

APLC

ALABAMA PRO-LIFE COALITION, INC.

To: Interested Persons
Date: February 2020
From: A. Eric Johnston
Re: Gianna's Law – A Born Alive Act

Through the years we have heard many horror stories about babies born alive following an attempted abortion. What happens to those babies? The truth is that those babies are then permitted to die either by no care to preserve their lives, or active measures to take their lives. The abortionist decides the purpose of the procedure was to take the baby's life and simply because it was born alive is not a reason to preserve its life.

Gianna Jessen says, "I was born in an abortion clinic." On April 6, 1977, Gianna's mother went to an abortion clinic for an abortion. Gianna was born as a result of a failed saline abortion attempt. She has been an inspiration to the pro-life community since she began her public ministry. She was born alive following an abortion.

Last year, a bill was introduced in the Alabama Legislature entitled Gianna's Law by Representative Ginny Shaver (R-DeKalb County). It would criminalize the failure to save a child's life who was born alive during an abortion attempt. Some may question why we need Gianna's law at this time, since we just passed a law prohibiting abortion. Unfortunately, the Alabama Human Life Protection Act will be tied up in court for two to three years and the possibility is it will never go into effect. In the meantime, abortions will continue and there will be instances when babies are born alive. At that point, their lives should be saved and it should be a crime to permit the child to die or to take his or her life. Here are some operative provisions of the bill:

"BORN ALIVE. The complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of the pregnancy, which, after separation, breaths or has a heartbeat, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached."

"A child born alive after an abortion or attempted abortion shall be entitled to the same physician-patient relationship that is currently available for any individual in need of medical care . . ."

"If a child is born alive following an abortion or attempted abortion, the physician who performed the abortion or attempted the abortion shall exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as a reasonably diligent and conscientious physician would render to any child born alive . . . at the same gestational age."

"The bill further provides that the Attorney General will enforce the law, the woman on whom the abortion is performed will not be culpable (it has been APLC's position not to prosecute the woman under any of the laws it has supported), and the identity of any individual reporting such a crime will be confidential. Violation of the law would be a Class B felony. That is a penalty of 2 to 20 years in prison.

At this early stage, APLC has some questions about the bill. For example, it limits the prohibition to abortion clinics. Also, we already have the prohibition of a viable unborn child law (§26-22-1, *et seq.*, Alabama Code), which makes it a Class A felony (10 years to life) to abort a child capable of surviving on its own and applies to any facility, doctor or other person.

Until abortion is finally eradicated in this country, we must continue to pass laws that regulate the number and types of abortion, and improve women's healthcare in the substandard abortion clinic context. APLC has stood for both of these propositions since its inception. The abortion or attempted abortion is not the baby's fault. If the baby is fortunate enough to survive the procedure and is born alive, he or she should be entitled to all of the protection of law, just as any other born person. For Gianni's Law, we need to decide if it will help or hinder that.