

“Fetal Bill” To Be Considered

The chair of the Vermont Senate’s Judiciary Committee, Sen. Richard Sears, has been working on a bill for this legislative session that could broach the issue of legal rights for a fetus -- an action possibly leading to a broader discussion of reproductive freedom issues, despite disclaimers to the contrary.

The bill is the result of an auto accident in Bennington in 2009. A pregnant woman riding in a car hit by another driver lost the twins she was carrying.

The woman wanted the crash to be charged as a double fatality, but a 1989 Vermont Supreme Court case, *State v. Oliver*, held that a fetus is not a person for purposes of prosecution under criminal statutes.

The Vermont Right to Life Committee, which has long advocated to restrict reproductive choices, took up the woman’s cause. It has tried to have a “fetal homicide law” considered before, but failed.

Sears has focused on the new bill himself and insists it will be crafted in such a way as to keep reproductive freedom out of the discussion.

The bill is unnecessary. Nineteen years ago the Legislature addressed the very issue of fetal deaths caused by car accidents.

It did so by amending the motor vehicle laws regarding “grossly negligent operation of a vehicle.” The amendment was the direct result of the *State v. Oliver* case, and provided for stiffer criminal sanctions when “serious bodily injury” occurs in an accident.

The effect of the change was to broaden the offense to cover fetal deaths, because a woman is almost always seriously injured when she is involved in a crash severe enough to harm a fetus she may be carrying.

The bottom line is that under existing law, the state can bring a charge of grossly negligent operation and seek the same penalty as it could if there were a separate law covering fetal deaths. It has, indeed, done so against the driver who hit the Bennington woman, charging her with three felony counts that together carry a possible 45-year sentence.

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