16/3/2023

Committee Secretary
Senate Standing Committees on Community Affairs
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Canberra ACT 2600

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Dear Secretary

SUBMISSION

Inquiry into the Human Rights (Children Born Alive Protection) Bill 2022

Please find attached submission prepared by The Right to Life Australia Inc. for the Inquiry into the Human Rights (Children Born Alive Protection) Bill 2022.

Yours sincerely

Margaret Tighe
PRESIDENT

Human Rights (Children Born Alive Protection) Bill 2022

Submission: The Right to Life Australia Inc.

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Dear Committee

Introduction

The following submission is in response to the Senate referring the Human Rights (Children Born Alive Protection) Bill 2022 to the Community Affairs Legislation Committee for inquiry and report by 1 July 2023.

Proposed legislation affording the right to life of a baby born alive after an abortion is based on evidence that such occurs. It is difficult to accept a baby is left alone to die without medical or nursing care.

In the USA, New Zealand and the UK there has been evidence from nursing and medical staff that such babies are born alive and left to die.

Our submission outlines babies born alive after an abortion occurs in Australia and the unacceptable practice of leaving a baby to die must be stopped.

A child born alive after an abortion (irrespective of being “pre-viable’’ or “unwanted’’) must be accorded the same rights and protections as any other “person”, “human being”, “child”, or “individual” i.e. as any other Australian.

Dr William Cates, formerly Chief of Abortion Surveillance for the Centre for Disease Control in Atlanta USA said of live births of babies after abortion:[1]

[1] https://www.govinfo.gov/content/pkg/GPO-CHRG-OCONNOR/pdf/GPO-CHRG-OCONNOR-5-5.pdf

> "They are little known because organized medicine, from fear of public clamour and legal action, treats them more as an embarrassment to be hushed up than a problem to be solved.
>
> "It's like turning yourself in to the IRS[2] for an audit."

and

> "What is there to gain? The tendency is not to report because there are only negative incentives."

To address the need to accord the same rights and protections to a baby born alive after an abortion as any other child, Senators Matt Canavan, Alex Antic and Ralph Babet introduced the Human Rights (Children Born Alive Protection) Bill 2022 [3] on Wednesday 30 November 2022 – the bill being described as "A Bill for an Act to protect children born alive (including as a result of terminations), and for related purposes."

The explanatory memorandum states "The purpose of this bill is to enhance Australia's human rights protections for children by ensuring that all children are afforded the same medical care and treatment as any other person, including those born alive as a result of a termination."[4]

In the second reading of the bill, Senator Canavan stated:

> "The Human Rights (Children Born Alive Protection) Bill 2022 seeks to place a duty of care on medical practitioners to provide exactly the same medical care and treatment to a child born alive as a result of an abortion as they would a child born in any other circumstances. Breaching that duty would incur a penalty and there is a new obligation for medical practitioners to report to the Federal Department of Health on children born alive as a result of abortions."

[2] Internal Revenue Service https://www.irs.gov/

[3] 22S1620.pdf;fileType=application/pdf (aph.gov.au)
[4] EM_22S16.pdf;fileType=application/pdf (aph.gov.au)

(1) Are live births of babies after abortion occurring in Australia?

Yes.

Evidence of live births after abortion occurring in Australia is found in research publications, Coroners' findings, Questions on Notice in State parliaments, state government statistics, health department policy manuals, media reporting and other informal communications.

[a] Research Publications:

In October 2022, the Medical Journal of Australia published research titled *"Feticide and late termination of pregnancy: an essential component of reproductive health care*" [5] and documents the existence of live births during abortions and techniques used to prevent live births.

Author and abortionist Professor Caroline de Costa states the following:

> "*Termination of pregnancy during late gestation is distressing for the parents and can also be challenging for medical and midwifery staff, particularly if the infant shows signs of life after birth.*
>
> *For this reason, it is now common practice to offer parents seeking terminations from 22 weeks' gestation (and sometimes earlier) feticide by intra-cardiac injection of potassium chloride, with ultrasound scanning control, to ensure stillbirth. These procedures and associated decisions are not well understood by the general public and not widely discussed even in the medical literature".*

Further, Dr de Costa's Submission No. 116 received 22 June 2016 to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, Parliament of Queensland Re: Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016 confirms the live births of babies after abortion – who are "provided with whatever is needed to allow him or her to pass away without distress or pain."[6]

> "Infants born at less than 22 weeks do not breathe, cry or show distress. These babies cannot survive – they are too premature. If these babies are born with a heartbeat, they are kept warm and in contact with parents if that is desired, and they are treated with the same respect as any baby born spontaneously at this time in pregnancy.

