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LEGISLATIVE TESTIMONY

To: Joint Committee on the Judiciary

From: James F. Driscoll, Esq., Executive Director

Re: House Bill 861, “An Act relative to fetal homicide.”

Date: July 11, 2017

The Massachusetts Catholic Conference (“MCC”) respectfully submits this testimony in support of House Bill 861 “An Act relative to fetal homicide.”

The proposed legislation would add provisions to the Massachusetts criminal code creating a separate category of criminal offenses causing injuries to or the death of “a child in utero” at any time throughout pregnancy. The Massachusetts courts hold as a matter of common law that an individual injuring or killing an unborn child can be prosecuted if while still in the womb the child was viable, that is, capable of living outside of the womb at the time the criminal act occurred.¹ The bill would extend the protection of the state’s homicide law to pre-viability by including offenses on unborn children “at any stage of development.” See Section 1, adding M.G.L. c. 265 § 13O (a).

The bill is modeled after a federal statute, “The Unborn Victims of Violence Act of 2004,” whereby Congress has afforded legal protection throughout pregnancy to unborn children against crimes prohibited by the federal criminal code and the Uniform Code of Military Justice.² Twenty-eight states define the killing of an unborn child at any stage of gestation as a homicide, while nine other states define the killing of an unborn child as a homicide at various other points during gestation.

House Bill 861, in line with these laws at the federal and state levels, expressly exclude legal abortion from its scope. The bill focuses instead on criminal violence against a pregnant woman and her unborn child.

¹ Commonwealth v. Crawford, 430 Mass. 638 (2000); Commonwealth v. Lawrence, 404 Mass. 378 (1989).

² Pub. L. No. 108-212, 118 Stat. 558.

For the foregoing reasons, the MCC urges the committee to give House Bill 861 a favorable report recommending its passage.

The Massachusetts Catholic Conference is the public policy office of the Roman Catholic Bishops in the Commonwealth, representing the Archdiocese of Boston and the Dioceses of Fall River, Springfield, and Worcester.