

**Testimony of Joe Pojman, Ph.D.**  
**Executive Director, Texas Alliance for Life**  
**House Judiciary and Civil Justice Committee**  
**March 25, 2019**

My name is Dr. Joe Pojman, executive director of Texas Alliance for Life. Texas Alliance for Life is a statewide organization of people committed to protecting innocent human lives from conception to natural death using peaceful, legal means.

We strongly support HB 16 by Chairman Leach. This bill addresses cases when a child is born alive after an abortion.

**The Need for HB 16**

When a physician performs an abortion, and the baby survives that abortion, the physician and the medical personnel have three options.

First, they will take action to end the life of that child. Some would argue that they have that right or even an obligation because ending the life of the child is the intent of the abortion.

We disagree, and so does Texas law. That child has a right to life that must be protected. The fact that the child is in some sense not wanted does not diminish that fact. Taking the life of a newborn child, regardless of the circumstances that resulted in that birth – even abortion – is an offense of homicide under Chapter 19 of the Penal Code.

Second, they will treat the newly born baby with the dignity and respect due to any newly born baby at that stage of development. This, in our view is the only moral option, and it should be the only legal option. If the child is viable, they will do everything medically appropriate to help that baby continue to live outside the mother's womb. If the child has not yet achieved viability, or suffers from a severe fetal abnormality, and medical science cannot save the baby's life, then they will offer comfort care in a dignified manner as the baby dies.

Third, the physician and medical staff will simply neglect the newborn child – regardless of whether the child has achieved viability or not – and stand by while the baby dies. This option, in our view, is morally repugnant and should have legal consequences associated with it. HB 16 will add legal consequences.

### **Legislative Background**

In 1995, the Legislature recognized that a child born after an abortion has the same rights and privileges as any other child born alive. (Sec. 151.002, Family Code). It allowed a petition for custody of a child born alive after an abortion to be granted (Sec. 161.006, Family Code). And it authorized DFPS to assume the custody of a child born after an abortion (Sec. 262.006, Family Code).

However, the Legislature created no criminal or civil liability for a physician who fails to render appropriate medical care to a child born alive after an abortion.

The federal Born-Alive Infant Protection Act (“BAIPA” Pub.L. 107–207, 116 Stat. 926, enacted August 5, 2002, 1 U.S.C. § 8) passed by the Congress in 2002 has the same deficiency – no criminal or civil liability.

Hence the need for HB 16.

### **Cases of Babies Born Alive after Abortion**

Babies *are* born alive after abortion, and many are viable.

Today you have heard the testimonies of three individuals who have survived abortion.

Melissa Ohden who resides in Kansas City, MO, survived an abortion in 1977. When she discovered she is not alone, she created the Abortion Survivor Network and has identified 279 of people like her, include five in Texas. She wished to be here and cannot, but I have included her written testimony.

We thank you for your consideration of this critically important bill.