[5] "Feticide and late termination of pregnancy: an essential component of reproductive health care" Med J Aust 2022; 217 (8): . || doi: 10.5694/mja2.51727
[6] https://documents.parliament.qld.gov.au/com/HCDSDFVPC-48D8/RN2455PALR-B2BE/submissions/00000116.pdf

> In some cases, termination of pregnancy may be indicated after 22 weeks of pregnancy, in situations where the baby has severe and significant abnormalities which have not been diagnosed earlier.
>
> In these situations, the mother is usually offered medication to allow the baby to pass away peacefully before birth. In situations where this is not done, and the baby is born alive, the baby is provided with whatever is needed to allow him or her to pass away without distress or pain."

There is a contradiction in the provision of warmth and physical connection to a baby born alive after an abortion. These are both fundamental needs for human survival. Surely by doing do so is an acknowledgement of the human rights of the child.

[b] Coroner Findings on death of Jessica Jane [2000] NTMC 37, [12] (10 April 2000)

Extract from the NT Coroner's judgment

An example of a baby born alive after an abortion in Darwin is described in Northern Territory Coroner Greg Cavanagh's inquest into and findings on the death of Jessica Jane [2000] NTMC 37, [12] (10 April 2000).[7]

Jessica Jane was born alive and placed on a metal kidney dish in an empty room for approximately 80 minutes until she died. According to Nurse Williams who delivered her, Jessica Jane, although premature, was apparently healthy, had no apparent abnormalities and her vital signs were relatively good. Nurse Williams weighed the baby and she was 515 grams.

She called the doctor who had authorised the abortion to inform him of the live birth and that the baby's Apgar scores were strong. According to the Coroner, the doctor gave no instructions to give the baby any medical care, and the baby was left to die. She checked on Jessica Jane every 10-15 minutes and observed crying and movement. According to the Coroner's report, "after about an hour her heartbeat and breathing slowed until death occurred".

Greg Cavanagh [Northern Territory Coroner]'s findings published on 10 April 2000 concluded:

- In my view the "moral dilemma" faced by Nurse Williams is not just something for medical practitioners and health professional to consider and deal with. The public have a right to be informed and take part in any debate.
- The coronial process is the means by which they are informed.
- This is why it is important that these kinds of deaths be reported to the Coroner.
- The evidence established that the deceased was fully born in a living state. In the 80 minutes of her life she had a separate and independent existence to her mother. In my view, it is important to not let semantics confuse the matter.

[7] https://justice.nt.gov.au/__data/assets/pdf_file/0017/206702/baby-j.pdf

- The deceased was not and should not be described as a "foetus", an "aborted foetus", an "abortus", a "living foetus" or a "living abortus", "nonviable foetus", "live neonate" or anything else that diminishes her status as a human being.
- Similarly, the purpose of the induction procedure (which was to abort the delivery of a live baby) should not be allowed to diminish her status as a human being.
- Her life was unexpected and her death was inevitable. However, the first half of this description could be applied to many of us, and the second half to all of us.
- The deceased having been born alive deserved all the dignity, respect and value that our society places on human life.
- In my view, the fact that her birth was unexpected and not the desired outcome of the medical procedure, should not result in her, and babies like her, being perceived as anything less than a complete human being.
- Similarly, the fact that her death was inevitable should also not have the same result. The old, the infirm, the sick, the terminally ill are all entitled to proper medical and palliative care and attention.
- In my view, newly born unwanted and premature babies should have the same rights.
- The fact that her death was inevitable should not affect her entitlement to such care and attention.

