

**Testimony from Minnesota Citizens Concerned for Life**  
**In Support of H.F. 24**  
**MN House Health Finance and Policy Committee**  
**2025-2026 Regular Session**  
**February 12, 2025**

Minnesota’s original longstanding and bipartisan Born Alive Infants Protection Act (MN Statutes 145.423) was first enacted in 1976 and updated in 2015, when it was signed into law by Democratic Gov. Mark Dayton. Until its sudden repeal in 2023, the act provided protection to babies who survived attempted abortion procedures and were born alive. Among other things, the law required that “reasonable measures consistent with good medical practice” be taken “to preserve the life and health of the born alive infant.” This policy didn’t require futile or extraordinary measures for newborns with a terminal condition, but it did mean that viable babies couldn’t just be set aside and left to die. Abortion survivors were required to receive medically appropriate care that would save their lives—just like any other baby born at the same gestational age.

The Minnesota Born Alive Infant Protection Act enjoyed wide bipartisan support until recent years. The 1976 Born Alive bill passed the Minnesota House 121 to 10 at a time when the House had 103 DFL members and 31 GOP members<sup>1</sup>. In 2015 the updates to the Born Alive Infant Protection Act also passed bipartisan in a 99 to 31 vote<sup>2</sup>.

However, in 2023, a narrow DFL-only majority in the legislature passed an omnibus bill (SF 2995) that repealed or amended numerous laws relating to abortion, including the Born Alive Infants Protection Act<sup>3</sup>. No longer must reasonable measures be taken “to preserve the life and health of the born alive infant.” Instead, measures must be taken only to “care for the infant who is born alive.” This was described by that bill’s House author, Rep. Tina Liebling in response to questions on the House floor and in committee, as “comfort” care, as opposed to lifesaving care. In addition, part of the subdivision's heading was changed from “medical care” to just “care.” And the law’s language was altered to no longer apply specifically to babies who survive abortion, but rather to all babies who are born alive, endangering the lives of babies born with disabilities as well.

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<sup>1</sup>Journal of the House pg. 5623, March 24, 1976

<sup>2</sup> Journal of the House pg. 5531, May 17, 2015

<sup>3</sup> Journal of the House pg. 11086, May 22, 2023

A common claim is that “this doesn’t happen” or that “this doesn’t happen in our state”. Thanks to several years of enhanced reporting requirements, it has been proven that babies do indeed survive abortion in Minnesota. In most years since reporting began in 2015, between three and five born-alive abortion survivors were reported to the Minnesota Department of Health<sup>4</sup>. Nationwide, the Centers for Disease Control (CDC) has reported that, between 2003 and 2014, at least 143 babies were born alive after abortion. The actual number, the CDC acknowledges, may be higher because many states do not report these tragedies<sup>5</sup>. Hundreds of abortion survivors who have lived are now part of the Abortion Survivors Network<sup>6</sup>. Abortion Survivor Network’s Micaella Clay was abandoned at a Minnesota abortion facility after she survived a vacuum aspiration abortion in the late 70s or early 80s. Her actual date of birth and other details were never even recorded<sup>7</sup>. Research in the medical journal *Obstetrics & Gynecology* found that, without a lethal injection to first kill the child, abortions on babies with abnormalities performed between 20 and 24 weeks’ gestation led to live births in about *half of cases*<sup>8</sup>.

