered,” South Dakota State Representative Phil Jensen [told](#) the *Washington Post*. “So we’re looking at some language that will include that. We’re looking at some language that would protect abortion providers.”

After consulting with the South Dakota Attorney General, Jensen followed up with the *Post* and said he was considering the addition of some new language to the bill. The extra phrase would have clarified that protecting an unborn child with deadly force would only be considered justifiable if the aggression against the fetus was “unlawful,” which, in South Dakota, abortion is not.

But Jensen, a pro-lifer, said the bill had nothing to do with abortion in the first place. Speaking to Reuters, he [offered](#) a sample scenario: “Let’s say an ex-boyfriend finds out his ex-girlfriend is pregnant with his baby and decides to beat on her abdomen to kill the unborn child. This is an illegal act and the purpose of this bill is to bring continuity to South Dakota code as it relates to the unborn child.”

Even some pro-abortion activists admitted that the purpose of the bill was probably not to legalize the killing of abortionists. “I don’t believe the intent is malicious,” [acknowledged](#) executive director of NARAL Pro-Choice South Dakota Alisha Sedor. “But the potential legal implications of the bill are what make it dangerous. If it passes without an amendment exempting attacks on providers, it could incite violence from individuals who believe their actions will be found justifiable in court.”

South Dakota has been one of the nation’s fiercest battlegrounds on the issue of protecting the unborn in recent years. It already has some of the toughest restrictions in the nation. And according to [news reports](#), South Dakota doesn’t even have a single abortionist in the state — the tax-funded abortion organization Planned Parenthood flies one in once a week.

Twice in the last decade, the state has outlawed virtually all abortions. Eventually the laws were both overturned, but state legislators’ efforts to restrict abortion continue to this day.

Another [bill](#) currently being considered in the state, for example, would make women seeking an abortion visit a crisis pregnancy center first. Lawmakers say the requirement would ensure that women have all pertinent information about other options and available assistance before making the “choice” to end their pregnancy.

For now, the bill to make deadly force in defense of the unborn into “justifiable homicide” might be dead. It could be revived later in the legislative session, but analysts don’t expect that to happen. And while this particular legislation was probably not intended to stir up the abortion debate again, pro-life activists in [other states](#) and at the [federal level](#) are gaining ground fast.

Photo: South Dakota state capitol

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