

# **FAMILY ISSUE FACT SHEET**

**NO. 4 2023 (JANUARY 2023)**

## **SB 1600 INFANTS; BORN ALIVE; REQUIREMENTS**

### **EXECUTIVE SUMMARY**

Infants born alive, including those not expected to live long and those born during an abortion, deserve the same quality of care as any other person, including rights to medically appropriate and reasonable care and treatment. Current Arizona law protects infants born alive during an abortion. [SB 1600](#) updates that law to extend protections to all infants born alive and holds accountable health professionals who are present at the birth yet fail to provide these children with needed care.

### **BACKGROUND**

In May 2015, news outlets began reporting the story of Chalice Zeitner who fraudulently obtained a second trimester abortion paid for by Arizona taxpayers through the AHCCCS program.<sup>i</sup> In the course of investigating the fraud, the FBI report revealed a chilling detail: The baby, delivered at 22 weeks gestational age, was born alive and breathing, yet received no medical intervention.<sup>ii</sup> The baby was left without care for over an hour before she died.<sup>iii</sup>

On the heels of that tragic story followed an equally troubling report revealing a 911 call in which an abortion clinic worker at Family Planning Associates in Phoenix stated that a baby was breathing after being delivered alive following an attempted abortion.<sup>iv</sup> “We can’t provide that care, except for oxygen, and we’re trying to keep the fetus stable until someone arrives,” the clinic worker said.<sup>v</sup> The baby was pronounced dead by the time it arrived at the hospital.<sup>vi</sup>

At that time, Arizona law required that all available means and medical skills be used to promote, preserve, and maintain the life of a fetus or embryo delivered alive as the result of an attempted abortion A.R.S. § 36-2301. Yet the law was inadequate to protect the lives of the babies delivered alive in these two stories.

In 2017, Arizona lawmakers strengthened the law to protect infants born alive from being mercilessly left for dead. They defined “delivered alive,” established minimum equipment standards to care for infants delivered alive at or beyond 20 weeks gestational age, set appropriate standards of care to promote, preserve, and maintain the life of an infant delivered alive, and improved related reporting requirements.

More recently, stories have revealed that some healthcare professionals are reluctant to provide life-affirming treatment to born-alive infants outside the abortion context. One local couple discovered with joy that they were pregnant. Doctors diagnosed their unborn daughter with Trisomy 18, told the parents that she would not survive the pregnancy, and advised ending her life by abortion. The couple found another doctor who would deliver their daughter, but were encouraged to carefully select a NICU that would provide reasonable care as many only offer

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minimal care in hopes that a baby dies faster. This shocking practice is called “a slow code”<sup>vii</sup> and is considered unethical because the doctor is imposing his or her own determination of the best interest of the child and denying parents that right. This mother gave birth to her daughter at 39 weeks gestation. The little girl defied the predictions of doctors and lived for eight days, eventually passing away in her parents’ arms.

## WHAT THE BILL DOES

SB 1600 provides further, necessary protections for the most vulnerable among us by:

- Ensuring that *all* born-alive infants receive necessary care and are not left to die by “slow code.”
- Improving Arizona’s existing law by imposing criminal sanctions on health professionals who intentionally or knowingly participate in this infanticide-by-neglect.
- Defining their actions as unprofessional conduct, making them vulnerable to having their license suspended or revoked.
- Imposing a duty to report on any healthcare professional, hospital, abortion clinic, employee, or volunteer of a hospital or abortion clinic who has knowledge of failure to provide a born-alive infant medically appropriate and reasonable medical care and treatment.

## TALKING POINTS

- **Every innocent human life is valuable, precious, and worthy of full protection.** Every baby born alive deserves a chance at life and should not be left to die or be denied nourishment.
- **A civilized society never denies basic medical care to any child born alive.** Doctors and nurses must be equipped to do everything they can to save that living baby.
- **Refusing basic medical care to a born-alive infant is not health care; it’s infanticide by neglect.** Treatment should not depend on the probable length of a baby’s life.
- **It is inhumane to leave a premature baby without medical care to suffer and struggle to breathe.**
- **Arizona law should not allow for the killing of a live baby – even by neglect.** Once an infant is born alive, it has every legal right to life-saving, life-sustaining, or comfort care even if it is unwanted or may not live long. Every baby born in this state deserves the same compassionate care.

## CONCLUSION

Any infant born alive in Arizona is precious and deserves basic medical care as a right. Arizona's born-alive infant law needs to be updated to provide critical protection to all babies born alive in Arizona, including babies vulnerable to "slow code" situations. The law also needs more significant penalties for healthcare professionals who intentionally fail to provide reasonable care and treatment to these infants.

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<sup>i</sup> See, e.g., Jon Erickson, *Charges: Chalice Zeitner made up cancer story to qualify for tax-funded abortion*, ABC15.COM, <http://www.abc15.com/news/region-phoenix-metro/central-phoenix/charges-woman-makes-up-cancer-story-to-qualify-for-tax-funded-abortion> (May 7, 2015) (last visited Jan. 27, 2017).

<sup>ii</sup> Gary Grado, *FBI agent's description raises question about whether aborted baby was born alive*, ARIZ. CAPITOL TIMES (June 5, 2015), <http://azcapitoltimes.com/news/2015/06/05/fbi-agents-description-raises-question-about-whether-aborted-baby-was-born-alive/>.

<sup>iii</sup> *Id.*

<sup>iv</sup> *911 tapes; Aborted fetus was breathing*, 12NEWS.COM, <http://www.12news.com/mb/news/local/valley/911-tapes-aborted-fetus-was-breathing/208414143> (last visited Jan. 27, 2017).

<sup>v</sup> *Id.*

<sup>vi</sup> *Id.*

<sup>vii</sup> "A slow code...involves initiating some resuscitative measures but carrying them out slowly or omitting the most aggressive....The implicit hope is that the patient will die of his condition before they arrive." Edwin N. Forman, MD and Rosalind E. Ladd, *Why Not Slow Code?*, AMA Journal of Ethics, (October 2012) (last visited Jan. 1, 2025), <https://journalofethics.ama-assn.org/article/why-not-slow-code/2012-10>.