



TO: Judiciary Committee
FROM: Marion Miner, Associate Director of Pro-Life & Family Policy
Nebraska Catholic Conference
DATE: March 22, 2023
RE: LR20CA (Right to Abortion in Nebraska Constitution) (Oppose)

The Nebraska Catholic Conference advocates for the public policy interests of the Catholic Church and advances the Gospel of Life through engaging, educating, and empowering public officials, Catholic laity, and the general public.

The Conference opposes LR20CA, which was introduced on January 11 of this year, the same date that pro-life supporters held a press conference to announce the introduction of what would become LB626, the Nebraska Heartbeat Act. LR20CA is clearly a response to that announcement and is meant to insert a right to abortion in the Nebraska Constitution.

When *Roe v. Wade* was passed down in 1973, the basis for a supposed “right to abortion” in the U.S. Constitution was what the Court deemed an individual right to privacy—the same “right” LR20CA would insert into our Constitution. The Court held that this right to privacy included a right to elective termination of pregnancy. This right to abortion, in the Court’s view at the time, meant that protecting a baby’s life was not a “compelling” enough reason to warrant any restriction on abortion at all until after the first trimester. Before the end of the first trimester, babies are known by the science of embryology to develop a face, fingers, toes, and a beating heart. Abortions, however, were to proceed “free of interference by the State.”

According to *Roe*, During the second trimester, about 12-28 weeks into pregnancy, states could regulate the practice of abortion to the extent their laws were reasonably related to protecting maternal health—but not to protect the lives of preborn children.

After the point of fetal viability—which at that time was considered to be about 28 weeks into pregnancy—the Court held that the State’s interest in protecting human life became “compelling” and that the State could enact laws that had as their purpose the protection of human life from abortion. Even those laws were subjected to a skeptical eye by the courts, to be disregarded if any doctor asserted any factor of a woman’s health—to include “physical, emotional, psychological, familial [family size or income], or the woman’s age”—would be negatively impacted without an abortion.

Over time, states creatively legislated and litigated to push back on this rigid trimester framework. As late as 2010, when Nebraska passed its 20-week protection law, it was the most pro-life law in the United States that had not been struck down by the courts. LR20CA would take us straight back to 1973 and *Roe*—which is not a world to which we should return.

Thank you for your time and consideration.