

ASSEMBLY FLOOR ALERT, MONDAY, AUG. 29

AB 2223 (Wicks) on Concurrence -- OPPOSE

Don't prohibit law enforcement from investigating "perinatal deaths" of babies up to 24 months old

"Perinatal" period is undefined, could be up to one year old or more

AB 2223 uses the word "perinatal." Yet because the "perinatal period" is neither defined in this bill nor in California statutes, it's up to interpretation how old a baby could die without an investigation being allowed. Yet a current bill, AB 130 (Arambula), which the Legislature approved August 25, states the "perinatal" period is up to one year after birth. Likewise, the U.K.'s National Health Service defines perinatal as "up to a year after giving birth" (<https://www.sabp.nhs.uk/our-services/mental-health/perinatal/what-does-perinatal-mean>). Pediatrician Ray E. Helfer, a pioneer in the prevention of child abuse, in a 1987 study published by the National Institutes of Health (NIH), defined the perinatal period as up "to 18 and 24 months after the birth of the child" (<https://pubmed.ncbi.nlm.nih.gov/3322517>). Defense attorneys using AB 2223 would likely prefer the 12-, 18-, or 24-month definition. Which definition are you voting on, and which definition will be the standard for police and courts? The bill doesn't say.

The bill's amendments do not solve AB 2223's big problem

AB 2223 continues to impose fines, civil damages, costs, and other penalties to keep law enforcement far away from investigating deaths of infants or toddlers. Under AB 2223, when a child dies in the "perinatal period" (which could mean babies 12, 18 or 24 months old), the current amended bill still penalizes law enforcement personnel for even suggesting a child's death should be investigated. Under AB 2223, merely investigating whether a "perinatal death" was indeed "due to causes that occurred in utero" would be punished. Under Section 9 of the bill, such an investigation "denies a right protected by this article," thus coroners, D.A.'s, and law enforcement officers may be sued, with heavy damages and fines. No more investigations of infant deaths or "actual pregnancy outcomes." Because AB 2223 states: *For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.* This means police and coroners will avoid investigating, and district attorneys will avoid prosecuting, infant deaths. From all angles, AB 2223 would open the door to legal infanticide in California.

AB 2223's terms are dangerously non-specific and overly-broad

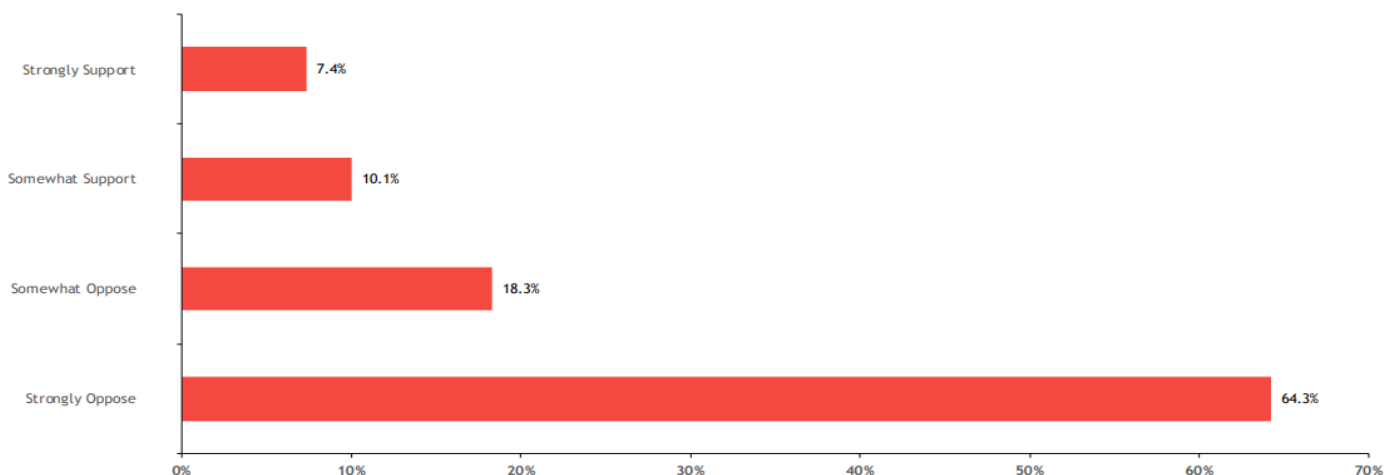
Along with “perinatal,” AB 2223’s key phrase, “perinatal death due to causes that occurred in utero” is not defined. Open to interpretation, this broad phrase could mean several things, including “causes” such as postpartum depression (estimated to be 1 in 5 mothers <https://www.nytimes.com/2020/02/05/nyregion/postpartum-depression-treatment-nyc.html>) that arguably began or “occurred” while her baby was still “in utero.” Or the death of her months-old or even year-old child could not be investigated because of “causes...that occurred” during her pregnancy. For example, if a pregnant woman decided she didn't want to keep her baby, but failed to obtain an abortion, yet later killed her baby sometime after birth, it could be argued that her animus – the “cause” of the “perinatal death” – began or “occurred” while her child was still “in utero.” What’s more, under AB 2223, a mother who strangled her infant could falsely claim her baby had an illness while in her womb, was born, yet died months later from that illness. Even a fake story could not be investigated, since AB 2223 makes law enforcement stay away, under threat of punishment. Both the undefined “perinatal” period and the non-specific and overly-broad “causes that occurred in utero” mean AB 2223 functionally permits infanticide – since public authorities can no longer investigate to determine the facts of an infant’s or toddler’s death.

Infanticide is opposed by most Americans

AB 2223 is not about abortion, but about the deaths of already-born babies. Oppose infanticide by opposing AB 2223. A February 2019 poll of U.S. adults conducted by YouGov found 82.6% opposed "removing medical care for a viable child after the child is born": <https://aul.org/wp-content/uploads/2019/02/2019-02-YouGov-AUL-National-Survey.pdf>

Medical care stance

HPU_Q3. Do you support or oppose removing medical care for a viable child after the child is born?



Unweighted base: All US Adults (1145)