[c] Questions in State Parliament:

[i] WESTERN AUSTRALIA:

The evidence of the existence of live births after abortion was confirmed after a Question On Notice was directed to the Parliamentary Secretary representing the Minister for Health in Western Australia and asked in the Legislative Council on 11 May 2017 Parliament: 40 Session: 1 by Hon Nick Goiran MLC. [8]

The Western Australian government confirmed the existence of 27 live births of babies after abortion between July 1999 and December 2016 and confirmed there was no record of medical attention or resuscitation in these cases.

Mr Goiran's question included:

(2) I refer to the cases of babies who show signs of life after an abortion procedure, and I ask:
(a) what is the total number of these cases between 20 May 1998 and 31 December 2016;
(d) in how many of these cases was medical intervention or resuscitation provided?
The Department of Health responded:
(2)(a) As at 19 May 2017, a total of 27 cases of abortion procedures resulting in a live birth have been reported between July 1999 and December 2016.

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8 www.parliament.wa.gov.au/parliament/pquest.nsf/Parliament/pquest.nsf/SrchQON/6E7CBF396BE4C7984825811D001A570E?opendocument

(2)(d) In Department of Health routine data collections, there is no record of medical intervention or resuscitation in these cases.

Subsequently, Hon Nick Goiran MLC wrote to the Western Australian Coroner and reported the deaths of the live births after abortion.

> "On 15 June 2017 Parliament was told that there had been 27 cases of abortion procedures resulting in a live birth between July 1999 and December 2016. Disturbingly, it was also disclosed that there was no record of medical intervention provided in any of these cases of live births and that these 27 babies subsequently died.
>
> I respectfully urge you to undertake an Inquiry into the deaths of these 27 Western Australian babies who despite being entitled to medical attention did not receive any and subsequently died. It is disturbing that these deaths, despite being clearly reportable, have not been reported.
>
> Medical staff should be aware of their obligations under the law to provide medical attention to these babies regardless of the circumstance of their birth and their obligations under the Coroner's Act to report any unexpected deaths."[9]

[ii] QUEENSLAND

On 14 July 2020, Dr Mark Robinson asked Deputy Premier and Minister for Health and Minister for Ambulance Services (HON DR S MILES) – a Question on Notice No. 685.[10]

QUESTION:

> "With reference to the state's abortion data for the period 2018-19 and the Minister's answer to Question on Notice No. 13 of 2020 confirming that the work to 'validate data from the period December 2018 until June 2019 was completed in February 2020'—
>
> Will the Deputy Premier provide all validated data for 2018 and 2019 as outlined in Question on Notice No. 1904 of 2019 particularly but not limited to
>
> (a) how many terminations have been conducted (i) within 0-22 weeks gestation, (ii) past 22 weeks' gestation and (iii) in 'Live-birth events/outcomes' and
>
> (b) the reason for termination (by category or equivalent – e.g. congenital abnormality, maternal psycho-social factors etc.), reported separately per reporting period (monthly, quarterly) and site category (public hospitals, private hospitals and Marie Stopes Clinics)?

[9] https://parliament.wa.gov.au/publications/tabledpapers.nsf/displaypaper/4011873ce23df6cd9f5528584825830e000cf73e/$file/tp-1873.pdf

[10] https://documents.parliament.qld.gov.au/tableOffice/questionsAnswers/2020/685-2020.pdf

ANSWER:

In relation to Queensland Parliament Question on Notice No 685

(a) (iii) live born babies after abortion

The following figures were provided:

Termination of Pregnancy(a) resulting in livebirths by outcome and gestation weeks for admitted patients by sector in public and private facilities[(b)], Queensland for the period 3 December 2018 to 30 June 2019[(c) (d)]

Sector	Status	0-22 weeks	23+weeks	Total
Public	Liveborn	17	2	19
Private	Liveborn	0	0	0

(b) Based on hospital of termination. (c) Excludes events (primarily early gestation terminations) where termination is managed in primary care, and the mother is not admitted to a hospital. (d) Period/month based on discharge date.

[d]State Reporting of Perinatal Deaths

[i] EXAMPLE: STATE of VICTORIA:

Victorian Government Victorian Consultative Council on Obstetrics and Paediatric Morbidity and Mortality [CCOPMM] reports refer to live births of babies after abortion in annual reports on perinatal deaths.

