

**Testimony of Joe Pojman, Ph.D.**  
**Senate State Affairs Committee**  
**Supporting Senate Bill 9**  
**March 15, 2021**

My name is Dr. Joe Pojman. I am the Executive Director of Texas Alliance for Life, and I am speaking for that organization in support of Senate Bill 9, the Human Life Protection Act.

SB 9 is a complete ban on abortion, beginning at fertilization, that will go into effect when and to the extent the Supreme Court reverses or modifies *Roe v. Wade* and *Planned Parenthood v. Casey*.

I have lobbied in these halls for more than three decades. This bill will do something that we have all dreamed of – complete protection from abortion for unborn babies in their mothers’ wombs.

We cannot thank Senator Paxton enough for authoring this momentous bill.

**When the Supreme Court Reverses or Modifies *Roe v. Wade*, Texas Will Need a New Law.**

The Supreme Court’s terrible precedent in the 1973 *Roe v. Wade* and 1992 *Planned Parenthood v. Casey* decisions ties the hands of the Legislature. It prevents you from banning abortion or imposing any abortion regulation that creates a “substantial obstacle to the woman's effective right to elect the procedure” before viability of the unborn child. Viability is when the unborn child can continue to live if born alive.

We saw what the Supreme Court did in the *Hellerstedt* case when the court decided some of the HB 2 safety regulations imposed a substantial obstacle to abortion. The result was an unenforceable law and a court order for Texas to pay more than \$2,000,000 in attorneys’ fees to the plaintiffs.

However, within a matter of months, the Supreme Court may change that terrible precedent. We are hopeful, but not certain, that the Court, now with three new appointees, may be willing to take a fresh look at *Roe* and *Casey* — unencumbered by precedent — and give you legislators more latitude to protect unborn children before viability.

According to Americans United for Life, there are as many as 60 cases involving abortion bans and regulations in the pipeline. The court could take up any of these as a vehicle to revisit *Roe* and *Casey*.

One of those cases, *Dobbs v. Jackson Women's Health Organization*, involves a Mississippi law banning abortions on non-viable unborn babies beginning at 15 weeks, a clear violation of the *Roe* and *Casey* precedent.

If the Supreme Court changes its precedent and allows states to protect non-viable unborn babies, Texas needs to be ready with a new law to ban abortion to the extent allowable under the new precedent.

Senate Bill 9 is that new law.

Under SB 9, any person who performs an abortion (except to save the mother's life) commits a first-degree felony. Any woman on whom an abortion is performed or attempted may not be prosecuted.

Regardless of what the Supreme Court does to allow increased protection for nonviable unborn babies, SB 9 would afford the same protection to unborn babies in Texas.

- If the Court upholds Mississippi's 15-week ban, our law will automatically ban abortions after 15 weeks.
- If the Court upholds a heartbeat law, our law automatically bans abortion to that extent.
- Or a ban on abortions for discrimination reasons – race, gender, or disability – our law would protect those unborn babies to that extent.
- If the Court allows states to completely ban abortion, our law would ban abortion beginning at fertilization.

And those bans will be a first-degree felony offense, exactly what an abortion doctor deserves.

### **Listen to the Scientists – Life Begins at Fertilization**

We need to protect unborn babies beginning at fertilization. Science recognizes that an unborn child is a human being, just like each of us. The life of an individual human being begins at fertilization and continues to develop through each of the 40 weeks of pregnancy, through birth, infancy, childhood, adolescence, and adulthood. We all came into being at fertilization. That is established biological fact. When people say, “listen to the scientists,” my organization agrees 100%.

### **Current Texas Law Recognizes Unborn Children Beginning at Fertilization**

Our statutes and rules in Texas recognize that life exists in the womb and begins at fertilization. We have numerous provisions that reflect that.

Perhaps the most striking is the protection afforded to unborn children in our state from violent crimes of assault and murder in the Penal Code. Chapter 1 defines an “individual” as a “human being that is alive, including an unborn child at every stage of gestation from fertilization until birth.”

Relying on that, Chapter 19 protects an unborn child from homicide, taking the life of the unborn child against the mother’s consent the same as a newborn child, indeed, the same as all of us.

This has been in place since 2003 and was passed with bipartisan support. Some of the members of this committee voted for that law, including Senators Lucio, Nelson, Zaffirini, and of course you, Chairman Hughes. We cannot thank all of you enough.

By banning elective abortion beginning at fertilization, SB 9 is a natural extension of that law.

### **Abortions Prior to Six or Seven Weeks Gestation**

In 2019, there were about 57,000 reported abortions in Texas. It is estimated that at least 10% of those abortions – 6,000 or more – were performed before six or seven weeks of gestation, before the unborn baby’s heartbeat can be detected.

Do we have an obligation to protect all unborn children, even very early in pregnancy? Yes, Texas does have that obligation.

Senate Bill 9 will do just that, and we urge you to support it.

Thank you.