



THE STATE  
of **ALASKA**

GOVERNOR SEAN PARNELL

June 11, 2013

Sharona Coutts  
Director of Research and Investigations  
RH Reality Check  
sharona@rhrealitycheck.org

Re: Alaska Public Records Act Request, dated June 4, 2013  
AGO ID: AN2009103879

Dear Ms. Coutts:

On June 4, 2013, the Alaska Department of Law received your request for the "response to the letter, dated on or about May 7, 2013, from U.S. Representatives Bob Goodlatte and Trent Franks, which requested a range of information related to abortion in" Alaska. The requested response is enclosed. If you have any questions, please contact me at 907-269-5263 or alan.birnbaum@alaska.gov.

Sincerely,

MICHAEL C. GERAGHTY  
ATTORNEY GENERAL

By: Alan Birnbaum

Alan Birnbaum  
Assistant Attorney General

AJB/mas  
Enclosures



THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

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May 30, 2013

Bob Goodlatte, Chairman  
Trent Franks, Chairman  
Subcommittee on the Constitution and Civil Justice  
2138 Rayburn House Office Building  
Washington, DC 20515-6216

RE: May 7, 2013 Letter

Dear Chairman Goodlatte and Chairman Trent:

Thank you for the opportunity to provide you information regarding the protection provided in Alaska to the most vulnerable. First it is necessary to have some background about this state. The Department of Law provides the prosecution of all felony cases throughout the state. It consists of 95 prosecutors located in 13 cities around the State of Alaska. Alaska has a population of less than 700,000 persons scattered across 570,640 square miles of land.

Statistics provided by the Centers for Disease Control reported Alaska's 2008 abortion total at 41 on the list of abortions per capita.

In order to assist the Committee, the State of Alaska responds to the following questions:

1. Prosecutors would treat killing of newborns in process of abortion a criminal offense. There have been no prosecutions as there have been no situations reported in violation to Alaska's state laws governing this type of conduct.
2. The legislature has not enacted laws specifically to protect newborns delivered alive. Under Alaska law a person is defined as "a human being who has been born and who was alive at the time of the criminal act. . ." Hence under the circumstances you describe the regular homicide statutes would apply. However the legislature has enacted statutes regarding death of an unborn child AS 11.41.150 – AS 11.41.180

These are:

**AS 11.41.150. Murder of an Unborn Child.**

(a) A person commits the crime of murder of an unborn child if the person  
(1) with intent to cause the death of an unborn child or of another person, causes the death of an unborn child;

(2) with intent to cause serious physical injury to an unborn child or to another person or knowing that the conduct is substantially certain to cause death or serious physical injury to an unborn child or to another person, causes the death of an unborn child;

(3) while acting alone or with one or more persons, commits or attempts to commit arson in the first degree, kidnapping, sexual assault in the first degree, sexual assault in the second degree, sexual abuse of a minor in the first degree, sexual abuse of a minor in the second degree, burglary in the first degree, escape in the first or second degree, robbery in any degree, or misconduct involving a controlled substance under AS 11.71.010 (a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) or (2), and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of an unborn child;

(4) knowingly engages in conduct that results in the death of an unborn child under circumstances manifesting an extreme indifference to the value of human life; for purposes of this paragraph, a pregnant woman's decision to remain in a relationship in which domestic violence, as defined in AS 18.66.990 , has occurred does not constitute conduct manifesting an extreme indifference to the value of human life.

(b) A person may not be convicted under (a)(3) of this section if the only underlying crime is burglary, the sole purpose of the burglary is a criminal homicide, and the unborn child killed is the intended victim of the defendant. However, if the defendant causes the death of another unborn child, the defendant may be convicted under (a)(3) of this section. Nothing in this subsection precludes a prosecution for or conviction of murder in the first degree or murder in the second degree, murder of an unborn child under AS 11.41.150(a)(1), (2), or (4), or any other crime

**AS 11.41.160. Manslaughter of an Unborn Child.**

(a) A person commits the crime of manslaughter of an unborn child if, under circumstances not amounting to murder of an unborn child, the person intentionally, knowingly, or recklessly causes the death of an unborn child.

**AS 11.41.170. Criminally Negligent Homicide of an Unborn Child.**

(a) A person commits the crime of criminally negligent homicide of an unborn child if, with criminal negligence, the person causes the death of an unborn child.

**AS 11.41.180. Applicability of AS 11.41.150-11.41.170.**

**AS 11.41.150 - 11.41.170 do not apply to acts that**

(1) cause the death of an unborn child if those acts were committed during a legal abortion to which the pregnant woman consented or a person authorized by law to act on her behalf consented, or for which such consent is implied by law;

(2) are committed under usual and customary standards of medical practice during diagnostic testing, therapeutic treatment, or to assist a pregnancy; or

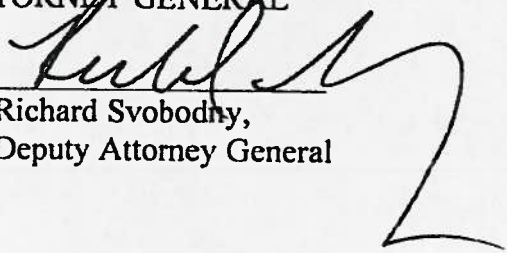
(3) are committed by a pregnant woman against herself and her own unborn child.

3. The State of Alaska does not have different statutes of limitations for culpability in the death of an infant or in the death of human beings in later stages of development.
4. Since there have been no deaths from serious complications resulting from an abortion there have not been any prosecutions.
5. Please refer to response #3.

If you have any further questions, please contact Richard Svobodny, at [Richard.Svobodny@alaska.gov](mailto:Richard.Svobodny@alaska.gov).

Sincerely,

MICHAEL C. GERAGHTY  
ATTORNEY GENERAL

By:   
Richard Svobodny,  
Deputy Attorney General