Perinatal deaths and crude and adjusted perinatal mortality rates Victoria, 2003 – 2017 reference (a) reads:

> "Live births include babies born alive who died soon after, following termination of pregnancy for congenital anomalies or induction of labour for other fetal conditions".[11]

Consultative Council on Obstetric and Paediatric Mortality and Morbidity

Table 5.2: Perinatal deaths and crude and adjusted perinatal mortality rates in Victoria, 2003 - 2017

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Number															
Livebirths [a]	63,028	63,082	66,041	69,229	71,780	71,843	72,474	73,755	73,389	77,712	77,609	78,438	78,637	80,233	79,090
Stillbirths	521	610	599	607	672	682	767	738	705	659	712	672	633	626	641
Neonatal deaths	237	207	247	227	241	215	226	235	223	210	241	231	189	213	201
Perinatal deaths	758	817	846	834	913	897	993	973	928	869	953	903	822	839	842
PMR Crude (per 1,000 births [b,c])															
Stillbirth	8.2	9.6	9.0	8.7	9.3	9.4	10.5	9.9	9.5	8.4	9.1	8.5	8.0	7.7	8.0
Neonatal	3.8	3.3	3.7	3.3	3.4	3.0	3.1	3.2	3.0	2.7	3.1	2.9	2.4	2.7	2.5
Perinatal	11.9	12.8	12.7	11.9	12.6	12.4	13.6	13.1	12.5	11.1	12.2	11.4	10.4	10.4	10.6
Number adjusted [d]															
Live births	63,028	63,082	66,039	69,229	71,780	71,843	72,474	73,755	73,389	77,712	77,609	78,437	78,637	80,233	79,090
Stillbirths	418	413	421	457	508	504	553	547	522	527	533	526	526	501	501
Neonatal deaths	237	207	245	227	241	215	226	235	223	210	241	230	189	213	201
Perinatal deaths	655	620	666	684	749	719	779	782	745	737	774	756	715	714	702
PMR Adjusted (per 1,000 births [b,c])															
Stillbirth	6.6	6.5	6.3	6.6	7.0	7.0	7.6	7.4	7.1	6.7	6.8	6.7	6.6	6.2	6.3
Neonatal	3.8	3.3	3.7	3.3	3.4	3.0	3.1	3.2	3.0	2.7	3.1	2.9	2.4	2.7	2.5
Perinatal	10.3	9.8	10.0	9.8	10.4	9.9	10.7	10.5	10.1	9.4	9.9	9.6	9.0	8.8	8.8

[a] Live births include babies born alive who died soon after, following termination of pregnancy for congenital anomalies or induction of labour for other fetal conditions.
[b] Stillbirth and perinatal death rates were calculated using total births (live births and stillbirths) as the denominator.
[c] Neonatal death rates were calculated using live births as the denominator.
[d] Births and deaths excluding those arising from termination of pregnancy for maternal psychosocial indications (MPI)
From 2000 onwards CCOPMM commenced reporting in the ≥ 400 gm / ≥20 w range: prior to this time (1980 -1999) CCOPMM reported only on ≥500 gm / ≥ 22 w
Minor changes may occur in this table from previous years as the database is continually updated and further information becomes available
PMR - perinatal mortality rate

[11] https://www.safercare.vic.gov.au/sites/default/files/2019-05/Mother%27s%20Babies%20and%20Children%20Report%202017_FINAL-WEB.pdf

[e] State Policy Documents

[i] AUSTRALIAN CAPITAL TERRITORY

Canberra Hospital and Health Services – Clinical Guideline – Termination of Pregnancy (TOP), Miscarriage or Fetal Death Management **21/11/2017** states:

> "All terminations where the fetus is of greater than 20 weeks gestation are to be registered. **Those that show signs of life are to be registered as a neonatal death** otherwise the birth will be registered as a stillbirth."

[ii] QUEENSLAND

- **Queensland Perinatal Data Collection**

The Perinatal Data Collection (QPDC) collects information on all births in Queensland. The collection provides information for research into obstetric and neonatal care and for monitoring of neonatal morbidity and congenital anomalies.

