

**AAPLOG Statement on Ohio Sub. S.B. 157 Born Alive Infant Protection Act
SUPPORT**

Presented to the House Families, Aging and Human Services

November 17, 2021 Written Testimony Donna J. Harrison M.D. C.E.O. AAPLOG

Thank you, Chair Manchester, Vice Chair Cutrona, and Ranking member Liston for allowing the American Association of Pro-Life Obstetricians and Gynecologists to present this letter of support for Bill Number: Sub. S.B. 157

As C.E.O. of the American Association of Pro-Life Obstetricians and Gynecologists, I speak on behalf of our over 6000 members, supporting Sub. S.B. 157. AAPLOG's support of this bill echoes the support of over 30,000 physicians who submitted joint letter¹ of testimony in support of the Born Alive Abortion Survivors Protection Act before the United States Congress. AAPLOG applauds the Ohio Senate for unanimously passing Resolution 41 supporting that same Federal legislation last general assembly. In addition, as someone who was born in Zanesville, Ohio, and educated in Akron, Ohio, I am glad to submit this testimony on behalf of the smallest citizens of Ohio.

Physicians who practice according to the Hippocratic Oath understand that no matter the circumstances of their birth, infants who are born alive must be given appropriate medical care.

Any infant who is born alive, at any stage of development, is a person entitled to the protections of the law and appropriate care as a new patient. There is no scientific or legal reason to distinguish between human beings born after an attempted abortion and human beings born after attempted live birth. A distressed newborn should get immediate emergency care and a professional evaluation to determine appropriate steps to promote his/her health and well-being. Obviously, a distressed newly born baby presents for emergency medical care at the moment of her or his birth, regardless of whether that birth results from an abortion attempt or attempted live delivery.

The Center for Medicaid and Medicare Services (CMS) issued a guidance document¹ in which CMS explicitly stated that EMTALA mandates hospital personnel to examine and treat any infant after delivery, because such newly delivered infants are persons who present for emergency medical care. Infants born after an attempted abortion in a hospital are to be treated in an equal fashion as infants born after delivery at comparable gestational ages. It is clear that CMS recognizes that infants born after abortion attempts deserve the same EMTALA protections as any other human being at a comparable gestational age. It stands to reason that infants born alive after an attempted abortion also deserve the same protection. S.B. 157 ensures compliance with that protection.

¹ Attached as Appendix B also available at: <https://www.cms.gov/Medicare/Provider-Enrollment-andCertification/SurveyCertificationGenInfo/Policy-and-Memos-to-States-and-Regions-Items/QSO-0526.html?DLPage=1&DLEntries=10&DLSort=2&DLSortDir=descending>

¹ Attached as Appendix A

These same principles apply in cases in which the human being in utero has a disability or has been given a life-limiting diagnosis, such as anencephaly. Human beings who are disabled at birth deserve the same respect and dignity afforded to able-bodied children at similar gestational ages. The terms “incompatible with life” or “fatal fetal malformations” are not medical terms. For many children with medical conditions previously labelled as such, survival for years has been accomplished², and is very possible when supportive care is provided.

Despite the fact that abortions are illegal after 20 weeks in the State of Ohio, 113 abortions occurred after 21 weeks gestation, according to the 2021 Ohio Abortion Report³, and 328 occurred between 19 and 20 weeks. It is unknown how accurate those dates are, because pregnancies which are dated by ultrasound at those gestational ages have a known +/- 2 week error in dating. So it is possible that some of the 328 abortions reportedly occurring between 19 and 20 weeks gestation may have been performed on fetuses who were actually at 21-22 weeks gestation.

The fact that abortions are occurring beyond the 20-week limit in Ohio reveals that some Ohio abortionists are willing to ignore or thwart the law. Substitute Senate Bill 157 provides a real mechanism for enforcement, by providing for real penalties when the laws of the State of Ohio are ignored or thwarted.

Further, Sub. S.B. 157 requires accurate medical record keeping concerning the number of babies born alive after abortion attempts. Accurate record keeping is essential to meaningful public policy. Since abortion clinics as a rule do not participate in the electronic health records required of most physicians and hospitals, this record-keeping represents the bare minimal requirement that should be expected of abortion providers, as the human beings born alive after abortions are persons under the law and are protected by the same laws as protect other citizens of Ohio.

Sub. S.B. 157 provides a scientifically sound, medically accurate, and respectful approach to ensure that the innocent human being who survives an attempted abortion will be treated with the same human dignity and respect that similarly aged human beings receive in the course of good neonatal medical care. Substitute Senate Bill 157 also ensures that human beings with disabilities are not targeted for intentional killing at the moment of birth.

For all of these reasons, we urge passage of Sub. S.B. 157

Respectfully submitted,

Donna J. Harrison, M.D.

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American Association of Pro-Life Obstetricians and Gynecologists⁴

² Wilkinson DJ, Thiele P, Watkins A, De Crespigny L. Fatally flawed? A review and ethical analysis of lethal congenital malformations. BJOG. 2012 Oct;119(11):1302-8. doi: 10.1111/j.1471-0528.2012.03450.x.

³ Available at: https://odh.ohio.gov/wps/wcm/connect/gov/534ddb3a-febd-4e2a-99ee-90249240bcdd/Vs-AbortionReport2018.pdf.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-534ddb3a-febd-4e2a-99ee-90249240bcdd-mS77yg-

⁴ The American Association of Pro-Life Obstetricians and Gynecologists is a 4,600 member organization consisting of OB/GYNs and other physicians and medical professionals who work in the field of reproductive health, and who practice according to the Hippocratic Oath. The mission of AAPLOG is to provide an evidence-based defense of both our pregnant patient and her unborn child.