

A One-Page Companion Resource to

The Role of the Viability Line in Pregnancy Criminalization

Pregnancy policing and criminalization are on the rise. Understanding the legal history of fetal “viability” in law makes clear how and why. Central to the concept is accepting that, at some point, the government has authority over an individual's pregnancy. Under this authority, pregnant people are investigated and charged with crimes. This overrides civil and human rights. And it extends to **all** actions while pregnant, not just to abortion.

This report unpacks the many ways “viability” enables the criminalization of pregnant people. This summary highlights key takeaways from the report. You can use this as a guide to write or probe public health policies.

Language Matters.

Here are some commonly used words in public health laws.

- **Quickening** is an old word describing when a pregnant person first feels the fetus move.
- **Fetal Viability** is thought to be when a fetus might survive outside the uterus.
(Please refer to the full report on how this term is misapplied and misused both in law and in medicine)
- **Fetal Personhood** is a radical legal concept that gives a fertilized egg, embryo, or fetus the same rights and protections as an actual person.
- **Common Law** is when laws are made based on past court rulings instead of laws passed by legislators.
- **Tort** is when a court awards you something because you’ve suffered wrongdoing.

The Viability Line in Law...

- hands the government decision-making over a pregnant person’s care;
- gives embryos and fetuses legal rights (fetal personhood), which makes a pregnant person’s behavior punishable for anything people think might “hurt” a fetus;
- makes every pregnancy a potential crime scene;
- controls, punishes, and shames pregnant people.

The Viability Line Allows...

- the government to police morals and separate families based on behavior;
- doctors to force medical treatments on a pregnant person against their will;
- hospitals to keep a dying pregnant person alive against their will;
- police to investigate any pregnancy outcome.

“...if a fetus is considered a separate person under the law, there are virtually no limits to what state actors can do under the guise of protecting those ‘persons’; up to and including using deadly force to protect that ‘person’ in danger of harm.”

In Conclusion

The rights and freedoms of pregnant people face greater threats than those who are not pregnant. Decades worth of legal compromises and bad court rulings now means pregnancy policing is moving at a rapid pace. We must reject viability lines that erase a pregnant person’s rights in order to disrupt pregnancy criminalization.

Read the full report [here](#).