The Public Health Act 2005[12] Part 1 – Division 1 - Perinatal Statistics - includes a requirement that perinatal data (via Perinatal Data Collection Form MR63D) for all births be provided to the Chief Executive of Department of Health in Queensland. The scope of the Collection includes all live births, and stillbirths of at least 20 weeks gestation and/or at least 400 grams in weight.

The Queensland Perinatal Data Collection (QPDC) Manual 2021-2022 Version 1.0[13] is a reference for all public hospitals, private hospitals, and private midwifery or medical practitioners who deliver babies outside hospitals, as well as Hospital and Health Services and Department of Health personnel who are involved in the collection and use of perinatal data.

The Manual states under section 4.9 Female - total number of previous pregnancies

> "Note, that in the case of medical abortion or termination of pregnancy where gestation is 20 weeks or greater and/or birthweight 400 grams or greater, **the pregnancy should be recorded as determined by the outcome (i.e. live birth or stillbirth)."**

[12] https://www.legislation.qld.gov.au/view/whole/html/inforce/current/act-2005-048

[13] https://www.health.qld.gov.au/__data/assets/pdf_file/0019/1051741/qpdc-manual-2122-v1.0.pdf

- **Queensland Health Termination of Pregnancy Guidelines**

"Do not provide life-sustaining treatment (e.g. gastric tubes, IV lines, oxygen therapy)" [regarding a live birth of baby who survives an abortion]. [14]

• Establish local procedures for the management of live birth.
• Offer counselling and support services to women, partners and healthcare professionals involved with care of a live born fetus.

• If a live birth occurs:
• Support the women's wishes and preferences
• Handle baby gently and carefully and wrap to provide warmth.
• Offer opportunities to engage in care provision (e.g. cuddling/holding) as desired
• Do not provide life-sustaining treatment (e.g. gastric tubes, IV lines, oxygen therapy)
• Provide sensitive emotional support and reassurance to parents throughout the process and afterwards
• Document date and time end of life occurs.

[f] Telephone Communication from hospital midwives to Right to Life Australia – 2013:

Right to Life Australia received a telephone call in 2013 from a distressed midwife who worked in a hospital in Melbourne and reported the live birth of a baby after an abortion.

The caller was a midwife and was rostered on duty in the ward where the abortion occurred.

The midwife advised the Nurse Manager she could not participate in the abortion and was re-rostered into "postnates and nurseries".

She said that doctors went in and out of the room (where the abortion was being performed) throughout her shift. Another midwife came out of the room and said the baby was "still kicking". The caller said she had since resigned from her position – moving to another hospital to work.

Another midwife spoke with our office, also about 2013, regarding a live birth of a baby after an abortion – in a named Melbourne hospital. As she objected to participating in the abortion, she was rostered into another area on that shift. She reported another nurse told her that the baby was wrapped and held by a family member.

[14] https://www.health.qld.gov.au/__data/assets/pdf_file/0029/735293/g-top.pdf

(2) How many live births after abortion occur in Australia?

Standardised documentation including statistics and details about the treatment of live births of babies after abortion in Australia is scarce. As the Human Rights (Children Born Alive Protection) Bill 2022 Explanatory Memorandum[15] explains:

> "Obtaining accurate figures in relation to babies born alive as a result of termination of pregnancy remains problematic due to differing guidelines between state jurisdictions and recording practices. However, state-based figures reveal that there are a number of cases where children are born alive as a result of terminations and have subsequently died."

Professor Joanna Howes, Professor of Law at the University of Adelaide, reports:

> "As data reporting requirements on abortion varies between states and territories, there is only limited publicly released information about when babies are born alive following an abortion. From this information and from media reports, we know of the following babies born alive and left to die:
>
> • 27 in Western Australia [July 1999 – December 2016]
>
> • 328 in Queensland [2010-2020]
>
> • 396 in Victoria [2010-2020]
>
> • 54 in South Australia [2007]
>
> • 1 in NSW
>
> • 1 in the Northern Territory
>
> These numbers are significantly less than the overall number of babies born alive following a failed abortion, given that only Queensland and Victoria publicly release fulsome data on babies born alive following a failed abortion. In the other state jurisdictions we only have an incomplete and anecdotal picture of how many babies born alive and left to die following an abortion." [16]

