

## Testimony in support of Senate Bill 15-268

My name is Tom Perille, and I would like to testify in support of SB 15-268. I am a physician and father of three young adult women.

From both a biological and medical perspective, when a fetus dies in the course of a violent crime against a woman, there are clearly two victims and they both deserve justice in Colorado. The Michelle Wilkins tragedy is the most recent example of why laws that provide a legal recourse for the violent death of a fetus are needed. Baby Aurora would have had a greater than 98% chance of survival if she had not been murdered (based on her gestational age of 34 weeks)<sup>1</sup>.

Each human life begins at fertilization. This is an incontrovertible fact. In a seamless, continuous, process, the early zygote rapidly develops into a full term fetus over the ensuing 38 weeks<sup>2</sup>. By the end of the third week, a neural tube and tubular heart has formed within the embryo (representing the primordial central nervous and cardiovascular systems). By the end of the 8<sup>th</sup> week, all the main organ systems have been established. As early as the 19<sup>th</sup> week, pediatric urological, neurosurgical, and cardiothoracic specialists can perform antenatal surgery on the developing fetal patient aided by anesthesiologists to correct congenital defects and anomalies<sup>3</sup>. By 21 weeks, the fetus can survive outside of the uterine environment and the prognosis for extremely premature infants is steadily improving<sup>4</sup>. Throughout this time the embryo/fetus has a unique chromosomal identity different from its mother and father. It has an entirely separate circulatory system from its mother, frequently with a different blood type. The fetus is a distinct human being.

There is no meaningful difference between a thriving infant and a fetus of the same (gestational) age living inside the uterus. Location is not and should not be what defines a victim of criminal activity. Families of infants who are murdered in their bedroom are just as entitled to justice as those murdered at their daycare. Whether an infant is murdered in Denver, Aurora, Broomfield, Lakewood, Lafayette, Thornton or Durango does not and should not make a difference. Each human being has inherent dignity and worth independent of its physical location. An intrauterine or extra-uterine location is an irrelevant fact when determining justice for the mother and fetus.

During the Senate debate on this bill, opposition witnesses and legislators cited a national study from the Journal of Health Politics, Policy and Law from 2013<sup>5</sup>. The study was purported to be a cautionary tale for those who propose fetal homicide laws because of the unintended prosecution of pregnant woman for lapses in prenatal care or treatment. However, this study has no relevance to the current debate on SB 268. 84% (348) of the 413 cases cited in the study pertained to the abuse of methamphetamine, cocaine, heroin, opiates and other controlled drugs by pregnant women. This intentional act by the women would be excluded by the language of SB 268. A disproportionate number (23%) of the cases originated in South Carolina where a judicial ruling authorized the prosecution of pregnant women. (More than 7% of the cases were referred from a single hospital in South Carolina). Several of the cases stemmed for prosecution after the infant was born, again not relevant to the discussion of SB 268. Clearly, this study does not in any way reflect on the merits of SB2 68. To say otherwise would be to ignore the facts outlined in the study.

I implore you to change the law to reflect the value of the developing human to Coloradoan mothers and fathers. This is not about the enforcement of prenatal care standards or the right and access to abortion since the bill clearly and unequivocally excludes those circumstances. It is about baby Aurora and all the future tragic fetal victims of violent criminal behavior.

Thomas J. Perille MD FACP FHM, Director Protect Life Coalition

References:

1. F. Gary Cunningham et. al. Williams Obstetrics. McGraw-Hill Education. Page 835. 2014. Print
2. Keith L. Moore et. al. The Developing Human. Saunders. 2013. Print.
3. K.D. Wenstrom and S.R. Carr, Fetal Surgery: Principles, Indications, and Evidence. Obstet Gynecol 2014; 124: 817-835.
4. R.M. Patel, et.al., Causes and Timing of Death in Extremely Premature Infants from 2000 through 2011. NEJM 2015; 372: 331-340
5. L.M. Paltrow and J. Flavin, Arrest of and forced interventions on pregnant women in the United States, 1973-2005: Implications for women's legal status and public health. Journal of Health Politics, Policy and Law 2013; 38(2): 299-343.