

10th March 2023

Love Adelaide

Dear Senate Community Affairs Legislation Committee Members,

We would like to start our submission with an acknowledgement to every baby that has been born alive and left to die between 2010 -2020 - 724 little human beings that were not afforded medical care, life saving treatment or palliative care and were left to die.<sup>1</sup>

‘Love Adelaide’ is a pro-life organisation that seeks to be a voice for the voiceless, to ensure that both women are empowered to make informed decisions, and that babies are treated with dignity and as valuable human members of our society.

We actively work in South Australia and across Australia with other like - minded organisations and individuals to inform, equip and encourage people to speak for those who cannot speak for themselves. Our work focuses on bringing people together for the annual Walk for Life held in Adelaide, where over the past 4 years over 17000 people have gathered to peacefully protest abortion, and this year advocate for babies born alive from failed abortion. In our role we provide information, resources and content to help people make informed decisions. We share stories of real people, who have had abortions, medical staff who have been present at failed abortions and stories of hope. The human toll that abortion takes on medical staff, families, friends and counsellors cannot be underestimated.

Love Adelaide has worked closely with researchers to ascertain the occurrence of live birth following failed abortion (termination) in Australia. The evidence suggests that this issue is far more prolific than portrayed. One baby is born alive and left to die every 7

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<sup>1</sup> See Victoria, Queensland & New South Wales Data  
<https://www.loveadelaide.org.au/dataeverysevendays>

days on average between Victoria and Queensland.<sup>2</sup> Research could not confirm other states and territories data due to lack of reporting, lack of clarity around reporting or failure to release the reporting to the general public. The same data revealed that 86 babies were born alive and left to die in 2020 in Victoria and Queensland.<sup>3</sup>

**We would recommend that all states and territories are mandated to report failed termination ending in live birth including but not limited to; data collection on the gestational age at birth, gender of the baby, reason for abortion, medical care provided after birth and length of life.**

In 2017 new extreme abortion laws were introduced in Queensland. The Queensland Clinical practice guidelines for babies born alive state “Do not provide life sustaining treatment”. Queensland Clinical practice Guidelines required emotional support be provided to the parents. But little is stated on the baby, only to “provide warmth” and to “handle baby with care”.<sup>4</sup> Queensland data provides no mention of a pain assessment or an assessment of distress and prompt medical treatment accordingly. South Australian research indicates that babies born alive after failed abortion live 60 minutes or more,<sup>5</sup> giving medical staff ample time to do a standard set of observations.

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<sup>2</sup> On average: 1 baby is born alive and left to die every 7 days, in Victoria and Queensland. This figure is taken from the total number of Victorian and Queensland babies born alive and left to die (neonatal death), between 2010-2020, combined, divided by 11 (years), and then divided by 52 (weeks).

<sup>3</sup> 2020: 43 Babies born alive during TOP (Termination of Pregnancy) for suspected or confirmed congenital anomaly resulting in neonatal death. Appendix 3, Page 70, Consultative Council on Obstetric and Paediatric Mortality and Morbidity, Victoria’s Mothers and Babies, 2019, State of Victoria, Australia, Safer Care Victoria, May 2022:  
[https://www.safercare.vic.gov.au/sites/default/files/2022-05/FINAL%20CCOPMM%20REPORT\\_SCV-2020.pdf](https://www.safercare.vic.gov.au/sites/default/files/2022-05/FINAL%20CCOPMM%20REPORT_SCV-2020.pdf)  
2020: 41 Neonatal deaths from Termination of pregnancy, fetus, newborn. Page 13, Table 10.13. Queensland perinatal Statistics 2020 Perinatal Deaths, the State of Queensland (Queensland Health): [https://www.health.qld.gov.au/\\_data/assets/pdf\\_file/0023/1130495/10-deaths](https://www.health.qld.gov.au/_data/assets/pdf_file/0023/1130495/10-deaths)

<sup>4</sup> [https://www.health.qld.gov.au/\\_data/assets/pdf\\_file/0029/735293/g-top.pdf](https://www.health.qld.gov.au/_data/assets/pdf_file/0029/735293/g-top.pdf)

<sup>5</sup>

<https://www.sahealth.sa.gov.au/wps/wcm/connect/d1024b0042ac3768a346b7ad100c470d/Too+small+too+soon+-+babies+born+23%E2%80%9324+weeks.pdf>

**We recommend that there should be statutory protections at the federal level for all babies born alive in Australia to receive medical care irrespective of the circumstances of their delivery.**

