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Dear Friends and Supporters,

The U.S. Supreme Court has agreed to review another partial-birth abortion ban law. There have been several efforts in recent years to pass bans on this particularly gruesome abortion procedure. Testimony has been clear that the almost complete live birth of a viable child before its life is taken is never medically necessary. Yet, earlier laws, including Alabama's, have been held unconstitutional.

We are hopeful the U.S. Supreme Court will now have the necessary votes to uphold such a regulatory statute. At the same time, several states are in the process of passing statutes which ban abortion except to save the life of the mother. This is the type law we had before *Roe v. Wade* in 1973. It is the general consensus in the pro-life legal community that a frontal attack on *Roe v. Wade* is not a good strategy at this time. While we believe Roberts and Alito will vote to protect life, there will still only be four votes (including Justices Scalia and Thomas) who may vote to overturn *Roe* or the later decision of *Casey v. Planned Parenthood*, which affirmed the right to abortion in 1992. A premature frontal attack before the U.S. Supreme Court could result in another bad precedent.

We are also glad to report that HB19, the Unborn Victims of Violence Bill – “The Brody Act” – has passed the Alabama House. With the exception of abortion, this bill would make it a crime to kill a child *in utero* from conception. Senator Lowell Barron, who routinely blocks pro-life legislation, blocked the approval of HB19 by introducing his own bill which would recognize life only from 19 weeks. He has removed his opposition to HB19, but there are still other difficulties in the Senate. This is a matter for prayer.

Last year, we had several reports of church schools being audited by the Alabama Department of Revenue for taxes from athletic event gate receipts. The statute which taxes such events makes an exception for public schools. Non-public schools, mostly small church schools, are subjected to the tax. The tax has not been regularly collected and it came as quite a shock to these schools. SLI drafted a bill to remove this discrimination and it is being lobbied by the Alabama Christian Education Association.

This month's Educational Update reports on the events which have occurred in the sweepstakes gambling issue. The possibility of unregulated sweepstakes gambling could sweep the State of Alabama, as well as other parts of the country. This is certainly a matter for our attention and prayer.

We will close by taking another opportunity to request your financial support. If we had the funds, several lawyers could work fulltime on these issues. As it stands, we must contribute our time as we are able and work with what we have. Thank you to those who have responded to our requests. Your support is very important to our success.

Yours very truly,

A. Eric Johnston

**AN EDUCATIONAL UPDATE FROM
THE SOUTHEAST LAW INSTITUTE™, INC.**

To: SLI Supporters
Date: March 2006
From: A. Eric Johnston
Re: Sweepstakes Gambling – Part II

In our January 2006 Educational Update, we provided a legal analysis of Milton McGregor's sweepstakes gambling activities at the Birmingham Race Course. Sheriff Mike Hale attempted to intervene in this unlawful activity which resulted in a trial on January 17 and 18. Following the trial, Circuit Judge Scott Vowell ruled the sweepstakes were lawful, but a sham, and suggested this could only be corrected by the legislature. We disagree with Judge Vowell's assessment. Judge Vowell is a fair minded judge and it is a difficult area. Fortunately, District Attorney David Barber has appealed the decision. We urge you to commend Mr. Barber for his efforts (Criminal Justice Center, 801 North Richard Arrington Jr. Boulevard, Birmingham, AL 35203). We expect the case to be reviewed by the Alabama Supreme Court.

The Trial and Appeal

At trial, McGregor contended the purpose of the sweepstakes was to encourage patrons to come to the Birmingham Race Course to use the internet. While that may sound ludicrous, it served as the basis for Judge Vowell's ruling establishing this as a common promotional sweepstakes. To the contrary, the sweepstakes machines are the reasons players went. Testimony demonstrated that hardly anyone accessed the internet. The gamblers convinced the court that nothing of value was required in order for players to access sweepstakes machines. McGregor offered limited "free access" to the sweepstakes, trying to come within the "no consideration" exception noted in our January Educational Update. This created a loophole for them. The sheriff's expert witness clearly testified that the system of play (purchase of internet time, machine access and sweepstakes awards) creates a game of chance where a consideration was given with hopes of winning a prize. This is a prohibited lottery under our law and should come within the definitions of unlawful and prohibited gambling.

It will now be up to the Alabama Supreme Court to ultimately answer the question. As we explained in our January Educational Update, there are sufficient grounds to find the sweepstakes violate our law. We believe that significant legal arguments will be made before the Alabama Supreme Court who will be convinced that not only are McGregor's sweepstakes a sham, but they are prohibited and unlawful gambling.

The Legislative Effort

Judge Vowell opined the need for the legislature to clear up these questions, a sentiment shared by the media. We appreciate Judge Vowell's respect for the separation of powers doctrine. Although he ruled the sweepstakes legal, and there is an appeal, it is also appropriate to attempt a legislative remedy to the problem. The result would be more certain and more extensive.

Along with Governor Bob Riley and Attorney General Troy King, we participated in the writing of legislative bills which included amending the Alabama Constitution to once and for all clear up all gambling issues. That bill included adding to the prohibition of lotteries, any other games of chance (along with a detailed definition in order to settle the issue of what is skill and what is chance) and any type of electronic gambling. Existing constitutional provisions which permit charitable bingo would permit play in the classic paper style. Sweepstakes were also defined so as to permit legitimate sweepstakes by fast food, retail, and other businesses, while making it financially useless as a gambling enterprise.

We urged the governor to call a special session of the legislature to address this legislation. A special session for a limited purpose can be called in the midst of a general session. However, the bills were introduced into the general session, assigned to the Senate and House Tourism Committees, where they promptly died. Those committees have been stacked in favor of gambling interests. Only a special session would have provided the opportunity for this legislation to have a realistic chance of passage. All of our efforts were then for naught.

Conclusion

The political elections this year could result in a different makeup in the Alabama Legislature. If the balance of power shifts from gambling interests, a constitutional amendment can be passed that will clean up gambling in Alabama. If the balance of power stays the same, there is little hope for change. We may need to rely on the Alabama Supreme Court to properly define gambling. Sweepstakes may be the most profitable enterprise for the gambler bosses. Already, sweepstakes machines are being installed in many places in the State of Alabama. If the trend holds up, this type of unlawful activity may spread across the nation. According to the court testimony of the manufacturer of McGregor's machines, Alabama is the pioneer state for this activity and he expects it to be done in others. We believe a fair and clear reading of existing laws will provide the relief we need on the sweepstakes issue, but until the legislature acts, we must still contend with expanding illegal electronic and other forms of gambling.