



Born Alive Abortion Survivors' Protection Act (Bill S.1696-Helming/A.3601-Manktelow)

Memorandum of Support

Bill S.1696-Helming/A.3601-Manktelow, the Born Alive Abortion Survivors' Protection Act, would reinstate and strengthen legal protections for infants born alive as a result of abortion procedures.

Prior to the enactment of the Reproductive Health Act (RHA) in 2019, Public Health Law § 4164(2) declared that a viable infant born alive following an abortion performed after 20 weeks' gestation was entitled to "immediate legal protection under the laws of the state of New York..." The RHA repealed this statutory section.

The Born Alive Abortion Survivors' Protection Act (BAASPA) would require health care practitioners to use the same degree of care in treating born-alive abortion survivors that they would use in treating other babies born at the same gestational age. Specifically, the bill would require a practitioner to ensure that a born-alive abortion survivor is immediately admitted to a hospital. The legislation would also mandate that practitioners report violations of its provisions to law enforcement. Under BAASPA, a person who takes the life of a born-alive abortion survivor could be charged with second-degree murder.

Significantly, BAASPA states that "the mother of a [born-alive abortion survivor] may not be prosecuted" for violating its provisions. Rather, the bill would allow the mother of a born-alive abortion survivor to sue a practitioner for failing to provide due care following her infant's birth, or for failing to ensure that her baby was immediately admitted to a hospital.

The Born Alive Abortion Survivors' Protection Act is a common-sense measure that should receive widespread bipartisan support in the New York State Legislature. Regardless of one's position on the abortion issue, New Yorkers should agree that every infant—regardless of the circumstances surrounding his or her birth—is entitled to medical care.