



Born-Alive Abortion Survivors: Just the Facts

2023 Edition

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Key Points

There are at least 245 known cases in which an infant has been born alive following an abortion, and the actual number is likely much higher.

Currently, there is no federal reporting requirement for cases of infants surviving abortion. Only 10 states require it.

Federal law states that all infants who are born alive following an abortion are full persons under the law but does not currently ensure that these infants are given proper medical care.

The Born-Alive Abortion Survivors Protection Act would require that the same life-saving medical care be given to abortion survivors as any other baby born at the same gestational age.

On January 22, 2019, the 46th anniversary of *Roe v. Wade*, Gov. Andrew Cuomo (D-N.Y.) signed the Reproductive Health Act into law, repealing legal protections for infants who survive abortion in the state of New York. The celebratory illumination of the World Trade Center in pink and subsequent comments by Gov. Ralph Northam (D-Va.) that seemingly endorsed infanticide launched the question of born-alive abortion survivors into the conscience of America.

Members of Congress and state legislators across the country responded to these radical positions by introducing the Born-Alive Abortion Survivors Protection Act, which requires that life-saving medical care be given to babies born alive following an abortion. However, House Speaker Nancy Pelosi (D-Calif.) refused to bring this bill up for a vote in the House over 80

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times in 2019, and Democrat governors in North Carolina, Wisconsin, and Montana all vetoed similar legislation. In January 2023, House Speaker Kevin McCarthy (R-Calif.) brought the bill before the 118th Congress for a vote, and it passed 220-210, with all Republican representatives voting in favor of the bill and all but one Democrat voting against it (with one Democrat voting “present”).¹

There has been much debate and confusion surrounding born-alive abortion survivors (*e.g.*, whether they exist at all, whether they are at risk of infanticide) and the legislation that seeks to protect them (*e.g.*, whether it is a solution in search of a problem). Here are the facts.

Do Babies Ever Survive Abortion?

Yes, babies have been known to survive abortion. In fact, a 2018 European study done “[t]o evaluate the rate of live birth and the duration of survival after termination of pregnancy [between 20-24 weeks gestation] without feticide” found that over half of these 241 peri-viable pregnancies resulted in live births with a “median survival time” of 32 minutes.²

Currently, there are no federal abortion reporting requirements, which leaves a massive gap in abortion reporting data. Since the 2019 report, which collected data from 2003 to 2014, the U.S. Centers for Disease Control and Prevention (CDC) has not issued a report with data on the number of infants born alive after an abortion procedure.³ State-level abortion reporting statistics from eight states show a total of at least 245 cases in which an infant survived an abortion since 2006.

Do Any States Require Reporting on Abortion Survivors?

Currently, 10 states require reporting on cases of infants being born alive following an abortion: Arizona,⁴ Arkansas,⁵ Florida,⁶ Indiana,⁷ Michigan,⁸ Minnesota,⁹ Ohio,¹⁰ Oklahoma,¹¹ South Dakota,¹² and Texas.¹³

Arizona

Arizona has reported 55 cases of infants born alive after an abortion: 10 in 2017,¹⁴ 12 in 2018,¹⁵ 15 in 2019,¹⁶ nine in 2020,¹⁷ and nine in 2021.¹⁸ The annual abortion reports do not specify whether any of these babies survived past birth or where they are now.

Arkansas

In 2020, Arkansas released its first report detailing abortion complications and the number of infants who survive abortion. This report captured numbers from the day the law was enacted on July 24, 2019, through the end of 2019. However, there were no cases of infants that survived abortion reported from this six-month period.¹⁹

Florida

Florida has reported 42 cases of infants born alive after an abortion: four in 2015,²⁰ 11 in 2017,²¹ six in 2018,²² two in 2019,²³ seven in 2020,²⁴ four in 2021,²⁵ and eight in 2022.²⁶ Florida's reports do not say what happened to the babies after they were born.

Indiana

Indiana requires all physicians who perform a surgical abortion to report whether the child was delivered alive and if the physician "gave the fetus the best opportunity to survive." As of 2021, Indiana has reported 26 cases of infants born alive after an abortion.²⁷

Michigan

Michigan reports on whether there are signs of life after a failed abortion. So far, Michigan has reported 84 such cases, the most of any state.²⁸ Since 2006, Michigan has reported 17 such cases.²⁹

Minnesota

Minnesota has reported 24 cases of infants born alive after an abortion: five in 2015,³⁰ five in 2016,³¹ three in 2017,³² three in 2018,³³ three in 2019,³⁴ and five in 2021.³⁵ Minnesota also reports on what type of treatment was administered but does not state at what gestational age each child was born.

