



# Born-Alive Abortion Survivors Protection Acts

### KEY POINTS

An infant's **right to lifesaving medical care** should not depend on the circumstances of his or her birth.

As of 2020, at least **203 infants** in five states are known to have been born alive following an abortion attempt.

Born-Alive Abortion Survivors Protection Acts require practitioners to exercise **professional skill, care, and diligence** to preserve the life of infants who survive abortion, providing the same standard of care that they would provide to any other infant born at the same gestational age.

**F**amily Research Council strongly supports Born-Alive Abortion Survivors Protection Acts, legislation that ensures that infants who survive abortion receive the same standard of medical care that would be rendered to any other newborn.

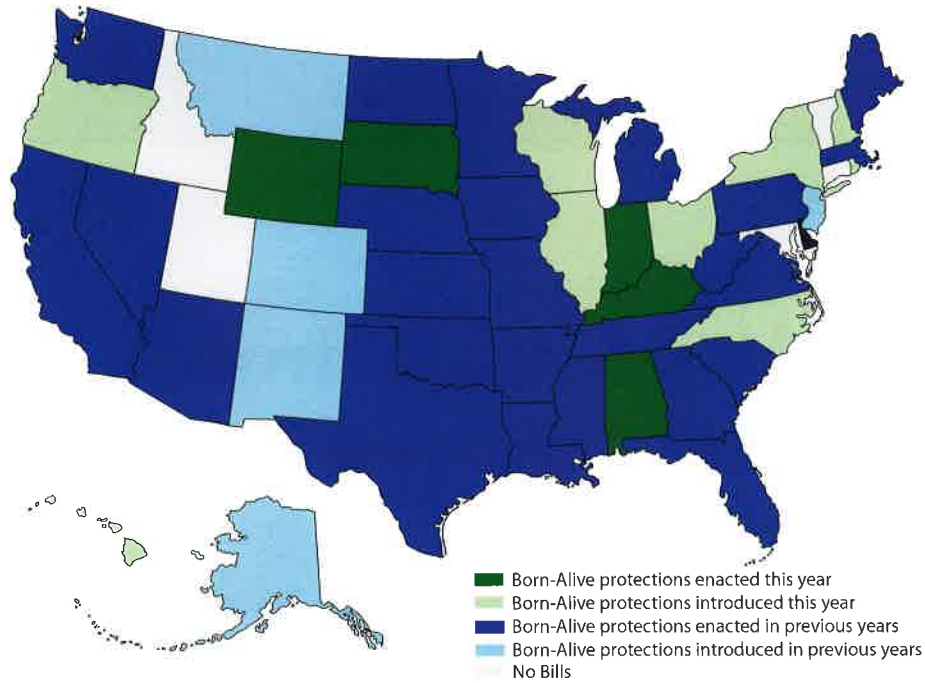
The fact that abortion survivors exist is becoming much more widely known. As of 2020, at least 203 infants in five states are known to have been born alive following an abortion attempt.<sup>1</sup> As of 2021, only nine states require any sort of reporting of these cases and not all share the collected data publicly. Therefore, concrete statistics are difficult to find, but anecdotal evidence (such as the trial of infamous abortionists Kermit Gosnell, the undercover video expose of Planned Parenthood, and the callous argument of Virginia Governor Ralph Northam) suggests that the actual number of abortion survivors in the United States is likely much higher.

An infant's right to lifesaving medical care should not depend on the circumstances of his or her birth. Given the setting of their birth, infants born alive after a failed abortion are extremely vulnerable and need legal protection against intentional harm or neglect. Although infants surviving a failed abortion are recognized as full persons under the federal *Born-Alive Infants Protection Act* of 2002, the law lacks concrete ways to hold abortionists and medical professionals accountable for killing or denying medical care to infants. Because existing federal law falls short of adequately protecting abortion survivors, state-level laws are needed.

Currently, 36 states have laws offering at least some explicit protections for infants who survive abortions. However, only 18 of these states have what can be described as strong protections for abortion survivors.<sup>2</sup> And in 2019, Illinois and New York actually *removed* their protections for abortion survivors. Clearly, stronger protections are needed. A 2019 poll shows an overwhelming majority of Americans (77 percent) support legislation to ensure abortion survivors receive the same standard of medical care that would be rendered to any other child born alive at the same gestational age.<sup>3</sup> This includes 75 percent of women and 70 percent of Democrats.

This strong support has motivated legislators across the country to take action, and the number of state-level Born-Alive bills being introduced has increased dramatically in recent years. From 2015-2018, an average of five bills were introduced every year. This rose to 28 in 2019, 33 in 2020, and 37 in 2021. Over a six-year period, the number of Born-Alive Abortion Survivors Protection Acts introduced in a single year rose by 700 percent. 2021 has set the record for enacted bills with five being signed into law in Alabama, Montana, Wyoming, South Dakota, and Kentucky.

## Born-Alive Protections



**Legislative Intent:** Born-Alive Abortion Survivors Protection Acts require practitioners to exercise professional skill, care, and diligence to preserve the life of infants who survive abortion, providing the same standard of care that they would provide to any other infant born at the same gestational age. These bills affirm the dignity and humanity of abortion survivors by explicitly stating that infants who survive abortions have the same right to medical care as any other infant born alive and requiring that it be given to them. Because many abortion facilities lack the equipment or staff to care for newborn infants, these bills require the hospitalization of the surviving infant and/or that a physician be present during the abortion whose role is to provide medical care in the event that the infant is born alive. Due to a lack of required reporting, in most states it is currently impossible to determine the number of infants who survive abortion. And in many states, abortionists and medical professionals can decide how to proceed when an infant is born alive, with no sanctions in federal law for failing to provide care. Born-Alive Abortion Survivors Protection Acts fill this legal gap by requiring the reporting of the number of infants who survive abortion and imposing penalties for the failure to administer necessary medical treatment.

### Key Provisions:

- Requires practitioners to **exercise professional skill, care, and diligence** to preserve the lives of infants who survive abortion.
- States that infants who survive abortions have the **same right to medical care as any infant born alive**.
- Provides a **health care requirement (providing for hospitalization of the surviving infant and/or requiring the presence of a physician dedicated to the infant's care if born alive)**.
- Provides a **penalty for noncompliance**
- Requires **reporting the number of infants who survive an abortion**.

1 <https://downloads.frc.org/EF/EF19E62.pdf>

2 <https://frc.org/bornalivemap>

3 <https://www.sba-list.org/newsroom/press-releases/poll-77-percent-voters-want-congress-protect-babies-born-alive>