According to the Northern Territory Coroners case Jessica Jane was born alive placed in a kidney dish crying, she passed away 80 minutes later. The doctor and supervisors provided no assistance to the nurse who delivered Jessica Jane. The nurse on instinct carried out an apgar score assessment (clinical indicators of a babies condition shortly after birth), noted babies weight and in her experience could see that gestation was further along than stated 19 weeks, in her opinion between 22 and 24 weeks. Jessica Jane was put in a warm rug and drape was placed over her, the nurse periodically checked on her until her death at 0405 on the 14th of July 1998, she was premature but healthy. The nurse in this case was distressed by this situation, there were no protocols in place for this type of incidence.<sup>6</sup> Medical staff are left with no policies or abhorrent policies and directions that contradict the very reasons they entered this vocation, to care. In the brochure for studying nursing, health and medical sciences from Uni SA it describes entering the health field as “...an important role in shaping the wellbeing of communities as a dynamic health professional. Join an unstoppable workforce focused on improving health, driving human performance and delivering patient-centered care.”<sup>7</sup> How does the story failing to offer care improve care? This is the exact opposite of what healthcare is espousing and marketing to potential health care professionals. This is a contradiction and one that has caused many to wonder why they signed up to this profession in the first place.

“Survival of extremely preterm infants has increased significantly as doctors realise advantages of active care for such young patients. Ages of survival have dropped from 28 weeks to 24 weeks and now less than 22 weeks.”<sup>8</sup> In 2020 baby Curtis entered the

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<sup>6</sup> [https://justice.nt.gov.au/\\_data/assets/pdf\\_file/0017/206702/baby-j.pdf](https://justice.nt.gov.au/_data/assets/pdf_file/0017/206702/baby-j.pdf)

<sup>7</sup> [https://study.unisa.edu.au/siteassets/docs/brochures/2023/2023-hsc-study-guide\\_web.pdf](https://study.unisa.edu.au/siteassets/docs/brochures/2023/2023-hsc-study-guide_web.pdf)

<sup>8</sup> <https://lozierinstitute.org/fact-sheet-science-of-fetal-pain/>

Guinness Book of Records as the youngest premature baby to survive born at 21 weeks and 1 day.<sup>9</sup> According to Perinatal Practice Guidelines in South Australia “babies born at 23-24 weeks have a 50% chance of survival<sup>10</sup> [and] 40% (of babies born at 23-24 weeks) will survive without serious disability.”<sup>11</sup>

Different jurisdictions in Australia seem to differ on when personhood occurs. The Australian National health data dictionary (NHDD) defines a live birth as “the complete expulsion or extraction from its mother of a baby at any gestation that shows signs of life; and a stillbirth is the complete expulsion or extraction of a baby of least 20 weeks gestation or weighing at least 400 grams at birth (the weight expected of a baby at 20 weeks gestational age) which shows no signs of life.”<sup>12</sup> South Australia’s Law Reform Institute (SALRI) the research body entrusted with abortion law reform in South Australia acknowledges “the current fundamental legal premise that ‘legal personhood’ does not acquire until birth (although this premise is questioned).”<sup>13</sup> In New South Wales “Any baby born with signs of life as a result of a termination of pregnancy, irrespective of gestation or condition, must be afforded the right of dignity, maintenance of privacy and physical comfort whilst signs of life exist. Parents are to be encouraged to be part of this care.”<sup>14</sup> This document also mentions the legal rights of a baby born alive which contradicts the above statement “However, once a fetus has been expelled or removed from the woman's uterus, and is born alive,” the child has the legal status of a person

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<sup>9</sup> <https://www.liveaction.org/news/premature-baby-history-youngest-preemie-ever-survive/>

<sup>10</sup>

<https://www.sahealth.sa.gov.au/wps/wcm/connect/d1024b0042ac3768a346b7ad100c470d/Too+small+too+soon+-+babies+born+23%E2%80%9324+weeks.pdf>

<sup>11</sup>

<https://www.sahealth.sa.gov.au/wps/wcm/connect/d1024b0042ac3768a346b7ad100c470d/Too+small+too+soon+-+babies+born+23%E2%80%9324+weeks.pdf>

<sup>12</sup>

<https://www.aihw.gov.au/reports/mothers-babies/stillbirths-and-neonatal-deaths-in-australia/contents/technical-notes/definitions-used-in-reporting>