Ohio

In 2021, Ohio passed legislation requiring the number of infants who survive abortion to be reported. These numbers have not been publicly reported as of yet.

Oklahoma

In two years, 2015³⁶ and 2017,³⁷ Oklahoma's annual abortion surveillance report indicated that there had been cases in which an infant was born alive. However, it did not report an exact number due to confidentiality. So, it is assumed that at least one infant survived an abortion in each of those years. Oklahoma also has a law protecting unborn children from the moment of conception.

South Dakota

In 2021, South Dakota passed legislation requiring the number of infants who survive abortion to be reported to the state's Department of Health.³⁸

Texas

Texas has included reporting on infants who survive abortion since 2013, but in 2019, the state strengthened its enforcement of born-alive protections.³⁹ So far, Texas has report 12 cases of infants born alive after an abortion: five in 2018, six in 2019, and one in 2021.⁴⁰

Aren't There Already Laws in Place to Prevent Infanticide?

Currently, there is no federal criminal statute against taking the lives of born-alive infants; criminal charges are applied at the state level. There are also no federal requirements for abortionists to provide medical care to infants who survive abortions, nor are there any criminal penalties for neglecting to give care to these babies.

In 2002, Congress did pass the Born-Alive Infants Protection Act, but this law was only a definitional change stating that all infants who survive an abortion are full persons under the law.⁴¹ There has not been a single federal prosecution brought against an abortionist since this law was passed, even though state records prove that at least 245 children have been born alive following abortions in the United States.

At present, if an infant is killed after birth, it would be a crime of infanticide if reported. However, if the practitioner fails to render care to an infant who survives the abortion and dies as a result, the practitioner is not guilty of anything. The Born-Alive Abortion Survivors Protection Act currently being deliberated in Congress seeks to change this by requiring active-duty medical practitioners to treat infants who are born alive after an abortion.

Thirty-eight states currently have some form of born-alive protections.⁴² If the federal law passed in 2002 was adequate in protecting infants who survive abortion, then 38 states would not have passed their own born-alive laws to expand on the federal protections.

However, among the 38 states with their own born-alive laws, only 18 have the key components of the federal Born-Alive Abortion Survivors Protection Act,⁴³ leaving 32 states that do not adequately protect the lives of infants who survive abortion. That is why the federal law adding enforcement tools to prosecute doctors who deny life-saving medical care to infants who survive abortion is necessary.

Shouldn't It Be Up to the Doctor, Not Politicians, to Determine the Best Way to Treat a Born-Alive Infant?

The Born-Alive Abortion Survivors Protection Act does not prescribe specific medical procedures that doctors must perform. In fact, the language specifically reads: “Any health care practitioner present at the time the child is born alive shall 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.”⁴⁴ Simply put, the bill prohibits doctors from discriminating against newborn patients because they were born following an abortion.

The bill also requires that the child be rushed to the nearest hospital. Many contend that moving an infant who survives an abortion to the nearest hospital might not be the best medical practice, but it is critical that the born-alive infant be moved to a hospital because not all abortion clinics have the necessary equipment or trained staff to provide the necessary care. Also, it would likely not be in the child's best interest to have the abortionist, who moments before was trying to kill the child, be the one providing life-saving care.

What Actually Happens to a Child Born Alive Following an Abortion?

Abortionists are not federally required to report born-alive infants or what they do with the child after birth. This lack of accountability subjects newborn abortion survivors to the whims of someone who was previously trying to end their life. In some cases, the only evidence of an illegal partial-birth abortion or that an infant was killed after surviving an abortion are from discovered remains.

In March 2022, pro-life activists with Progressive Anti-Abortion Uprising obtained a box containing fetal remains from a whistleblower outside of the Washington Surgi-Clinic in Washington, D.C., which is operated by notorious late-term abortionist Cesare Santangelo.⁴⁵ Despite public outcry and evidence that five of the children's bodies displayed wounds indicative of a partial-birth abortion or

being left to die after surviving an abortion, the D.C. medical examiner refused to conduct an autopsy on the “D.C. Five.” Although 18 states have laws requiring that medical care be given to children who survive abortions, D.C. and the remaining 32 states do not.⁴⁶