Reports from the Minnesota Department of Health at least suggest that—even under the previous law—born-alive abortion survivors have not, in some cases, received measures that could have saved their lives. While some reported cases describe the infant as “preivable” or as having a fatal condition, others make no mention of such factors or of any measures to protect life. Moreover, evidence from many other places demonstrates that infants who survive abortion have often been neglected or even actively killed. This evidence includes the eyewitness testimonies of doctors, nurses, and mothers; infamous cases like that of Kermit Gosnell; undercover investigations; and more. Such evidence should not be too surprising: These are babies who were intended to die and who likely have no advocate in the room after they are born. There *are* babies born alive following abortion in Minnesota, and they *can* survive if they receive the appropriate lifesaving medical care. Abortion survivor Kim Marvin had this to say in a 2023 presentation: “what I wish people knew about abortion survivors is this: we exist.”<sup>9</sup>

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<sup>4</sup> Induced Abortion in Minnesota - MN Dept. of Health, [www.health.state.mn.us/data/mchs/pubs/abrpt/index.html](http://www.health.state.mn.us/data/mchs/pubs/abrpt/index.html).

<sup>5</sup> Health Policy Data Requests - Mortality Records with Mention of Termination of Pregnancy, 11 Apr. 2016, [medbox.iiab.me/modules/encdc/www.cdc.gov/nchs/health\\_policy/mortality-records-mentioning-termination-of-pregnancy.htm](http://medbox.iiab.me/modules/encdc/www.cdc.gov/nchs/health_policy/mortality-records-mentioning-termination-of-pregnancy.htm).

<sup>6</sup> “Abortion Doesn’t Always Go as Planned.” Abortion Survivors Network, [abortionsurvivors.org/](http://abortionsurvivors.org/).

<sup>7</sup> “Speakers.” *Abortion Survivors Network*, [abortionsurvivors.org/work/](http://abortionsurvivors.org/work/).

<sup>8</sup> “Fetal Survival in Second-Trimester Termination of Pregnancy ... : *Obstetrics & Gynecology*.” *LWW*, Mar. 2018, [journals.lww.com/greenjournal/Abstract/2018/03000/Fetal\\_Survival\\_in\\_Second\\_Trimester\\_Termination\\_of.25.aspx](http://journals.lww.com/greenjournal/Abstract/2018/03000/Fetal_Survival_in_Second_Trimester_Termination_of.25.aspx).

<sup>9</sup> “Survivor Stories | The Abortion Survivors Network.” YouTube, 28 June 2023, [www.youtube.com/watch?v=efC7Gq0N2m0](http://www.youtube.com/watch?v=efC7Gq0N2m0).



February 12, 2025

Representative Jeff Backer

Chair, Health Finance and Policy Committee

Re: HF24

Mr. Chair and members of the Committee,

Thank you for the opportunity to provide testimony on HF24. I am a Professor of Law at Mitchell Hamline School of Law. I do not support the bill because it makes needless changes that at worst create a special class of human beings subject to required medical care that is likely only to cause suffering to them and those who love them in their final moments.

Minnesota law already protects any infant who is born alive, no matter the circumstances.<sup>1</sup> As part of its requirements, it directs that medical personnel take “all reasonable measures consistent with good medical practice” with respect to such infants.

HF24 would alter this law and instead protect *not* all infants born alive, but *only* infants born alive following an abortion. It would then require that medical personnel take all reasonable measures consistent with good medical practice to “preserve the life and health” of such infants.

These proposed amendments to § 145.423 raise a few issues.

First, the fact that the bill authors are using scarce legislative time to consider this bill implies that the bill addresses a real problem. It does not. Only zero, or three, or five infants are typically born alive annually in the State of Minnesota following an abortion.<sup>2</sup> Such rare births occur usually due to a tragedy: a serious risk to the life or health of the pregnant person or a fetal malformation or other condition incompatible with life.<sup>3</sup>

As the American College of Obstetrics and Gynecology observes, abortions are performed during pregnancy, not after birth. An “abortion” after a live birth is not an abortion, but rather is murder.<sup>4</sup>

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<sup>1</sup> Minn. Stat. § 145.423, subd. 1.

