



# STATE OF MINNESOTA

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Chairman Bob Goodlatte  
House of Representatives  
Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, D.C. 20515-6216

Chairman Trent Franks  
House of Representatives  
Subcommittee on the Constitution and Civil Justice  
2138 Rayburn House Office Building  
Washington, D.C. 20515-6216

Dear Chairman Goodlatte and Chairman Franks:

I thank you for your correspondence received on May 13, 2013.

Following the convictions of Kermit Gosnell for the murder of infants at his abortion clinic in Philadelphia, you seek information about laws and practices in the various states that may apply to similar situations.

The Minnesota Legislature delegated the authority to prosecute criminal matters to the county attorneys in Minnesota and did not delegate such authority to this Office. As a result, Minnesota's county attorneys and the Minnesota judicial branch may have some of the prosecution-related records and information that you seek. Having said that, in an effort to be helpful to your inquiry, I can tell you the following in response to the questions set forth in your letter:

First, under Minnesota law, the intentional killing of a newborn child delivered after an abortion is considered a homicide. See Minn. Stat. § 145.423 ("a live child born as a result of an abortion shall be fully recognized as a human person") and Minn. Stat. § 609.185 (murder in the first degree) and 609.19 (murder in the second degree). While records on homicides are kept by the state court administrator and local county attorneys, I am not aware of a situation similar to what occurred in Philadelphia happening in Minnesota.

Second, Minn. Stat. §§ 145.423 and 145.415 state that a live child born as a result of an abortion shall be fully recognized as a human person and that responsible medical personnel must take measures to preserve the life and health of a live born infant.

Third, Minnesota's statute of limitations is identical for the death of an infant and the death of a human being in later stages of development. See Minn. Stat. § 628.26.

Fourth, the state court administrator maintains statistical data on criminal acts that cause the death of a homicide victim, but the data does not appear to specifically delineate abortion as one of the enumerated acts.



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Fifth, Minnesota does not have a time limit for late-term abortions. For abortions performed after the 20<sup>th</sup> week of pregnancy, however, Minn. Stat. § 145.423 requires the presence of a physician, other than the physician performing the abortion, to be immediately accessible in the event of a live birth, to preserve the life and health of the newborn child.

Finally, Minn. Stat. § 145.4131 has extensive reporting requirements that must be submitted to the Minnesota Commissioner of Health by physicians and facilities that perform abortions. There are civil and criminal penalties under Minn. Stat. § 145.4135 for failing to file or filing false reports relating to abortions.

Please feel free to contact me if I can be of further assistance to your committees. I thank you again for your correspondence.

Sincerely,



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