The atrocities committed against the D.C. Five are not the only widely publicized instance of born-alive infants being murdered. Philadelphia abortionist Kermit Gosnell’s 2013 trial revealed what was being done to babies born alive in his facility:⁴⁷

- “One employee testified in the trial that she witnessed Gosnell snip the necks of more than 30 babies.”
- “A 28-week-old baby boy was found frozen in a gallon water bottle.”
- “One of the babies was reportedly moving and breathing for 20 minutes before an employee cut the spinal cord.”
- “Gosnell severed the spine of one breathing, moving, born-alive baby and put the body in a plastic shoebox for disposal.”
- “When authorities searched Gosnell’s office, they found bags and bottles holding aborted fetuses scattered throughout the building.”
- Many other horrific details were brought as evidence before a grand jury.⁴⁸

Houston-area abortionist Douglas Karpen’s alleged actions were just as disturbing:⁴⁹

- Karpen’s ex-assistant, Deborah Edge, testified that “When he did an abortion, especially an over 20-week abortion, most of the time the fetus would come completely out before he either cut the spinal cord or he introduced one of the instruments into the soft spot of the fetus in order to kill it ... or actually twisting the head off the neck with his own bare hands.”
- “In 2012, Operation Rescue began acquiring evidence against Karpen from his former employees. That evidence included photographs depicting the bodies of two infants that were clearly in their third trimester of pregnancy, which were said to have been aborted by Karpen. Those photos were provided directly to Operation Rescue in November 2012, by the former

Karpen employee who took them with her cell phone. They depicted wounds that could not have occurred while the baby was still inside the womb.”⁵⁰

- Unfortunately, a Texas grand jury cleared Karpen of any wrongdoing, saying they could find “no evidence of criminal behavior.”⁵¹ However, the evidence gathered at the Karpen trial was handed over to the House Select Investigative Panel on Infant Lives, where the findings were so egregious that on December 7, 2016, they referred allegations of the Karpen case to the U.S. Department of Justice for investigation.⁵²
- As of May 11, 2018, the investigation of Karpen has been “forwarded to the FBI Houston field office for ‘any action deemed necessary’ related to the murder of killing babies after failed abortions.”⁵³

Two Personal Accounts of Abortion Survivors

Gianna Jessen

Gianna had been in the womb for seven months before her mother went to a Planned Parenthood facility for a late-term saline abortion.⁵⁴ (Saline abortions rarely, if ever, happen anymore in the United States for abortions up to 24 weeks gestation. This technique has been replaced with an equally gruesome one that dismembers a child limb from limb, known as a dilation and evacuation, or “D&E.”⁵⁵) Saline abortions use a saline solution to poison the baby, which burns them inside and out, even burning off the outer layer of their skin. The child suffers in these conditions for over an hour until their demise, and the mother must deliver her dead child the next day.

But Gianna was delivered alive, and because the abortionist was not in the office yet, a nurse called an ambulance to transport her to the hospital. “Had [the doctor] been there, he would have ended my life with strangulation, suffocation, or leaving me to die without a thought,” she says.⁵⁶

Gianna was diagnosed with cerebral palsy due to oxygen deprivation in the abortion attempt. But she knows she shouldn't be alive at all: "I was being literally burned alive in my mother's womb for 18 hours. I should be blind, burned, and dead."⁵⁷

Melissa Ohden

Melissa's biological mother also had a saline abortion, which Melissa survived.⁵⁸ After being born alive, it was found that she was seven months old and weighed two pounds. When the saline abortion was over, she was discarded, but a nurse heard her crying from the medical waste.⁵⁹ Two nurses intervened and rushed her to the neonatal intensive care unit. Years later, when Melissa located these nurses to thank them for saving her life, they told her that "she kept 'gasping for breath' and decided [they] couldn't just leave her."⁶⁰

Today, Melissa is a pro-life advocate with a master's degree in social work and is the founder of the Abortion Survivors Network (ASN).

There was no legal or medical requirement to resuscitate Melissa or Gianna. They survived simply because someone acted with compassion. Many abortion survivors are not so fortunate.

Conclusion

The Born-Alive Abortion Survivors Protection Act is not a bill to restrict abortion. It is legislation to protect infants who have already been born alive. In this situation, a child has now become the patient.

Because the vast majority of states do not require reporting on born-alive abortion survivors or require that they receive medical care, cases like the D.C. Five are not prosecuted. We must decide as a country where we stand on this issue: to either pursue humane protections for those most vulnerable in our society or continue to subject newborns to the whims of abortionists.

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