



Secretariat of Pro-Life Activities

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Born-Alive Abortion Survivors Protection Act

The Born-Alive Abortion Survivors Protection Act (BAASPA) is a bill to protect the lives of babies born during or after an abortion attempt. It insists that doctors must provide the same care as he/she would for any other child born at that same gestational age if an abortion had not been attempted. It also requires the newborn to be immediately transferred to a hospital, thus ensuring the baby is provided with appropriate neonatal care outside the influence of the provider who was paid to end his/her life. While surviving an abortion is rare, survivors have poignantly told their stories before Congress and urged lawmakers to take a greater interest in protecting other children who are at risk of being killed or allowed to die because they were intended to be aborted.

In 2002 Congress passed the Born-Alive Infants Protection Act, codifying in law that a newborn, regardless of the circumstances of their birth, is to be legally recognized as a person from the moment of birth if he or she show any sign of life. This law, however, did not provide any measures to enforce the protection of these vulnerable infants. The new Survivors bill (BAASPA) with its clear expectations of care, transfer requirements, mandatory reporting, private right of action, and criminal penalties is meant to provide more actionable protections for the baby (and the mother) should the baby be born alive. In light of the 2019 action in New York and Illinois--and possibly other states to follow---to remove the protections of their laws for infants born during an abortion, it is all the more urgent that Congress create a Federal requirement that increases the likelihood that these newborns will have a chance at life.

Key Points:

- While live births during or after an abortion may be rare, they do happen and the decision about whether these babies are cared for or left to die potentially affects hundreds of children every year.¹²³⁴⁵
- Regardless of the circumstances of his or her birth, any baby merely by virtue of being born is a legally-recognized person thanks to the clarity of the Born-Alive Infants Protection Act. He or she must be treated like any other premature infant and given medical care appropriate to his or

¹ 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 after an attempted abortion.

https://www.cdc.gov/nchs/health_policy/mortality-records-mentioning-termination-of-pregnancy.htm.

² 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>.

³ Abortion Survivors Network is one organization devoted to telling the stories of abortion survivors:

<https://theabortionurvivors.com/>.

⁴ 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>.

⁵ Canada reports 766 babies were born alive during, and left to die after, an abortion between 2013-2018:

<https://lozierinstitute.org/questions-and-answers-on-born-alive-abortion-survivors/>.

her age and needs. Actively or passively killing these newborns is infanticide and should be condemned by all.

- However, the BAASPA is clearly needed, as examples continue to be published of doctors or nurses disregarding the rights of the newly born baby and, since he/she was targeted for abortion, allowing him/her to die without receiving any medical assistance.⁶
- This bill does not require futile or painful care to be given to a dying infant as some opponents assert. On the contrary, it insists that the premature newborn must be given the same evaluation, care, and attention as any other baby born at that age to ensure the best medical course of action is provided to him/her.
- Americans overwhelmingly support the protection and care of babies born alive, no matter what the original intent was while the baby was still in utero. According to a 2019 poll, 77% of Americans agree that babies born during an abortion attempt should be given medical treatment like other babies.⁷
- The so-called right to “terminate a pregnancy” does not also guarantee a right to a dead child. This bill therefore provides greater enforcement mechanisms to help ensure that a baby fully outside of his or her mother is no longer subject to abortion laws and is now a new patient in his or her own right.
- Late-term abortions, (those past “viability,”⁸) which may result in a child being born alive are downplayed by abortion supporters as so rare as to be irrelevant, yet conservative estimates by abortion supporters still put the number of reported abortions that occur at 21 weeks or later at 1.2% to 1.3% which still amounts to an estimated 10,000 each year in the United States alone.⁹

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⁶Live Action has collected a number of stories of infants who were born alive before being allowed to die without any medical intervention, often alone and without comfort care: <https://www.liveaction.org/news/babies-born-alive-abortions-continue/>. Others too young to survive long can still live for a while after being aborted: <https://www.liveaction.org/news/abortion-worker-flees-born-alive/>.

⁷Susan B Anthony List, Feb. 2019, <https://www.sba-list.org/wp-content/uploads/2019/02/National-SBA-List-Slides-February.pdf>.

⁸“Viability” is not a precise medical or legal term; it was previously accepted to mean around 24 weeks and is now moved down to 22 weeks by some because of the increased survival rate of infants born at this stage of development.

⁹Charlotte Lozier Inst., Apr. 2021, <https://lozierinstitute.org/questions-and-answers-on-born-alive-abortion-survivors/> (citing Katherine Kortsmitt, et al., “Abortion Surveillance – United States, 2018,” available at https://www.cdc.gov/mmwr/volumes/69/ss/ss6907a1.htm#T10_down).