



*Senator Lakey
Attachment 4*

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WARDEN

March 17, 2016

The Honorable Todd Lakey
Idaho State Senator
Statehouse
VIA HAND DELIVERY

Re: Additional Revisions to SB 1404 –Idaho Unborn Infants Dignity Act (SB 1404) –
Our File No. 16-54184

Dear Senator Lakey:

This letter addresses two proposed amendments to SB 1404, namely:

Amendment to Proposed Idaho Code § 39-9302

(c) It is contrary to the public policy of the State of Idaho for an individual to become pregnant for the purpose of aborting an unborn infant and thereafter selling, transferring, distributing or donating her or his bodily remains for experimentation or other use.

Amendment to Proposed Idaho Code § 39-9304.

39-9304. RELEASE OF REMAINS FOR FINAL DISPOSITION. In the case of still birth or miscarriage, ~~every instance of fetal death, regardless of the duration of the pregnancy~~, the individual in charge of the institution where the bodily remains of the deceased unborn infant were expelled or extracted shall notify the mother's authorized representative that the mother has a right to receive and dispose of her deceased unborn infant's bodily remains. Upon request by the mother or other authorized representative, the institution shall make arrangements for the release of the bodily remains to the mother or her authorized representative for final disposition in accordance with applicable law.

You have asked whether these proposed amendments render SB 1404 reasonably legally defensible. The answer to this question is: yes. The additional finding in Idaho Code § 39-9302

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is consistent with this office's earlier recommendation; and the amendment to proposed Idaho Code § 39-9304 renders that particular provision more defensible from a constitutional challenge.

Sincerely,

A handwritten signature in black ink, appearing to read 'BK', with a long horizontal line extending to the right.

BRIAN KANE
Assistant Chief Deputy

BK/tjn