

118TH CONGRESS
1ST SESSION

H. RES. 464

Acknowledging that unborn children are legal and constitutional persons who are entitled to the equal protection of the laws.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2023

Mr. LAMBORN (for himself, Mrs. LESKO, Mr. ADERHOLT, Mr. BANKS, Mr. BERGMAN, Mrs. BOEBERT, Mr. BRECHEEN, Mr. DUNCAN, Mr. EZELL, Mr. FULCHER, Mr. GOSAR, Mr. HARRIS, Mr. JACKSON of Texas, Mr. KELLY of Pennsylvania, Mr. LAMALFA, Mr. MANN, Mr. MOOLENAAR, Mr. ROSENDALE, Mr. WALBERG, Mr. WEBER of Texas, and Mr. WILSON of South Carolina) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Acknowledging that unborn children are legal and constitutional persons who are entitled to the equal protection of the laws.

Whereas the Declaration of Independence declares it to be a self-evident truth that “all men are created equal, that they are endowed by their Creator with certain unalienable Rights,” beginning with the right to life, and that the primary purpose of all government is to defend that supreme right;

Whereas among the stated purposes of the Constitution is to “secure the Blessings of Liberty to ourselves and our Posterity”;

Whereas the Fourteenth Amendment to the Constitution guarantees “due process of law” and “the equal protection of the laws” to “any person”;

Whereas the Fourteenth Amendment situated its equal protection guarantee within a common-law and statutory context that prohibited abortion and treated the unborn human being throughout pregnancy as a “person”, who under “common and civil law” was “to all intents and purposes a child, as much as if born” (Hall v. Hancock, 32 Mass. (15 Pick.) 255, 257–58 (1834) (Shaw, C.J.));

Whereas the Fourteenth Amendment, like the Civil Rights Act of 1866 that it was meant to sustain, relied on an understanding of the fundamental rights of persons, including the rights to life and personal security, that had been expounded in Blackstone’s Commentaries, which began its first book (“Of the Rights of Persons”) with a discussion of the unborn child’s rights as a “person” across many bodies of law;

Whereas by the time the Fourteenth Amendment was adopted, a supermajority of States had codified laws to prohibit abortion at all stages, and many of these statutes classified abortion as an “offense against the person” and nearly all described the unborn victim of abortion as an “infant” or “child”;

Whereas the primary Framer of the Fourteenth Amendment, Representative John Bingham, explained that the Amendment was written to ensure that “no State in the Union should deny to any human being . . . the equal protection of the laws”;

Whereas Senator Jacob Howard, who sponsored the Amendment in the Senate, declared that the Amendment’s pur-

pose was to “disable a State from depriving not merely a citizen of the United States, but any person, whoever he may be, of life, liberty and property without due process” and to ensure that even the lowest and “most despised of the [human] race were guaranteed equal protection”;

Whereas Representative Thaddeus Stevens called the Amendment “a superstructure of perfect equality of every human being before the law; of impartial protection to everyone in whose breast God had placed an immortal soul”;

Whereas the drafters and ratifiers of the Fourteenth Amendment expected the Amendment to apply not only to freedmen and Black Americans, but to every member of the human species within the jurisdictional reach of the Constitution, they intentionally selected the expansive language of “any person”, to ensure that no State would ever again subject any class of persons to inferior and invidiously discriminatory treatment;

Whereas a medical and scientific consensus exists establishing that each human being begins his or her life cycle at fertilization;

Whereas abortion, the use or prescription of any instrument, medicine, drug, or any other substance or device, to intentionally kill the unborn child of a woman known to be pregnant, is destructive to the life, health, personal security, and well-being of the unborn child;

Whereas unborn children have morally and legally protectable interests in life, health, personal security, and well-being;

Whereas at least 38 States and this Federal Government (section 1841 of title 18, United States Code) have fetal

homicide laws that provide for prosecution of criminals who kill an unborn child during the commission of a crime;

Whereas in recognition of the unborn child's right to life, the common law, State law, and Federal law (18 U.S.C. section 3596(b)), all prohibit imposition of the death penalty on a pregnant woman who has been convicted of a capital crime;

Whereas State laws and Federal judicial decisions allowing abortion in the United States denied constitutional rights to unborn children, causing the tragic and unspeakable loss of more than sixty million children before birth, increasing the pressure and anguish of countless women and girls who are driven to abortion, and cheapening our respect for the human person and the sanctity of human life;

Whereas nothing in the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* prevents Congress from recognizing the legal and constitutional personhood of unborn children, and indeed, central to the *Dobbs* holding was the fact that abortion terminates the life of an unborn human being; and

Whereas President Ronald Reagan declared in his 1988 Proclamation of a National Sanctity of Human Life Day that "our nation cannot continue down the path of abortion, so radically at odds with our history, our heritage, and our concepts of justice," and that "the well-being and the future of our country, demand that protection of the innocents must be guaranteed and that the personhood of the unborn be declared and defended throughout our land": Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) defines the term “unborn person” or “un-
3 born child”, as used in this Resolution, to mean “the
4 unborn offspring of human beings of the species
5 Homo sapiens from the beginning of the biological
6 development of that human being, from fertilization,
7 throughout pregnancy until live birth, including the
8 human conceptus, zygote, morula, blastocyst, em-
9 bryo, and fetus”;

10 (2) finds and declares based on sound histor-
11 ical, medical, and scientific evidence that—

12 (A) the life of each human person begins
13 at fertilization (or the functional equivalent
14 thereof);

15 (B) human persons at every stage of devel-
16 opment before birth have moral and legally
17 protectable interests in life, health, and well-
18 being;

19 (C) the word “person”, as used in the
20 Fourteenth Amendment to the Constitution,
21 had a settled public meaning that included any
22 child living in the womb, and the drafters and
23 ratifiers of the Amendment intended to include
24 all human beings (including unborn children)

1 within the scope of the Amendment's protective
2 embrace;

3 (D) permissive State abortion laws deprive
4 an unborn human person of the right to life
5 and the enjoyment of the equal protection of
6 the laws guaranteed by the Fourteenth Amend-
7 ment; and

8 (E) the intentional destruction of human
9 life prior to birth through abortion is inimical
10 to our national values, history, and sense of jus-
11 tice;

12 (3) acknowledges our constitutional duty and
13 solemn obligation to guarantee the equal protection
14 of the laws to every unborn child within the jurisdic-
15 tional and geographic reach of the Constitution,
16 which shall not be construed to permit the prosecu-
17 tion of any woman for the death of her unborn child;
18 and

19 (4) calls upon the Congress to enact congruent
20 and proportional legislation to enforce the Four-
21 teenth Amendment's guarantee of equal protection
22 for unborn children nationwide, and upon the Su-
23 preme Court to acknowledge and vindicate the right
24 of unborn children to the enjoyment of the equal

1 protection of the laws in every State and Federal
2 territory.

