



Office of the Attorney General

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May 28, 2013

The Honorable Bob Goodlatte, Chairman
House of Representatives Committee on the Judiciary

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

Dear Chairman Goodlatte and Chairman Franks:

I am in receipt and have reviewed your letter of May 7, 2013. Wyoming has only one abortion provider, and, as a consequence, very few abortions are performed in Wyoming. That being said, the answers to the questions you provided are as follows:

1. In 2002 Congress enacted the Born-Alive Infants Protection Act, which provides that all federal protections for persons apply to every infant born alive. Do prosecutors in your state treat the deliberate killing of newborns, including those newborns who were delivered alive in the process of abortions, as a criminal offense? If so, have there been any prosecutions in your state for this crime? If the answer to the previous question is yes, please provide a log of cases, excluding any personally identifying information.

Wyoming Statute Section 35-6-102 prohibits abortions after viability "except when necessary to preserve the woman from an imminent peril that substantially endangers her life or health. . . ." Wyoming Statute Section 35-6-103 provides that a physician performing an abortion pursuant to the exception in Section 35-6-102 "shall not intentionally terminate the viability of the unborn infant prior to, during or following the procedure." Pursuant to Wyoming Statute Section 35-6-110, violation of either of those sections is a felony punishable by imprisonment for up to fourteen years. This office is not aware of any prosecutions under either Section 35-6-102 or Section 35-6-103.

2. Has the legislature in your state enacted laws, in addition to general laws against homicide or requiring ordinary medical treatment, specifically to protect newborns delivered alive in the process of abortions? If so, how, if at all, have these laws changed prosecutorial practices?

Wyoming Statute Section 35-6-102 prohibits abortions after viability "except when necessary to preserve the woman from an imminent peril that substantially endangers her life or health. . . ." Wyoming Statute Section 35-6-103 provides that a physician performing an abortion pursuant to the exception in Section 35-6-102 "shall not intentionally terminate the viability of the unborn infant prior to, during or following the procedure." Pursuant to Wyoming Statute Section 35-6-110, violation of either of those sections is a felony punishable by imprisonment for up to fourteen years. This office is not aware of any prosecutions under either Section 35-6-102 or Section 35-6-103.

3. The grand jury expressed concern about Pennsylvania law's applying a statute of limitations to infanticide by neglect that it does not apply to murder. Does your state have different statutes of limitations for culpability in the death of an infant and culpability in the death of human beings in later stages of development? If so, what is the understood rationale for that difference?

Wyoming does not have a statute of limitations for criminal offenses.

4. Have you or your predecessors prosecuted any criminal cases in which a woman has died or suffered serious complications as a result of an abortion? If so, please provide a log of such cases, excluding personally identifying information.

The Wyoming Attorney General's Office does not prosecute criminal cases. Further, this office is not aware of any prosecutor in Wyoming prosecuting such a case.

5. This Gosnell case has also raised concerns about the effectiveness of state laws that limit, or purport to limit, abortions late in pregnancy. If your state has such a limit,

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have abortions performed after the statutory limit been prosecuted in your state? If so, please provide a log of such cases, excluding any personally identifying information. If not, are there legal considerations that have prevented such prosecutions from proceeding?

Wyoming Statute Section 35-6-102 prohibits abortions after viability "except when necessary to preserve the woman from an imminent peril that substantially endangers her life or health. . . ." This office is not aware of any prosecutions under that section.

Sincerely,



David L. Delicath
Deputy Attorney General

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