



Secretariat of Pro-Life Activities

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Key Reasons for Passing the Born-Alive Abortion Survivors Protection Act

1. There are babies born alive during abortions

- Between the years 2003-2014, the CDC analyzed death certificates from those states that report this information and found that at least 143 babies were born alive and subsequently died (the cause was not provided) after an attempted abortion.
https://www.cdc.gov/nchs/health_policy/mortality-records-mentioning-termination-of-pregnancy.htm
- This 1981 article refers to “liveborn abortion babies” and concludes that they are “**an every day occurrence**” and because they are “embarrassing” they are hushed up and never reported:
<https://www.govinfo.gov/content/pkg/GPO-CHRG-OCONNOR/pdf/GPO-CHRG-OCONNOR-5-5.pdf>
- The state of Arizona reported 10 babies born alive in just 5 months in 2017.
<https://azdhs.gov/documents/preparedness/public-health-statistics/abortions/2017-arizona-abortion-report.pdf>
- Canada reports 491 babies were born alive during an abortion between 2000-2009:
<https://lozierinstitute.org/born-alive-left-to-die/>

2. There is evidence babies born alive are being killed or neglected

- While it is difficult to know how babies born alive following an abortion attempt are treated, there IS evidence in recent years of cases where doctors or nurses disregarded the rights of these newborn babies and, since they were targeted for abortion, either killed them or allowed them to die without receiving any medical assistance.
- In 2017, while answering a question about whether there were standard procedures for verifying if the baby was alive when it came out of the uterus, Dr. DeShawn Taylor, an abortion provider in Arizona and California, did not answer the question directly and told an undercover reporter that she paid attention to who was in the room. The implication seems clear that it is OK to ensure the baby does not survive as long as there are no observers who would be troubled by that: <http://www.centerformedicalprogress.org/2017/03/planned-parenthood-abortionist-pay-attention-to-whos-in-the-room-to-deal-with-infants-born-alive/>
- As an example of when observers do find it troubling, three former employees of an abortion clinic testified in 2013 that the doctor they worked under in Denton, Texas actively killed babies born alive during an abortion:
https://www.youtube.com/watch?time_continue=167&v=9fhyJItGPko
- A Planned Parenthood representative testified in 2013 that even if the baby was born and alive, the decision on what to do with the newborn would still be left up to the mother and the doctor. While Planned Parenthood later issued a statement in response to the outrage generated by the original comments saying they would provide appropriate care to the infant, the first statement before they had time to adjust their story to public opinion seems likely to be the more honest: <https://www.youtube.com/watch?v=qEvlafKaLhA>

- In 2006, a 23-week-old baby boy was born alive at A Gyn Diagnostic Center in Hialeah, Florida. When he began breathing and moving, abortion clinic owner Belkis Gonzalez reportedly cut the umbilical cord and zipped him into a biohazard bag, still alive, after which he died: <http://www.nbcnews.com/id/29037216/#.UZyw3YKOf9I>

3. Current laws are insufficient

- The 2002 federal Born Alive Infant Protection Act is insufficient to ensure babies surviving abortion are given appropriate care because it simply acknowledges that all newborns, regardless of the circumstances of their birth, are to be recognized as persons from the moment of their birth if they show any sign of life. It does not provide specific duties for an abortion doctor to follow or penalties if they are not followed.
- For obvious reasons, abortion doctors do not want the “dreaded complication” of a live birth so it is not far-fetched to conclude that they may take active or passive steps *after* the child’s birth to ensure that the child does not survive. This makes children born alive following an attempted abortion more vulnerable than their non-abortion birth counterparts. Nevertheless, these newborn children have an equal right to life and protection.
- S. 311 provides clear and reasonable steps for the doctor to follow to ensure he/she is treating this baby like any other baby born outside of the abortion context. And it makes clinic workers and medical staff mandatory reporters if the law is not followed. Given that the abortion context itself creates a gray area where a baby is meant to have been killed by abortion, it is not unreasonable for federal law to clarify that if babies survive an abortion attempt, they must be given the same medical care as any other baby born at the same gestational age.
- While state laws prohibit homicide, they often do not clarify with any specifics what a doctor is expected to do should a baby inadvertently be born alive following an attempted abortion. The Born-Alive Abortion Survivors Protection Act does. It makes his/her obligation clear – to treat this newborn infant with the same medical attention and care as other babies born at the same age and then transfer the baby to a hospital for further evaluation and care by a qualified specialist.
- In addition to homicide laws, twenty-nine states have laws with explicit protections for babies who survive abortions. One must assume these provisions were put into law for a reason, because abortion providers were not motivated to take concrete steps to save the life of the baby they were hired to eliminate. However, many of the states with the most extreme abortion laws do not afford such protection to born-alive babies. A federal law is necessary to ensure that all infants who survive abortions are protected, not just those born in certain states.
- It is not unusual for the same conduct to be illegal under both state and federal law (e.g., a homicide committed because of a person’s race). Such overlap between the federal and state criminal code is not in itself a reason to not support this bill. The reasons for this “double sovereignty” are varied, but one reason to criminalize an activity at the federal level is that the federal government has interests of its own to protect, such as protecting the civil rights of Americans. Federal criminalization also brings the weight of the federal government and its resources to bear upon offenders whose prosecution under state law might be impeded by the over-strapped resources and large caseloads of state and local law enforcement authorities.

4. There are states (NY and IL at least) repealing or proposing to repeal specific protections for babies born alive during abortion.

- New York’s new law removes specific protections for babies born alive during an abortion with its repeal of Section 4164 of its Public Health Law. This section had required a second physician to be present for any abortion after 20 weeks to take charge of an infant if he/she was born alive and a detailed medical record was to be kept demonstrating what actions were taken for that child. The law further clarified that a born child was a legally recognized person and if the newborn subsequently died they were to be treated as a person, not as medical waste. Without such explicit instructions, it would be very easy for an abortion provider to not comply with the Federal Born Alive Infant Protection Act and one might ask: who would be the wiser?
- The Illinois legislature is proposing to remove similar protections with its so-called “Reproductive Health Act” (HB 2495/SB 1942). Specifically, it would repeal the requirement for a second physician (as in the repealed New York law) and for that physician to treat the baby the same as another baby born outside of the abortion context. For additional information on this extreme abortion promoting bill, see Paul Linton’s legal analysis here: <https://www.thomasmoresociety.org/wp-content/uploads/2019/02/FEBRURARY-21-2019-MEMORNADUM-ON-HB-2495-SB-1942.pdf>

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