



Mary Parker

Proponent Testimony for the Born Alive Infant Protection Act (Sub. S.B. 157)

House Families, Aging, and Human Services Committee

Chair Manchester, Vice Chair Cutrona, Ranking Member Liston, and members of the committee, thank you for the opportunity today to testify on Sub. S.B. 157, the Born Alive Infant Protection Act. My name is Mary Parker, and I am the Director of Legislative Affairs for Ohio Right to Life. Today, I speak on behalf of our board, affiliated chapters, and statewide membership in support of Sub. S.B. 157.

The Born Alive Infant Protection Act addresses the following three issues:

1. It expands upon current law to ensure that physicians provide post-birth care to preserve both the life and the health of a newborn infant who is born alive after a failed abortion procedure.
2. It requires the Ohio Department of Health and physicians to report incidents where a child is born alive after a failed abortion.
3. It updates existing laws governing variances from written transfer agreements for ambulatory surgical facilities.

The Born Alive Infant Protection Act will help ensure that the prevailing and acceptable standards of medical care are provided consistently to newborn infants, regardless of the circumstances of their birth (Sec. 4371.90). Once a child is born, that child is a patient. Without hesitation, each newborn infant should be assessed and receive the appropriate degree of medical intervention as determined by a physician. To prevent discrimination against those children who survive a botched abortion, this bill expands upon current law to require that the performing physician act in such a way to preserve the life and health of that child. Doctors are expected to “do no harm” and promote the health and well-being all

their patients. We simply ask that doctors treat babies born after a failed abortion like any other infant. Failure to do so may result in the physician being charged with abortion manslaughter, a felony of the first degree (Sec. 2919.13). No patient deserves to be abandoned, especially vulnerable infants, and infanticide can never be considered good medicine.

With this bill, a baby born alive after a failed abortion will be transferred to a nearby hospital. It is not in the best interest of the child to have the abortion doctor, who failed to end that child's life, be responsible for ongoing care. Unlike hospitals, abortion clinics do not have the proper equipment and staff to ensure that the child is safe and properly evaluated by medical specialists such as neonatologists. There have been stories of infants born alive being left in supply closets to die or on tables or in the arms of compassionate nurses.ⁱ This is not an acceptable standard of care. At a hospital, that child will be given the opportunity to live well, even if for a brief period of time.

The Born Alive Infant Protection Act will also create a reporting requirement for physicians and abortion facilities. The Director of the Ohio Department of Health will develop a child survival form. This form is confidential and not a part of the public record, but it will be maintained as a part of the women's medical record at the facility. The performing physician and the abortion facility are required to report to the state when a child is born alive after a failed abortion. Whoever purposefully fails to report may be found guilty of a third-degree felony (3701.792). Compiling these records and data, the Ohio Department of Health will also issue an annual report about children who survive abortions in Ohio.

Some may argue that this reporting element and its enforcement are unnecessary. However, the 9 other states that have similar reporting requirements tell a different story. AZ, AR, AZ, FL, IN, MI, MN, OK, SD, and TX each have a reporting requirement as a part of their born-alive protections. As of 2020, AZ, FL, MI, and MN have publicly reported cases, totaling at least 203 cases in which an infant has survived an abortion. The CDC reported that 143 children were born after induced abortions from 2003-2014 and even recorded how long they survived after the abortion. The CDC admits in its report that this could be an underestimate, because of vague reporting terminology that was used.ⁱⁱ Children being

born alive after an abortion is a problem in our country. To understand this problem and solve it, transparency and reporting are necessary.

It is important to note, that with advances in medical science, the limits of viability continue to change. In 1971, the lower limit of viability was about 28 weeks, at which time most infants weigh two pounds, four ounces (1,000 g).ⁱⁱⁱ Today, infants born at 22 weeks gestation, have been successfully discharged from a NICU with minimal or no respiratory support or medications.^{iv} Just this week, Curtis Means from Alabama who was born at approximately 21 weeks gestation set the Guinness World Record for being the world's most premature baby to survive.^v At the same time, the 2020 Ohio Induced Abortion Report states that there were 113 abortions that occurred within our state after 21 weeks.^{vi} These children could have potentially been born alive, or if they had been delivered and provided with adequate medical care, they could have potentially lived.

The Born Alive Infant Protection Act was amended in the Senate to include provisions that update the existing variance agreements between hospitals and ambulatory surgical facilities. As a part of the variance application, the ambulatory surgical facility must include a letter, contract, or memorandum with at least one consulting physician agreeing to provide back-up coverage when medical care beyond what the ambulatory surgical facility can provide is necessary. The consulting physician must practice clinical medicine within a 25-mile radius of the facility, be familiar with the clinic, and agree to provide notice to the clinic if there are any changes regarding the physician's ability to provide backup coverage. Additionally, the consulting physician cannot teach at a public medical school, hospital, or state institution, nor can the consulting physician be employed or in contract with any of those entities.^{vii}

These changes to the variance agreements helps ensure safe medical practices. In the case of an abortion clinic, if a doctor fails to properly perform a late-term abortion, it would not be surprising if the mother was also suffering from complications. Backup doctors should be available in a timely manner. It has been a common practice among hospitals to require that OB/GYNs live within a half hour's drive from the hospital where they have admitting privileges. This has been upheld by the American College of Obstetricians and

Gynecologists as a strategy for improving levels of maternal care.^{viii} The change to the variance agreements also prevents taxpayer funding for abortions, which is supported by a majority of Americans.^{ix}

I urge the committee to pass Sub. S.B. 157, and I thank you for your consideration. At this point, I am more than happy to answer any questions from the committee.

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

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

ⁱⁱⁱ <https://lozierinstitute.org/if-it-is-a-baby-is-it-a-person/>

^{iv} <https://lozierinstitute.org/if-it-is-a-baby-is-it-a-person/>

^v <https://www.lifenews.com/2021/11/10/premature-baby-born-at-21-weeks-is-the-youngest-ever-to-survive-look-at-him-now/>

^{vi} https://odh.ohio.gov/wps/wcm/connect/gov/9a941c10-fc7d-40ae-8ae3-ac5757ab727f/Induced+Abortions+in+Ohio+2020.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKS_PACE.Z18_K9I401S01H7F40QBNJU3SO1F56-9a941c10-fc7d-40ae-8ae3-ac5757ab727f-nMZbBo.

^{vii} State university or college means the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Northeast Ohio Medical University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

^{viii} <https://www.acog.org/en/clinical/clinical-guidance/obstetric-care-consensus/articles/2019/08/levels-of-maternal-care>

^{ix} <https://www.kofc.org/en/resources/news-room/polls/american-abortion-opinions-remain-consistent.pdf>