

How a bill doesn't become a law

Joe Feuerherd | Nov. 21, 2008

Roe v. Wade, must act urgently to halt its passage.

Or so the nation's leading antiabortion advocates would have you believe.

"WE NEED YOUR HELP!!! WE MUST ACT IMMEDIATELY!!!" screams the flier produced by the National Right to Life Committee, formed in 1973 to overturn *Roe v. Wade*.

Meanwhile, Chicago Auxiliary Bishop Thomas Paprocki said this month that FOCA "could mean discontinuing obstetrics in our hospitals, and we may need to consider taking the drastic step of closing our Catholic hospitals entirely." Cardinal Francis George, president of the bishops' conference, agreed, saying that Paprocki's warning was "well-founded."

Here's the reality: FOCA has as much chance of passage as the 0-10 Detroit Lions have of winning the next Super Bowl.

It's a matter of basic civics. The legislation, which never got a hearing in the last Congress, would be subject to hearings in both the Senate and House, and then have to be approved by the House Judiciary Committee, the full House, the Senate Judiciary Committee and the full Senate (with a 60-vote margin to overcome the inevitable filibuster). And then the respective versions would have to be reconciled in a conference committee and sent back to both chambers for final passage.

The notion that a bill this controversial could jump each of these hurdles is fanciful. Basic rule of legislation: It's much easier to stop something than to pass it.

Further, the House already has a strong coalition of both Republicans and Democrats who either oppose abortion rights or do not want to see them expanded. And even if the bill were to make it to the Senate floor (which it won't), it's hardly a 60-vote lock. First rule of lawmaking: Know how to count. The pro-FOCA forces simply don't have the votes.

But didn't Barack Obama pledge during the campaign that FOCA's passage would be his top priority? And doesn't that change the legislative calculus?

Indeed, in July 2007 candidate Obama pandered to the pro-choice lobby. In response to a question from the Planned Parenthood audience he declared that to protect abortion rights "the first thing I'd do as president" is sign FOCA. But that doesn't change the fact -- back to Civics 101 -- that President Obama won't have the opportunity to sign FOCA.

Still, Obama's victory does change the equation: It actually makes it less likely that FOCA will receive genuine congressional consideration. If John McCain had won, FOCA would have been a much livelier issue because the Arizona senator was perceived as a threat to *Roe*. "With *Roe v. Wade* [in place] there is no practical need for

the legislation, there is no crisis,” a Senate aide intimately familiar with the bill told me last week. “And *Roe v. Wade* is going nowhere soon,” he said.

There are genuine abortion-related issues worthy of debate right now -- proposals to lift the ban on federally sponsored embryonic stem-cell research and restrictions on U.S. assistance to nongovernmental organizations that provide abortion counseling, to name just two.

FOCA, however, is not among them. In fact, it’s not even close.

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