[15] EM_22S16.pdf;fileType=application/pdf (aph.gov.au)

[16] https://assets.nationbuilder.com/acl/pages/12865/attachments/original/1677482175/Dr_Joanna_Howe-Fact_Sheet-Babies_Born_Alive-FINAL.pdf?1677482175

(3) Overseas legislation protecting babies born alive after an abortion

The United States of America leads the way in legislating to ***protect babies born alive after abortion and reflects recognition of the unborn child as a person with rights.***

To date, 36 states in the USA have now enacted laws to protect babies born alive during an abortion.[17] Legislation to protect babies born alive after abortion has progressed both at state and federal level.

For example:

- **KENTUCKY** – a child born alive is treated as a citizen of the Commonwealth and granted a birth certificate. The child shall become a ward of the state if parents have stated in writing that they do not want the child if born alive. Civil and criminal penalties, disciplinary action, if failure to comply.
- **LOUISIANA** – another physician must be present during an abortion.
- **MAINE** – failure to take all reasonable steps when a baby is born alive during abortion, in keeping with good medical practice to preserve the life and health of the newborn, shall subject the responsible party or parties to Maine law governing homicide, manslaughter and civil liability for wrongful death and medical malpractice.
- **MICHIGAN** – the provider must provide immediate medical care to the newborn and request transfer of the newborn to an emergency room physician and the infant must be transferred to a hospital if an abortion is not performed in one.
- **MISSOURI** – the law requires a second physician to be in the room when an abortion is being performed on a viable unborn child. It is required that all physicians in the room take reasonable steps, in keeping with good medical practice consistent with the procedure used, to preserve the life or health of the viable child born alive.
- **OHIO**[18] – Senate Bill 157, called the "Born-Alive Infant Protection Act" mandates doctors report all instances in which a baby is born alive after an attempted abortion. It also prohibits clinics that perform abortions from working with doctors who teach at medical schools affiliated with state universities or other public institutions. The bill would require doctors to complete a "child survival form" or face a third-degree felony.

  See Ohio Department of Health Child Survival Form [Required Pursuant to OAC 3701.792(A) *Child survival form*.[19]

  See copy of the Child Survival Form [Appendix 1]

[17] https://www.nrlc.org/uploads/stateleg/BornAliveInfantsStateLaws.pdf

[18] https://odh.ohio.gov/health-rules-laws-and-forms/forms/hea-3041-child-survival-form

[19] Appendix 1

In addition to USA state legislation – the Born-Alive Abortion Survivors Protection Act H.R.26 [20] – introduced by Ann Wagner (R-MO) on 9 January 2023 passed the US House of Representatives on 11 January 2023 (220-201-1)[21].

The Act establishes requirements for the degree of care that a health care practitioner must provide in the case of a child born alive following an abortion or attempted abortion.

A health care practitioner who is present must (1) exercise the same degree of care as would reasonably be provided to any other child born alive at the same gestational age, and (2) ensure the child is immediately admitted to a hospital.

- A health care practitioner or other employee who has knowledge of a failure to comply with the degree-of-care requirements must immediately report such failure to law enforcement.

- A health care practitioner who fails to provide the required degree of care, or a health care practitioner or other employee who fails to report such failure, is subject to criminal penalties – a fine, up to five years in prison, or both.

- An individual who intentionally kills or attempts to kill a child born alive is subject to prosecution for murder. The bill bars the criminal prosecution of a mother of a child born alive under this bill and allows her to bring a civil action against a health care practitioner or other employee for violations.