<sup>2</sup> Minn. Dep’t of Health, *Induced Abortions in Minnesota January – December 2022* 26 (2023), <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2022abrpt-revised.pdf> (finding that no infants were born alive following an abortion in 2022); Minn. Dep’t of Health, *Induced Abortions in Minnesota January – December 2021* 29 (2022), <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2021abrpt.pdf> (finding that five infants were born alive following an abortion in 2021); Minn. Dep’t of Health, *Induced Abortions in Minnesota January – December 2019* 29 (2020), <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf> (finding that three infants were born alive following an abortion in 2019).

<sup>3</sup> Am. Coll. Obstetrics & Gynecology, *Facts Are Important: Abortion and Perinatal Palliative Care*, <https://www.acog.org/advocacy/facts-are-important/abortion-and-perinatal-palliative-care>.

<sup>4</sup> *Id.*

Kermit Gosnell was convicted for such crimes over a decade ago in Pennsylvania.<sup>5</sup> In the years since then, there have been no other similar convictions. Nothing in HF24 would alter any of these facts.

Second, requiring medical personnel to take reasonable measures to “preserve the life and health” of such infants suggests that perhaps they *must* take lifesaving measures. The language of the bill is ambiguous – perhaps purposely so. Again, late term abortions that result in a live birth typically occur when a tragedy requires the termination of pregnancy.

If the bill authors in fact intend the language to suggest that medical personnel must take lifesaving measures or else risk prosecution for murder, then perhaps they are unaware that they are intruding on bioethical decisions involving tragic situations where no amount of heroic medical care is likely to save an infant’s life. Such interventions can, however, make an infant’s last minutes into torture for both baby and parents. If the bill authors have no such intent, then they should at least eliminate their proposed amendments to the last sentence of subdivision 1, so that medical personnel can safely provide palliative care to such infants who cannot survive.

It would be better overall to put this bill aside and instead pursue evidence-based means to help Minnesotans thrive. Please do so.

Sincerely,

Laura Hermer  
Professor of Law  
Mitchell Hamline School of Law  
laura.hermer@mitchellhamline.edu

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<sup>5</sup> See, e.g., Steve Volk, *Gosnell Guilty on Three Counts of First-Degree Murder*, PHILADELPHIA MAGAZINE (5/13/2013), <https://www.phillymag.com/news/2013/05/13/philadelphia-abortion-doctor-verdict-guilty-murder-babies/>.



February 11, 2024

Chair Jeff Backer  
2nd Floor, Centennial Office Building  
St. Paul, MN 55155

Chair Jeff Backer:

Jamie Gulley  
President

Jigme Ugen  
Executive Vice President

Phillip Cryan  
Executive Vice President

Brenda Hilbrich  
Executive Vice President

Rasha Ahmad Sharif  
Executive Vice President

SEIU Healthcare Minnesota & Iowa represents over 55,000 health care workers in hospitals, clinics, nursing homes and self-directed home care. This includes almost 500 workers at Planned Parenthood in the Midwest. Like all other health care workers, our members are committed to supporting the physical health and emotional well-being of their patients. Because it would further interfere with the doctor-patient relationship, our members strongly oppose HF 24.

The patient-provider relationship is the cornerstone of quality healthcare and should not be interfered with. People who get abortions and the providers who care for them should not be stigmatized. Abortion is an important form of healthcare and should not be treated differently than other medical services.

The current statute is based on science or medicine. It allows our members to treat everyone professionally and ethically. The new language creates unnecessary confusion. HF 24 would most harm already vulnerable people who face devastating pregnancy complications later in pregnancy. Every pregnancy is different, which is why our members must be empowered to help every person make their own decisions about what is best for them and their family, without barriers or political interference.

We expect our legislators to do everything in their power to uphold our members' ability to meet their patients' needs, following medical guidelines and best practices and protecting the patient-provider relationship.

Sincerely yours,

Rick Varco  
Political Director

345 Randolph Avenue  
Suite 100  
St. Paul, MN  
55102

RV:klh/OPEIU12

651.294.8100  
800.828.0206  
(fax) 651.294.8200  
[www.seiuhcmnia.org](http://www.seiuhcmnia.org)