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Testimony in Support of Assembly Bill 710
Partial-Birth Abortion Ban
Assembly Committee on Judiciary and Ethics
By Julaine K. Appling, CEO
January 31, 2008

Good afternoon, Chairman Suder, members of the committee. My name is Julaine Appling and I'm speaking on behalf of Wisconsin Family Action (WFA). WFA is an advocacy group involved in strengthening marriage life and liberty in Wisconsin. We are not a membership group but we are regularly engaging with somewhere between eighty and one-hundred-thousand people across the state of Wisconsin—most of whom would agree that AB 710 is good public policy.

We support this measure, and we encourage you to pass this bill. You are dealing with one of the most important issues facing the legislature today. You can address the economy, jobs, health care—a great host of issues—but from my perspective, and I believe from a lot of Wisconsin citizens' perspective, when we're dealing with issues of true life and death, you have no job more important nor more urgent.. I commend you for taking up this bill.

We believe that this particular measure is needed at the state level, as has already been indicated today, because local involvement is very important for enforcement and for the timing of prosecution. We don't believe the bill is redundant, and it's certainly not unnecessary—AB 710 is reasonable and prudent policy. Generally speaking, it criminalizes a barbaric procedure. I might add here, some have been accused of providing high drama and colorful imagery during this hearing. May I say that if we're only three inches away from a baby having, as some have said, all the rights and privileges that we have as fully grown humans when an abortion procedure of this nature is being performed, then we are only three inches away from the birth of a baby, which is high drama in any hospital. The birth of a baby is definitely high drama—and so is the death of a baby; it is all of the emotions that we as humans experience. I would submit to you that the high drama is necessary at points and appropriate.

I'm not attempting to be frivolous here, but it does interest me when I drive down Highway 45, by the Wisconsin Medical College, and I see a sign that says, don't use live pigs in your laboratories. I get a bit worried that we aren't concerned about the human life in the womb—the life that is 3 inches away from breathing on its own.

We believe that human life deserves the very best and most complete protection that the state can give it—from conception to natural death We believe that the majority of late term abortions are purely elective, according to those who perform those abortions. I'm going to quote from a 1997 article, but I want to say that I've seen nothing that countermands it, nothing that has changed, nothing indicating this information is not current. A man by the name of Ron Fitzsimmons, who was the Executive Director of the National Coalition of Abortion Providers, said that the vast majority of these abortions are performed in the 20+ week range on healthy fetuses and healthy mothers. The abortion rights folks know it; the anti-abortion rights folks know it, as well as probably everyone else.

Several prominent newspapers, the *American Medical News*, the *Washington Post*, and *Records*—a Bourbon County New Jersey newspaper—quoted doctors who use this technique and acknowledged doing thousands of

such procedures a year—not the rare cases as we have heard. They also say the majority are done on healthy fetuses and healthy women. The ‘rare and exceptional’ rhetoric that we’ve heard today from those opposed to this bill, apparently, is not the case.

I want to point out several things that concern me about this bill, although I want to make it very clear that we do support this bill. However, I am concerned that in an attempt to find language that will satisfy the courts, because of the federal language that was used, that we have lost some very, very good language in our existing state statutes. I think it’s my role to point that out. First of all, I want to point out that I believe we have already compromised in this high drama situation. One of the things that concerns me, in all of the work that I do, is the language game.

I am concerned that this bill uses the word *fetus* and never uses the word *child*. The existing state statutes very clearly talk about a *child*, define a *child*. In the federal bill summary, they use the word *child* over and over again. Then when they get to the actual statutory language, they shift and use *fetus*. Louisiana passed a bill similar bill to AB 710 in June of this past year. I believe it’s the only state, until now, that has tried to revamp its partial-birth abortion ban to be in accordance with the federal law that was recently upheld by the US Supreme Court.

I don’t believe, however, that we have to sacrifice the word *child* for comportment with the federal language. The court did not have a problem with the language in our existing state statute; it had a problem with the definition of partial-birth abortion, the breadth of it. The word *fetus* is purposely used by those who are pro-abortion because it hides the image of a baby. The best thing that ever happened in the entire abortion discussion so far is ultrasounds. When women see that what they’re carrying inside them—that it’s not a blob of tissue, a product of conception, a fetus, or an embryo at some stage of growth, it is a baby—suddenly they make different decisions.

I point this out to illustrate why the language game very much concerns me. I will also tell you that I’m concerned about the language in the current bill because it changes the penalty. I realize that the federal language has, I think, two years imprisonment and a fine—rather loosely defined—or both. In Wisconsin we went from a Class A penalty, which is life imprisonment for the killing of a baby, to a Class I felony, which is a \$10,000 fine, or 3 ½ years in prison, or both. That is a substantial change¹ I don’t know whether we have to have all of these sweeping changes in order to comply with the federal law, or can we make some of these changes through an amendment that would give us back our wonderful definition of *child*—*acknowledging* the fact that this is a living *child*?

I noted that we did not include the federal language, in AB 710, that protects the women from being prosecuted. I believe we did that judiciously because we have effective, existing statutory language that adequately protects women, earlier in the criminal code. While we definitely support the bill, because I believe in the concept of it, I would ask you to carefully consider whether or not we can bring some dignity and some truth to this bill by coming back to the word *child*, as well as consider whether or not we can use the existing penalty, by making this a Class A rather than Class I felony.

There has been a lot of testimony here today, and I hope that as you consider these things, you will recognize that when we talk about a woman’s health, and a woman’s life, and a child, they are weighty issues. In the course of talking about language, one of the reasons the ‘mother’s health’ is not a part of the federal language is that the language game has been so effectively played that it’s beginning to backfire on those who are

¹ Subsequent to presenting this testimony, Wisconsin Family Council has learned that the penalty called for in AB 710 is essentially the same as in Wisconsin’s current statute. Between the time the current statutes were passed and the introduction of AB 710 in this session, Wisconsin overhauled its criminal code and the classes for felonies. A Class I felony today is basically the same as a Class A felony in 1997 when the legislature adopted the current statutes.

promoting abortion. Because health has been so broadly defined, and abused and misused, to try to justify an abortion, the authors of the federal level legislation saw fit to bring the exception back to the life of the mother.

In the situations referenced by most of the opposing testimony I heard today, it would seem to me, that if the life of the mother was endangered in any of those situations, this bill would protect the physician and the mother if they believe that they must proceed with this kind of procedure. With that I thank you for your time. I appreciate this opportunity to testify before you and am happy to answer any questions you may have.