



March 22, 2023

RE: Testimony in **Opposition to SJR7** of the 2023 Nevada Legislature

Members of the Senate Committee on Legislative Operations and Elections and the Assembly Committee on Legislative Operations and Elections:

On behalf of Republicans in the great State of Nevada, I would like to communicate our opposition to Senate Joint Resolution 7.

Perhaps the sponsors of this resolution reside outside of Nevada, in a state where SJR7 would be applicable. It is not in Nevada. In Nevada, it was already voted into law in 1990 that abortion is legal **for any reason** until almost 6 months of pregnancy - past the point of viability for the fetus¹ to live outside the mother. This cannot be changed by the members of this Legislature. This abortion access cannot be changed by our Governor. **The only people who can change this restriction are the voters of Nevada through an exercise in direct democracy.** The Democrat sponsors of this resolution are attempting to circumvent the process of collecting signatures, putting this on the ballot, and persuading voters on the merits of the proposal by introducing this legislation.

First, let's look at what this resolution changes. The language currently in law states:

NRS 442.250 Conditions under which abortion permitted. [NRS 442.250 was submitted to and approved by referendum at the 1990 general election and therefore is not subject to legislative amendment or repeal.]

1. **No abortion may be performed in this state unless the abortion is performed:**
 - (a) By a physician licensed to practice in this state or by a physician in the employ of the government of the United States who:
 - (1) Exercises his or her best clinical judgment in the light of all attendant circumstances including the accepted professional standards of medical practice in determining whether to perform an abortion; and
 - (2) Performs the abortion in a manner consistent with accepted medical practices and procedures in the community.
 - (b) **Within 24 weeks after the commencement of the pregnancy.**
 - (c) After the 24th week of pregnancy only if the physician has reasonable cause to believe that an abortion currently is necessary to preserve the life or health of the pregnant woman.
2. All abortions performed after the 24th week of pregnancy or performed when, in the judgment of the attending physician, there is a reasonable likelihood of the sustained survival of the fetus outside of the womb by natural or artificial supportive systems must be performed in a hospital licensed under [chapter 449](#) of NRS.
3. Before performing an abortion pursuant to subsection 2, the attending physician shall enter in the permanent records of the patient the facts on which the physician based his or her best clinical judgment that there is a substantial risk that continuance of the pregnancy would endanger the life of the patient or would gravely impair the physical or mental health of the patient.

This is a limit of close to 6 months into pregnancy, but it is a limit. Far beyond the limit of 3 months which is the general limit for abortion in Europe, for example.

¹ Baby Born at 21 Weeks Survives, Breaks Record <<https://www.livescience.com/premature-baby-breaks-world-record>>



However, for 40 Democrat members of this body, 6 months is not enough. Rather than aligning our standards with civilized countries, they want Nevada to have more in common with China and North Korea, where there are no limits at all.

Here is what the revised text states:

1. The right of an individual to reproductive freedom shall not be denied, burdened or infringed upon unless justified by a compelling State interest that is achieved by the least restrictive means available.
2. Notwithstanding the provisions of subsection 1, the State may regulate the provision of abortion care after fetal viability, provided that in no circumstance may the State prohibit an abortion that, in the professional judgment of an attending provider of health care, is medically indicated to protect the life or physical or mental health of the pregnant individual.
3. The State shall not penalize, prosecute or otherwise take adverse action against an individual based on the actual, potential, perceived or alleged outcome of the pregnancy of the individual, including, without limitation, a miscarriage, stillbirth or abortion.

This resolution would allow an abortion up until the moment of live birth.

Democrats point to this resolution and say “it doesn’t say that”. You’re right, it doesn’t use those specific words because people are horrified and appalled when you tell them that Democrats want to make that legal. What it does do is remove the **voter-enacted** limit of 24 weeks, giving future legislatures the ability to legislate a later limit, an ability which they do not currently have. Why would these legislators want to remove this limit if they didn’t intend to extend it?

24 weeks is already after the point of viability for the child. In the absence of a limit that voters imposed - this would enable the legislature to create no limit. For example, in New Mexico², they repealed their abortion limit in 2021. Abortion is now allowed there at any stage of pregnancy. Despite the push to follow California, they have a cutoff at fetal viability, while this resolution targets viable children that might need “extraordinary medical measures” to survive as being unworthy of care. This resolution would have us join the only six states - Oregon, Colorado, New Mexico, New Jersey, Vermont, and Alaska - which have no limit on abortion no matter how advanced the pregnancy is.³⁴

We recognize that our respect for the sanctity of life of the unborn is not shared by 40 members of these joint houses. We recognize that for these 40 members - most of whom have children - they feel that a child who is 8 months developed *in utero*, who is otherwise healthy, who can survive outside the womb - has no value, and should be eligible to be discarded like a used coffee cup. That is their prerogative. But the voters of Nevada have said differently. They have established a limit of almost 6 months, and have banned this legislature from modifying that without putting it to a vote of the people.

² State Bans on Abortion, <<https://www.guttmacher.org/state-policy/explore/state-policies-later-abortions>>

³ New Jersey - Know Your Abortion Rights, <<https://www.nj.gov/oag/library/2022/Know%20Your%20Rights%20Abortion%20Rights%2006.30.22.pdf>>

⁴ The latest point in pregnancy you can get an abortion in all 50 states, <<https://www.businessinsider.com/latest-point-in-pregnancy-you-can-get-abortion-in-50-states-2019-5>>



It is strange that for the Democrat members of this body, 6 months is not enough. They want the right for anyone, for any reason, to be able to obtain a procedure where a child who can feel pain, who can survive on their own, is forcibly dismembered in the womb, ripped limb by limb in a procedure that can often result in long term physical harm to the mother. The Democrat members of this Legislature are free to support that procedure and persuade Nevada voters in the marketplace of ideas to change the existing law for the final 3 months of pregnancy.

One additional point - there is language in the resolution that is not only offensive, but dishonest. A miscarriage or a stillbirth is not an abortion. It is offensive to compare the two, and no one, in any state, much less our state, has been prosecuted or prevented from obtaining care related to the death and loss of their very much wanted child. Ask a mother who had a stillbirth if she equates it with an abortion. You would be lucky to still be standing if you asked such a callous and disrespectful question. Please do not equate the agonizing death of wanted children with an abortion. 1 in 4 women will encounter the pain of a miscarriage in their lifetime. Please stop trying to hijack their heartbreak to promote this resolution which allows abortion in the final three months of pregnancy.

Finally, we would respectfully request that the members under litigation for a Constitutional violation of the separation of powers clause (Article 3, Section 1, Nevada Constitution) for their concurrent employment with government agencies while being state legislators—recuse themselves until the litigation is settled or they have fully resolved their violation of the Nevada Constitution. As this body is well aware:

The powers of the Government of the State of Nevada shall be divided into three separate departments, the Legislature, the Executive and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution. Nevada Const. Art. 3, §1, ¶1.

For these reasons, the Nevada Republican Party strongly opposes SJR7.

Sincerely,

Chairman Michael J. McDonald
Nevada Republican Party

Sigal Chattah
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