



IN CONGRESS OF THE UNITED STATES

August, 1st

Mr. AARON (for himself, Mr. GRAVES, Mr. MORAN) introduced the following BILL,
AMENDED by Mr. JUSTICE

A BILL

To amend [Title 18, United States Code](#), to prohibit health care practitioners from failing to exercise the proper degree of care in case a child survives an abortion or an abortion attempt.

*Be it enacted by the United States House of Representatives and the United States Senate
within Congress assembled,*

SECTION 1. SHORT TITLE

This Act may be cited as ‘Born Alive Abortion Survivors Protection Act’

SECTION 2. DEFINITIONS

In this section the following definitions apply:

(1)Abortion

The term abortion means the use or prescription of any instrument, medicine, drug, or any other substance or device—

(A)to intentionally kill the unborn child of a woman known to be pregnant; or

- (B) to intentionally terminate the pregnancy of a woman known to be pregnant, with an intention other than—
- (i) after viability, to produce a live birth and preserve the life and health of the child born alive; or
 - (ii) to remove a dead unborn child.

(2) Attempt

The term attempt, with respect to an abortion, means conduct that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in performing an abortion.

(3) Born alive

The term born alive has the meaning given that term in [section 8 of title 1](#), United States Code (commonly known as the Born-Alive Infants Protection Act).

SECTION 3. FINDINGS

Congress finds the following:

- (1) If an abortion results in the live birth of an infant, the infant is a legal person for all purposes under the laws of the United States, and entitled to all the protections of such laws.
- (2) Any infant born alive after an abortion or within a hospital, clinic, or other facility has the same claim to the protection of the law that would arise for any newborn, or for any person who comes to a hospital, clinic, or other facility for screening and treatment or otherwise becomes a patient within its care.

SECTION 4. BORN ALIVE INFANTS PROTECTION

[United States Code, Title 18, Chapter 74](#) is amended by inserting after §1531 the following:

(a) Requirements for health care practitioners.—

In the case of an abortion or attempted abortion that results in a child born alive:

(1) Degree of Care required; immediate admission to a hospital.—

Any health care practitioner present at the time the child is born alive shall—

- (A) exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as a reasonably diligent and conscientious health care practitioner would render to any other child born alive at the same gestational age; and
- (B) following the exercise of skill, care, and diligence required under subparagraph (A), ensure that the child born alive is immediately transported and admitted to a hospital.

(2) Mandatory reporting of violations.—

A health care practitioner or any employee of a hospital, a physician's office, or an abortion clinic who has knowledge of a failure to comply with the requirements of paragraph (1) shall immediately report the failure to an appropriate State or Federal law enforcement agency, or to both.

(b)Penalties.—

(1)In general.—

Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 5 years, or both.

(2)Intentional killing of a child born alive.—

Whoever intentionally performs or attempts to perform an overt act that kills a child born alive described under subsection (a), shall be punished as under [Section 1111](#) of this title for intentionally killing or attempting to kill a human being.

(c)Civil Remedies.—

(1)Civil action by a woman on whom an abortion is performed.—

If a child is born alive and there is a violation of subsection (a), the woman upon whom the abortion was performed or attempted may, in a civil action against any person who committed the violation, obtain appropriate relief.

(2)Appropriate Relief.—

Appropriate relief in a civil action under this subsection includes—

- (A) objectively verifiable money damage for all injuries, psychological and physical, occasioned by the violation of subsection (a);
- (B) statutory damages equal to 3 times the cost of the abortion or attempted abortion; and
- (C) punitive damages.

(3)Attorney's fee for plaintiff.—

The court shall award a reasonable attorney's fee to a prevailing plaintiff in a civil action under this subsection.

(4)Attorney's fee for defendant.—

If a defendant in a civil action under this subsection prevails and the court finds that the plaintiff's suit was frivolous, the court shall award a reasonable attorney's fee in favor of the defendant against the plaintiff.

SECTION 5. ENACTMENT

This Bill is to be enacted upon Signature by the President.

SECTION 6. EFFECTIVE DATE

This act shall take effect one day after the day of enactment.

Written by Aaron (D), July 28th

Inspired by [S.311](#)