[20] https://www.congress.gov/bill/118th-congress/house-bill/26/text
[21] https://www.congress.gov/bill/118th-congress/house-bill/26

Recommendations

The Right to Life Australia Inc. recommends the following be adopted:

1. A baby born alive after an abortion is afforded full federal protection of the law in Australia as applies to all citizens.
2. The Human Rights (Children Born Alive Protection) Bill 2022 is enacted to protect the lives and rights of babies born alive after abortions in Australia.
3. National protocols governing provision of medical care for a child born alive after an abortion including physical assessment and treatment activity are mandated.
4. Referral to the relevant state coroner for inquiry is mandatory for all babies born alive and who subsequently die after an abortion.
5. Standardised mandatory national data collection for all states and territories on numbers, gestational age and treatment of all babies born alive after abortions is collected, reported to Federal parliament and is publicly available.
6. If a baby born alive after an abortion, then subsequently dies, a medical practitioner- independent from the medical practitioner who carried out the abortion - is to certify the death of such a baby.
7. Auditing of public hospital and private abortion clinics is mandated to ensure legislation in relation to live births after abortion is complied with.

Conclusion

The Right to Life Australia Inc. restates our position that a baby born alive after an abortion has an inalienable right to life. The findings of Greg Cavanagh, Northern Territory Coroner – over 20 years ago - on the death of baby Jessica Jane reminds us of this urgent human rights issue in Australia which must be addressed.

> "The deceased was not and should not be described as a 'foetus', an 'aborted foetus', an 'abortus', a 'living foetus' or a 'living abortus', 'nonviable foetus', 'live neonate' or anything else that diminishes her status as a human being.
>
> "In my view, the fact that her birth was unexpected and not the desired outcome of the medical procedure should not result in her, and babies like her, being perceived as anything less than a complete human being." [22]

Australia must recognise and protect the life of all babies born alive after abortions as the latest British Medical Association – policy book (2021-2022 edition) Item 9 states: "…babies born alive as a result of termination of pregnancy procedures receive the same full neonatal care as that available to other babies." (Policy passed in 2004 and still current). [23]

[22] https://justice.nt.gov.au/__data/assets/pdf_file/0017/206702/baby-j.pdf

[23] https://www.bma.org.uk/media/4765/bma-policy-book-2021-2022-nov-2021.pdf

APPENDIX 1

USA State of Ohio, Department of Health Child Survival Form [Required Pursuant to OAC 3701.792 (A)]

Ohio | Department of Health

Child Survival Form

Ohio Department of Health
[Required Pursuant to OAC 3701.792(A)]

This form is to be completed by the attending physician who performed or attempted the abortion. By completing this form, you are acknowledging the child was born alive and a certificate of live birth will be created to record the event.

1. Date Abortion was Performed or Attempted (mm/dd/yyyy):_____

2. Gestational Age: Weeks:_____ Days:_____

3a. Facility where Abortion was Performed or Attempted: _____

3b. Address of Facility Street or Post Number): _____

City: _____ State:_____ ZIP Code: _____

4. Type of Facility (Check one):
☐Hospital ☐Ambulatory Surgical Facility
☐Physician's Office ☐Other (Please Specify): _____

5. Patient Number: _____

6. Complication(s) of the Woman– Please Check All That Apply:

☐Hemorrhage	☐Anesthetic	☐Hematometra	☐Perforation of Uterus
☐Infection	☐RH Incompatibility	☐Death	☐Failed Abortion
☐Failure of Amniotic Fluid Ex	☐Incomplete Abortion	☐Cervical Laceration	☐Other (Please Specify):

7. Complication(s) of the Child (Please Specify):

a. Apgar Score(s) _____

b. Medical interventions (Please Specify): _____

8. Type of Abortion Procedure Performed or Attempted:

☐Suction Dilation & Curettage	☐Dilation & Evacuation (D&E)	☐Medical (Non-Surgical – (Please Specify):
☐Hysterectomy	☐Hysterotomy	☐Mifepristone (RU 486)
☐Other (Please Specify)	☐Dilation Extraction	☐Methotrexate
		☐Other (Please Specify):

9a. Name of Attending Physician Who Performed or Attempted the Abortion:
_____ 9b.Title: ☐MD ☐DO

9c. Business Address of Attending Physician (Street or Post Number): _____

City: _____ State: _____ ZIP Code: _____

Signature of Attending Physician Who Performed or Attempted the Abortion:
_____ Date Signed (mm/dd/yyyy):_____

Send completed forms to:
Ohio Department of Health, Confidential Reports A, P. O. Box 15098, Columbus, OH 43215

HEA3041 March 22, 2022