



PATRICK TESTIN

STATE SENATOR

DATE: October 12, 2021

RE: **Testimony on Senate Bill 593**

TO: The Senate Health Committee

FROM: Senator Patrick Testin

Thank you fellow members of the Senate Health Committee for accepting my testimony in support of Senate Bill 593.

This legislation, which I have authored with Representative Dittrich, is an important step for the State of Wisconsin. In other areas of the world, there are observable instances of selective abortions that occur due to the characteristics of the unborn child.

Iceland has been pointed to as one of the most prominent examples of these practices in action. In an article published by CBS, almost one hundred percent of women who undergo prenatal tests and receive a positive test result for Down syndrome terminate their pregnancy. Many other countries have data that reveal high abortion rates following a diagnosis of Down syndrome. This includes the United States, which had a rate of 67% as of 2011.

There are many instances of sex-selective abortions that occur around the world as well. The 2020 State of World Population Report shows that over 140 million females are absent from the world due to discriminatory sex-selective abortion.

Senate Bill 593 seeks to add into statute that the State of Wisconsin will not allow abortions solely for the purpose of eliminating an unborn child because of his or her characteristics – whether it be their sex, race, national origin, ancestry or a diagnosis or potential diagnosis of Down syndrome or another congenital disability. The bill will require physicians to make this known to the woman on which an abortion is to be performed in addition to the other informational requirements currently in law.

Senate Bill 593 also includes provisions that specify the procedure to bring forward claims for civil damages for violations of the terms of this bill. Claims may be filed by the mother, father or the parent/guardian of a woman if the woman was a minor at the time or dies as a result of the abortion. Additionally, should a physician perform an abortion for any of the prohibited reasons included in the bill, that physician must be investigated for unprofessional conduct by the Medical Examining Board.

It is important that our state be proactive rather than reactive and make it clear in statute that this kind of prejudice will not be tolerated. Deciding that a life is unwanted or unfit to live because of their attributes is inhumane and is a practice that should be declared unlawful in Wisconsin.

Thank you for taking the time to listen to my testimony today, and I respectfully ask that you join me in supporting Senate Bill 593.



BARBARA DITTRICH

STATE REPRESENTATIVE • 38th ASSEMBLY DISTRICT

October 12, 2021

Senate Committee on Health

RE: Rep. Dittrich Testimony on SB 593 - sex-selective, disability-selective, and other selective abortions and providing a penalty.

Greetings, Committee Chair Testin and members of the committee. I appreciate the opportunity to share my testimony on a topic that is extremely close to my heart and personal to me, discrimination and genocide of pre-born people.

Again, this specific bill along with several others, were vetoed by Governor Evers last session. However, the fight for these lives is just as worthy this session as it was last session.

Current culture has matured and evolved to be inclusive and accepting of people of all abilities, races, sexes, and backgrounds. I recently authored a separate resolution extolling the virtues of having a full array of work opportunities open to people with disabilities. This bill prohibits a person from performing/attempting to perform or inducing an abortion if the person knows the woman is seeking an abortion solely because of the race, color, national origin, ancestry, gender, or diagnosis or potential diagnosis of a congenital disability.

In my myriad personal experiences, I have witnessed many beautiful, unique individuals that would have been otherwise “written off” by society flourish and live full and meaningful lives as members of our society. While I appreciate the angst and fear of a woman seeking an abortion, I want to discourage the elimination of an unborn child due to a diagnosis or potential diagnosis. Rather, I believe we should encourage and support women, even helping them to make the difficult decision to place a child for adoption if they feel unable to parent the child. I speak to countless families that would welcome and have welcomed a child into their lives regardless of that child’s ability level, through biological birth or the miracle of adoption. Additionally, a child should not be killed due to their race, color, national origin, ancestry, or gender as it is equivalent to discrimination in the womb. If we wouldn’t discriminate after birth, we surely should not prior to birth. Every human being should expect the protection of life as stated in our Constitution.

Deciding which life is worthy of saving even up to birth, while seeming to avoid the challenges of living with difficulties, unwittingly practices eugenics, something humanity has decried throughout history. Further, it deprives us of the rich diversity people of every type add to our world. We cannot both say that we support individuals of every race, gender, nationality, ethnicity, and ability level yet use the same criteria to kill an unborn child.

Let’s do the right thing and put an end to this horrible discrimination and genocide. I thank you for your time, and welcome any questions you may have.

CHARLOTTE
LOZIER
INSTITUTE

Testimony of Tara Sander Lee, Ph.D.