<sup>13</sup> ‘Abortion: A review of South Australian Law and Practice’ Oct 2019  
[law.adelaide.edu.au/ua/media/996/Abortion%20Report%20281119.pdf](http://law.adelaide.edu.au/ua/media/996/Abortion%20Report%20281119.pdf)

<sup>14</sup> [https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2021\\_018.pdf](https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2021_018.pdf)

whose rights exist independently of the rights of the parents.”<sup>15</sup> This clearly outlines the murky water that abortion legislation has and why it causes so many issues when an abortion fails ending in a live birth, no one really knows if its a person, tissue, or an it. If this was any other medical condition we call it what it is, if it’s breathing, and it looks like a human baby, it’s a human baby and should be afforded the same life saving care as its wanted premature counterpart would receive. It’s unfathomable that one jurisdiction can afford a baby personhood and yet another state can’t.

**We recommend that there should be national medical protocols put in place (by statute, regulation or otherwise) to govern the provision of medical care to newborn babies following an abortion. These should include, but not be limited to:**

**a. Ensuring that newborn babies are immediately assessed for gestational age and viability by a medical practitioner.**

**b. The provision of medical care should be based on a formal-equality principle.**

**All**

**newborn babies are entitled to equal treatment under the law. The basis for this equality principle is that a newborn baby possesses independent human rights upon its separation from its mother.**

The abortion industry in Australia has a history of barbaric practices, in 2000 a baby was aborted at 31 weeks using intracardiac potassium chloride,<sup>16</sup> according to Human Rights Watch “potassium chloride is the drug that causes death in an execution ...lethal injection protocols...potassium chloride should cause cardiac arrest and death within a minute of injection.While potassium chloride acts quickly, it is excruciatingly painful if administered without proper anesthesia. When injected into a vein, it inflames the

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<sup>15</sup> [https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2021\\_018.pdf](https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2021_018.pdf)

<sup>16</sup> [https://www.mja.com.au/system/files/issues/181\\_04\\_160804/dec10242\\_fm.pdf](https://www.mja.com.au/system/files/issues/181_04_160804/dec10242_fm.pdf)

potassium ions in the sensory nerve fibers, literally burning up the veins as it travels to the heart. Potassium chloride is so painful that the American Veterinary Medical Association (AVMA) prohibits its use as the sole agent of euthanasia—it may only be used after the animal has been properly anesthetized.”<sup>17</sup> It should be noted that intracardiac means directly into the heart, and would burn a baby from the inside. The practice in Australia to our knowledge has been discontinued. This does raise the question on pain and assessments of distress, according to the Loizer Institute a baby can feel pain by 15 weeks and may feel pain at 12 weeks.<sup>18</sup> The abortion industry in Australia today has pushed for late term abortion options that have been rolled across most of Australia, in the coming years we will see more failed terminations and more babies surviving if a clear guideline for best clinical practice is not established eventually the barbaric practice of leaving a baby to die without life sustaining care, comfort care eg being held or palliative medical care will become an issue too big to ignore.

**We recommend that if the death is unavoidable, the baby must always be given palliative care, with proper attention, given to pain relief and the emotional needs of the dying baby.**

In a South Australian report from 2020 terminations performed at or after 20 weeks were for congenital anomalies (60.2%) “and 32.5% were for the mental health of the woman.”<sup>19</sup> According to a study published in The Journal of Obstetrics and Gynecology “[m]any women do change their minds about an initial abortion decision. A change of mind in favor of continued pregnancy is far commoner in second trimester abortion applicants compared to first trimester applicants. In a study of 1419 women who booked for abortion, overall almost 10% subsequently opted to continue pregnancy to term. However, among applicants of over 18 weeks gestation, 75% decided to continue

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<sup>17</sup> <https://www.hrw.org/reports/2006/us0406/4.htm>

<sup>18</sup> <https://lozierinstitute.org/fact-sheet-science-of-fetal-pain/>

<sup>19</sup>

<https://www.wellbeingsa.sa.gov.au/assets/downloads/Pregnancy-outcomes/Pregnancy-Outcome-in-South-Australia-2020.pdf>

pregnancy’.”<sup>20</sup> We know late term abortions are occurring in Australia, in Victoria a 37 week pregnant woman terminated her baby for psychosocial reasons<sup>21</sup> defined as “having to do with the mental, emotional, social, and spiritual effects of a disease,…”<sup>22</sup> “The rates of babies born alive and left to die in Queensland has doubled in the past 11 years from 9%\* in 2010, to 20%. in 2020.”<sup>23 24</sup> Abortion seems to be seen as an easy fix scenario, in an article written in the Medical Journal of Australia a Tasmanian Medical student complained that Doctors performed abortions simply because the woman did not want to have the child.<sup>25</sup>

