



T E X A S  
**Alliance for Life**

**Testimony of Joe Pojman, Ph.D.  
Executive Director, Texas Alliance for Life  
Senate Health and Human Services Committee  
March 19, 2019**

My name is Dr. Joe Pojman, executive director of Texas Alliance for Life. Texas Alliance for Life is a statewide organization of people committed to protecting innocent human lives from conception to natural death using peaceful, legal means.

We strongly support SB 23 by Senator Kolkhorst. This bill addresses cases when a child is born alive after an abortion.

**The Need for SB 23**

When a physician performs an abortion, and the baby survives that abortion, the physician and the medical personnel have three options.

First, they will take action to end the life of that child. Some would argue that they have that right or even an obligation because ending the life of the child is the intent of the abortion.

We disagree, and so does Texas law. That child has a right to life that must be protected. The fact that the child is in some sense not wanted does not diminish that fact. Taking the life of a newborn child, regardless of the circumstances that resulted in that birth – even abortion – is an offense of homicide under Chapter 19 of the Penal Code.

Second, they will treat the newly born baby with the dignity and respect due to any newly born baby at that stage of development. This, in our view is the only moral option, and it should be the only legal option. If the child is viable, they will do everything medically appropriate to help that baby continue to live outside the mother's womb. If the child has not yet achieved viability, or suffers from a severe fetal

abnormality, and medical science cannot save the baby's life, then they will offer comfort care in a dignified manner as the baby dies.

Third, the physician and medical staff will simply neglect the newborn child – regardless of whether the child has achieved viability or not – and stand by while the baby dies. This option, in our view, is morally repugnant and should have legal consequences associated with it. That is what SB 23 will do.

## **Legislative Background**

In 1995, the Legislature recognized that a child born after an abortion has the same rights and privileges as any other child born alive. (Sec. 151.002, Family Code). It allowed a petition for custody of a child born alive after an abortion to be granted (Sec. 161.006, Family Code). And it authorized DFPS to assume the custody of a child born after an abortion (Sec. 262.006, Family Code).

However, the Legislature created no criminal or civil liability for a physician who fails to render appropriate medical care to a child born alive after an abortion.

The federal Born-Alive Infant Protection Act (“BAIPA” Pub.L. 107–207, 116 Stat. 926, enacted August 5, 2002, 1 U.S.C. § 8) passed by the Congress in 2002 has the same deficiency – no criminal or civil liability.

Hence the need for SB 23.

## **Cases of Babies Born Alive after Abortion**

Babies *are* born alive after abortion, and many are viable.

You have heard about Claire Culwell, a resident of Austin. She survived an abortion in 1987.

Carrie Fischer, a resident of Houston, survived an abortion in 1968. She cannot be here today although she very much wants to be. She asked that I distribute her written testimony.

Melissa Ohden who resides in Kansas City, MO, survived an abortion in 1977. When she discovered she is not alone, she created the Abortion Survivors Network and has identified hundreds of people like her, include six in Texas. She wished to be here and cannot, but I have included her written testimony.

She writes:

Passage of SB 23 will ensure that the fate of survivors like me or the 279 survivors that I've connected with through my ministry, The Abortion Survivors Network, aren't left in the hands of their abortionist or the "luck of the draw" in what medical professional is working that day.

We thank you for your consideration of this critically important bill.