Senior Fellow and Director of Life Sciences, Charlotte Lozier Institute

Senate Committee on Health, Wisconsin
October 2021

To the Distinguished Chair and Honored Members of the Committee.

Thank you for the opportunity to testify on Senate Bill 593, which would prohibit a person from performing or inducing an abortion because of race, color, national origin, ancestry, sex, or solely because the unborn child has been diagnosed with or has potential diagnosis of Down syndrome or another congenital anomaly.

I am a scientist with over 20 years' experience in basic science research and clinical medicine. My education and experience involve a PhD in Biochemistry from the Medical College of Wisconsin followed by postdoctoral training at Harvard Medical School and Boston Children's Hospital in molecular and cell biology. I held faculty appointments at the Medical College of Wisconsin and the Children's Research Institute, with a focus on the pathologic mechanisms of childhood disease. My clinical experience includes appointments as Scientific Director of Molecular Diagnostics at Children's Hospital of Wisconsin and Children's Specialty Group with credentialed hospital privileges. I also served as a molecular pathology inspector for the College of American Pathologists and scientific consultant for various entities. I am testifying in my capacity as a scientist, with expertise in molecular genetics and diagnostic testing, and as Senior Fellow and Director of Life Sciences with the Charlotte Lozier Institute.

The purpose of this bill is to prevent eugenic discrimination and induced termination of a pre-born child based on race, sex, or the presence or presumed presence of a genetic abnormality like Down syndrome. Down syndrome is a trisomy disorder genetically caused by the presence of an extra copy of chromosome 21. This genetic anomaly occurs at conception, when the man's sperm fuses with a woman's egg to form a single-cell embryo—the creation of a new, totally distinct, integrated organism or human being.¹ Most children with Down syndrome survive to birth, often with medical conditions, such as congenital heart defects, eye disease, thyroid

¹ Ronan O'Rahilly and Fabiola Müller, *Developmental Stages in Human Embryos: Including a Revision of Streeter's "Horizons" and a Survey of the Carnegie Collection* (Washington D.C.: Carnegie Institution of Washington, 637, 1987); and The Endowment for Human Development. Available at: <https://www.ehd.org/prenatal-summary.php>; See also Charlotte Lozier Institute, "The Voyage of Life: Dive Deeper – Down Syndrome." Available at: <https://lozierinstitute.org/dive-deeper/down-syndrome/>

free fetal DNA fragments across the whole (or part) of the genome using next generation sequencing (NGS), targeted sequence analysis, and array-based techniques. NGS platforms that screen fragments from the entire genome can be reliable, specific, and sensitive with a reported failure rate of 0.1% (inconclusive result) and false-positive rate of <0.1%.²⁸

NIPS may be less invasive compared to amniocentesis and CVS, but it is far less accurate and is not diagnostic, because the cell-free fetal DNA that is collected is fragmented. Therefore, NIPS can only report whether the patient's results *are consistent with* an increased risk for trisomy 21 that causes Down syndrome. Even with the most comprehensive molecular platform (i.e., NGS, array technology), NIPS will never be a diagnostic test that can definitively report a person's known risk of having Down syndrome.

With any clinical laboratory test, especially NIPS, there are inherent limitations. No test or screen will always perform the way it should 100% of the time. From my own experience directing a genetic testing lab for almost 10 years—the DNA test is never 100% accurate every time. Underlying conditions can limit NIPS performance and interfere with test results including placental mosaicism, maternal chromosomal abnormality, vanishing twin, organ transplant, etc. Incorrect reporting due to erroneous results, technical problems, and lab errors (i.e., false positives, false negatives, mixed specimens, mislabeling, etc.) is also a possibility.

Past pregnancies may also interfere with the NIPS result. Some studies have shown that cell-free fetal DNA is rapidly cleared from the maternal blood, with 100% clearance within 1-2 days postpartum^{29,30}, suggesting that fetal DNA from past pregnancies should not interfere with current tests. However, other studies have found the persistence of fetal DNA for decades in the mother.^{31,32}

NIPS limitations will affect correct result reporting and interpretation. One widely utilized NIPT screening test on the market has a positive predictive value (PPV) of 81%, meaning that there is a significant chance that a positive test result is NOT a true positive.³³ But even this reported PPV value is deceiving, because PPV is based on test sensitivity, specificity, *and* the prevalence of the condition in the population being tested. Because the prevalence of Down syndrome increases

²⁸ Illumina Verifi Prenatal Test: <https://www.illumina.com/clinical/reproductive-genetic-health/nipt/sendout-testing-for-labs.html>.