**All pregnant women undertaking a second or third trimester abortion should be given comprehensive crisis pregnancy counseling and be made aware of the risks of late-term abortion, including live birth.**

A midwife named Mary\*<sup>26</sup> recounts the heartbreaking situation she was placed in as an experienced midwife when she was asked to photograph a baby boy born alive from failed termination, her story tells how “[she] felt under enormous pressure to keep working so at every opportunity I would check in on him until he died some hours later”. Compounding the situation was that she was asked to lie about the age instead of 22 weeks she was to put 20 weeks in line with guidelines at the time. This would classify his birth as miscarriage. Mary left the midwifery soon after this experience.<sup>27</sup> Concern have been raised overseas, in a UK coroners case it indicated that live births after a

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<sup>20</sup> P Clarke, J Smith, T Kelly and M J Robinson, ‘An Infant Who Survived Abortion and Neonatal Intensive Care’ (2005) 25(1) Journal of Obstetrics and Gynaecology 73

<sup>21</sup>

<https://www.safercare.vic.gov.au/sites/default/files/2019-09/Victoria%27s%20Mothers%2C%20Babies%20and%20Children%202010%20and%202011%20Annual%20Report.pdf>

<sup>22</sup> <https://www.cancer.gov/publications/dictionaries/cancer-terms/def/psychosocial>

<sup>23</sup> [https://www.health.qld.gov.au/\\_data/assets/pdf\\_file/0027/451962/10-deaths-10.pdf](https://www.health.qld.gov.au/_data/assets/pdf_file/0027/451962/10-deaths-10.pdf) ,

<sup>24</sup> [https://www.health.qld.gov.au/\\_data/assets/pdf\\_file/0023/1130495/10-deaths2020.pdf](https://www.health.qld.gov.au/_data/assets/pdf_file/0023/1130495/10-deaths2020.pdf)

<sup>25</sup> [https://www.mja.com.au/system/files/issues/181\\_04\\_160804/dec10242\\_fm.pdf](https://www.mja.com.au/system/files/issues/181_04_160804/dec10242_fm.pdf)

<sup>26</sup> Mary\* is a pseudonym

<sup>27</sup> <https://www.loveadelaide.org.au/babiesbornalivestories>

termination was not an “isolated occurrence” and raised concerns that “it is extremely distressing for the midwives caring for the mother to be presented with a live baby which is not to receive life-saving medical attention, not to mention the lasting damage to the psyche of the parents.”<sup>28</sup> In Australia a coroner case of a baby girl (Mable) who died during a labor examined the distress of staff and parents, the coroner stated "Further, I recognise that the death of a baby is not only a traumatic experience for the parents but so too has a lasting impact on clinicians involved in the birth."<sup>29</sup>

**We recommend that all babies born alive following an abortion who die prior to discharge from the hospital should be referred to the Coroner for an inquest.**

It’s imperative that we take into account the human toll on families and staff in these cases and provide access to counselling services for both staff and families. In these horrific situations the smallest gesture for families and/or staff is acknowledgement of the baby.

**We recommend that all babies born alive following an abortion who die in hospital after their birth are entitled to a birth certificate, death certificate and proper burial or cremation.**

In the bill, ‘Human Rights (Babies Born Alive) Protection Bill 2022’, the United Nations Convention on the rights of the child Article 6 is quoted “every child has the inherent right to life”. In western society that has advancement in medical technology it’s easy to believe that we abide by that statement. But on closer examination in our society we allow the most vulnerable to be left to die and not afforded the advocacy that we have signed onto. It’s imperative that regardless of the circumstances of your birth your value is independent of that of your parents and should be afforded life. Our medical

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<sup>28</sup> <https://www.judiciary.uk/wp-content/uploads/2014/11/Rippon-2014-0349.pdf>

<sup>29</sup> [www.coronerscourt.vic.gov.au/sites/default/files/2018-12/babymabelwindmill\\_456312.pdf](http://www.coronerscourt.vic.gov.au/sites/default/files/2018-12/babymabelwindmill_456312.pdf)

professionals shouldn't be placed in untenable positions unsure of their responsibility, standing and vocational promotion. Laws must exist to protect babies born alive from failed abortion.

**There should be statutory protections at the federal level for all babies born alive in Australia to receive medical care irrespective of the circumstances of their delivery.**

Regards

**Love Adelaide Board**