²⁹ A. Kolialexi *et al.*, Rapid Clearance of Fetal Cells from Maternal Circulation After Delivery. *Ann NY Acad Sci* 1022, 113-8, 2004.

³⁰ Y. M. D. Lo *et al.*, Rapid Clearance of Fetal DNA from Maternal Plasma. *Am. J. Hum. Genet.* 64:218–224, 1999.

³¹ D. W. Bianchi *et al.*, Male progenitor cells persist in maternal blood for as long as 27 years postpartum. *Proc Natl Acad Sci USA.* 93:705-708, 1996.

³² Invernizzi P. *et al.*, Presence of fetal DNA in maternal plasma decades after pregnancy. *Human Genetics*, 110(6): 587-591, 2002.

³³ Norton ME *et al.*, Cell-free DNA Analysis for Noninvasive Examination of Trisomy, *New England Journal of Medicine* 372, 1589, 2015; doi: 10.1056/NEJMoa1407349.

2015, abortions decreased the Down syndrome population in Europe by a rate of 27%.^{9,10} A recent report out of Ireland reports 79/113 (69.9%) women chose a termination of pregnancy (TOP) following a prenatal diagnosis of trisomy 21.¹¹

In the U.S., a 2012 review of the literature on this topic found a range from 61% up to 93% of those diagnosed with Down syndrome in the womb who were aborted.¹² More recent data show that abortion accounts for a 33% reduction in the number of babies with Down syndrome born in 2014. This means that in recent years there were 33% fewer babies with Down syndrome born in the U.S. than could have been.¹³

In 2009, Skotko posed the question of whether the new, non-invasive prenatal testing would mean babies with Down syndrome would slowly disappear.¹⁴ In less than a decade, his question was answered. In 2017, Iceland reported that it was on pace to virtually eliminate Down syndrome through abortion.¹⁵ Denmark was the first country to institute a national screening program, and it has seen Down syndrome births drop dramatically.¹⁶ Denmark is moving closely on the heels of Iceland, getting ever closer to “eliminating” Down syndrome in their population.¹⁷ A systematic review and analysis of global trends published in 2021 showed an overall declining trend in birthrates for the total population with Down syndrome following the world-wide expansion of prenatal testing.¹⁸

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- ⁹ de Graaf G *et al.*, Estimation of the number of people with Down syndrome in Europe, *European Journal of Human Genetics* published online 31 October 2020, doi: [10.1038/s41431-020-00748-y](https://doi.org/10.1038/s41431-020-00748-y).
- ¹⁰ de Graaf G *et al.*, Factsheet: People living with Down syndrome in Europe: BIRTHS AND POPULATION, 11 November 2020, accessed at: <https://go.downsyndromepopulation.org/europe-factsheet>.
- ¹¹ O'Connor C, Moore R, McParland P, Hughes H, Cathcart B, Higgins S, Mahony R, Carroll S, Walsh J, McAuliffe F: The Natural History of Trisomy 21: Outcome Data from a Large Tertiary Referral Centre. *Fetal Diagn Ther* 2021. doi: 10.1159/000517729
- ¹² Natoli JL *et al.*, Prenatal diagnosis of Down syndrome: a systematic review of termination rates (1995–2011), *Prenatal Diagnosis* 32, 142–153, 2012; doi: 10.1002/pd.2910.
- ¹³ de Graaf G *et al.*, Estimates of the live births, natural losses, and elective terminations with Down syndrome in the United States, *American Journal of Medical Genetics Part A* 167A, 756–776, 2015, doi: 10.1002/ajmg.a.37001.
- ¹⁴ Skotko BG, With new prenatal testing, will babies with Down syndrome slowly disappear? *Arch Dis Child* 94, 823–826, 2009; doi: 10.1136/adc.2009.166017.
- ¹⁵ Julian Quinones and Arijeta Lajka, “What kind of society do you want to live in?": Inside the country where Down syndrome is disappearing, CBS News August 14, 2017, accessed at: <https://www.cbsnews.com/news/down-syndrome-iceland/>.
- ¹⁶ Lou S *et al.*, National screening guidelines and developments in prenatal diagnoses and live births of Down syndrome in 1973–2016 in Denmark, *Acta Obstet Gynecol Scand* 97, 195–203, 2018; doi: 10.1111/aogs.13273.
- ¹⁷ Sarah Zhang “The Last Children of Down Syndrome. Prenatal testing is changing who gets born and who doesn't. This is just the beginning.” *The Atlantic* December 2020; accessed at: <https://www.theatlantic.com/magazine/archive/2020/12/the-last-children-of-down-syndrome/616928/>
- ¹⁸ Huete-García A, Otaola-Barranquero M. Demographic Assessment of Down Syndrome: A Systematic Review. *Int J Environ Res Public Health*. 2021;18(1):352. Published 2021 Jan 5. doi:10.3390/ijerph18010352



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**TESTIMONY ON SENATE BILL 593
SENATE COMMITTEE ON HEALTH
TUESDAY, OCTOBER 12, 2021
JULAIN K. APPLING, PRESIDENT**

Thank you, Chairman Testin and committee members, for holding this hearing on Senate Bill 593. Wisconsin Family Action supports this bill with one reservation.

Senate Bill 593 bans discrimination against specified ones of Wisconsin's most vulnerable citizens—her unborn children. That said, we would contend that every abortion is discriminating against unborn babies. Regardless of the reason for an abortion, the stark reality remains: a child's life has been intentionally taken. The characteristics of that child, such as sex, race, color, ancestry, national origin, or congenital disability are really not material when it comes to this life-taking procedure. The result is always the same: another life snuffed out.

So, in one sense we are tempted to take a neutral stand on this bill, but in another sense, we have always supported incremental proposals that will actually save unborn babies from abortion. We believe this bill does that with its prohibition on abortions for reasons of the race, color, national origin, ancestry, or sex of the baby or because the baby has been diagnosed with a congenital disease, defect, or disorder.

In part because we have not required enough information from abortion providers, we are not able to know for certain how many unborn babies are aborted in our state each year for one of these enumerated characteristics. Hopefully, we will soon see a time when more specific data are required from abortionists and abortion facilities. Nevertheless, we know that at least the potential is there for a woman deciding on an abortion solely for one of these reasons. We do know that a significant number of babies *in utero* who have been diagnosed with Down Syndrome are aborted. Statistics range widely on this—from 67% to 90%—and, again, lack of reported data hampers specificity here, but we know enough to know these children are being aborted at disproportionately high rates.

And that brings us to our reservation, and the reason we cannot unequivocally support SB 593. The bill explicitly exempts a child who has been diagnosed with, in the words of the bill, “a life-limiting fetal anomaly, which is a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth and does not include any condition that can be treated.” That is an exception we cannot accept.

We know personally at least two couples who were told their unborn child had a “life-limiting fetal anomaly,” and doctors recommended abortion. Both couples refused. And today, one of those children is about 10 years old and the other 7. Do they have disabilities, and are they profound? Undoubtedly, but both of these precious children have exceeded every expectation any doctor had for their future and/or their abilities. Why make an exception for these children? They are no less valuable than those that have the other enumerated characteristics in this bill. Let the child be born. He or she may succumb to the anomaly, but then again, maybe not. God may have a completely different plan for these precious children. That plan should not be cut short by abortion. We urge the authors to amend the bill to remove this exemption. Should that happen, we will give 100% support to the proposed legislation.

Thank you for your thoughtful and careful attention to our position on this bill.



WISCONSIN CATHOLIC CONFERENCE

TO: Members, Senate Committee on Health

FROM: Barbara Sella, Associate Director for Respect Life and Social Concerns

DATE: October 12, 2021

RE: SB 593, Selective Abortions

The Wisconsin Catholic Conference (WCC), the public policy voice of the Catholic bishops of Wisconsin, urges you to support Senate Bill 593, which prohibits abortions solely because of race, color, national origin, ancestry, sex, or disability.

As has been widely reported, unborn children with certain congenital conditions are aborted at very high rates. In 2012, researchers estimated that between 1995 and 2011 over 67 percent of unborn children diagnosed with Down syndrome in the U.S. were aborted.¹ Similar high abortion rates have been found for those diagnosed with anencephaly and spina bifida.²

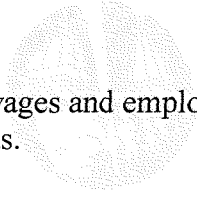
High rates of abortion have also been recorded in other parts of the world for children deemed to be of the unwanted sex, usually females. In 2012, the Guttmacher Policy Review issued a paper on sex-selective abortions, which recognized the widespread use of such abortions in Asian countries.³ The paper concluded that the real way to stop sex-selective abortions is not to prohibit such abortions, but to address the underlying conditions that can lead to them, namely an end to poverty and violence, and an increase in access to health care and education for women.

We agree that there is much work to be done on these underlying issues. The Catholic Church runs charities, hospitals, schools, and prison ministries precisely to assist the most vulnerable. Here in Wisconsin, the bishops have long supported efforts to expand educational opportunities,

¹ Jaime Natoli, et al., "Prenatal diagnosis of Down syndrome: a systematic review of termination rates (1995–2011)" *Prenatal Diagnosis*, Vol. 32, Issue 32 (March 14, 2012), <https://obgyn.onlinelibrary.wiley.com/doi/full/10.1002/pd.2910>.

² Candice Johnson, et al., "Pregnancy termination following prenatal diagnosis of anencephaly or spina bifida: a systematic review of the literature" *Birth Defects Research, Part A*, Vol. 94, Issue 11 (October 25, 2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4589245/>.

³ Sneha Barot "A Problem-and-Solution Mismatch: Son Preference and Sex-Selective Abortion Bans" *Guttmacher Policy Review*, Vol.15, Issue 2 (May 16, 2012), <https://www.guttmacher.org/gpr/2012/05/problem-and-solution-mismatch-son-preference-and-sex-selective-abortion-bans>.



increase access to health care, improve wages and employment, increase housing, reform criminal justice, and welcome immigrants.

But serving the needs of the poor and the vulnerable – as vital as it is – is not enough to halt the spread of selective abortions or abortion in general. For that to happen, a cultural shift must take place and the law can play an important part in that shift. The law signals what is and is not acceptable behavior. Choosing to abort, and facilitating an abortion, based on some perceived “defect” is simply wrong.

True freedom is not absolute choice – a choice without limits. True freedom involves living in such a way that one does not deny freedom to others. SB 593 forces us to confront once again the question of what truly furthers respect for women: absolute freedom that would deny the right to life to a girl because she is not a boy, or an affirmation that her life is worthy of respect both inside and outside the womb; absolute freedom to eliminate humans seen as “defective” or support for children and adults with special needs.

Even as we urge you to support SB 593, we also urge you to do more to help children and adults with disabilities. At every level, we need more funding to ensure that these individuals can reach their full potential and that their burdens and those of their families are shared by the community.

At no other time in human history have we made so many social, medical, and technological strides to assist those with medical conditions. It is time we make the moral stride to protect all unborn lives.



Gracie Skogman, Legislative Director, Wisconsin Right to Life
Senate Committee on Health
SB 592, Congenital Condition Educational Resources and SB 593, sex-selective, disability-selective, and
other selective abortions and providing a penalty
Tuesday, October 12, 2021

Each child's life is valuable and worthy of protection, especially unborn children who are diagnosed with a congenital condition, such as down syndrome.

SB 592 would require physicians who administer a prenatal or postnatal test for a congenital condition and receive a positive test result to ensure the parent or expectant parent of the child with the positive test result receive certain educational resources on the congenital condition. This would include current, evidence-based information, clinical course of the congenital condition, and intellectual and functional development for individuals with a diagnosis of the congenital condition.

It would also include information regarding treatment options and supportive information such as a local and national organizations with a focus on the congenital condition, information hotlines, and resource centers.

At Wisconsin Right to Life, we too often hear heartbreaking firsthand accounts of expectant parents who are given a diagnosis of a congenital condition in their unborn child and simply told they should terminate the life of their child. They are left with questions, doubts, and little support.

Women deserve better than this. Their unborn children deserve better than this. Our community of individuals with special needs deserve better than this. Parents must feel supported and equipped to bring a child into the world with a congenital condition. There are resources available to them, individuals willing and able to help, and vital information that gives them a clearer picture of what to expect.

SB 594 is simply a requirement for education, in the hope of providing much needed support for expectant parents. It is not a determination of how the parents should choose to proceed. However, we hope that the information and resources provided will empower them to choose life.

Discrimination against anyone should not be allowed, including unborn children in the womb. Whether that discrimination is based on sex, race or a disability diagnosis, it should not be allowed to be a deciding factor in the death of the unborn child's life to an abortion. Wisconsin Right to Life strongly supports SB 593, brought forth by Senator Testin and Representative Dittrich, which would aim to ensure this discrimination is ended.

Life

67 – 85% of unborn children diagnosed with Down Syndrome are terminated in the United States. This practice has decreased the Down Syndrome population by as much as 30%. As technology has advanced, other countries have begun to abort 100% of unborn babies diagnosed with Down Syndrome.

The Gendercide Awareness Project states that 126 million women are missing due to femicide. It's estimated that every year, 2 million baby girls die in sex-selective abortion and infanticide. That's 4 girls per minute.

We live in a world where anti-discrimination laws affect our work environments, our school environments, our housing environments and now we must extend this to those unborn children in the womb.

Wisconsin Right to Life thanks Representative Dittrich and Senator Testin for bringing SB 592 and SB 593 forward and urge their full passage.