

## MEMORANDUM

To: Members, Minority Hearing on the Born Alive Abortion Survivors Protection Act

From: Republican Whip Steve Scalise, Rep. Ann Wagner, and Rep. Christopher Smith

Re: Minority Hearing entitled “End Infanticide: Examining the Born Alive Abortion Survivors Protection Act” at 1:00 p.m. on September 10, 2019 in HVC 215.

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On September 10, House Republicans will host a hearing entitled “End Infanticide: Examining the Born Alive Infants Protection Act.”. The witnesses who will appear at the hearing are:

- Jill Stanek, RN, a nurse who found an abortion survivor;
- Dr. Robin Pierucci, MD, neonatologist and medical director of 50-bed neonatal intensive care unit.
- Dr. Kathi Aultman, M.D., Retired Ob/Gyn and former abortion provider;
- Tessa Longbons, Research Associate, the Charlotte Lozier Institute;

This hearing will examine H.R. 962, the Born-Alive Abortion Survivors Protection Act, and its continued relevance to the debate regarding the protection of human life in the United States. It will seek to emphasize three main points:

- 1) The Majority’s refusal to allow consideration of H.R. 962 even though it is a common-sense bill supported by 77 percent of Americans and 70 percent of Democrats.<sup>1</sup>
- 2) Despite the claims of abortion providers, babies *do* survive abortions in the United States.
- 3) Killing a baby born alive is infanticide. Once born, every baby deserves protection and access to appropriate medical care. A baby should not be tossed aside as medical waste because he or she was slated for an abortion.

### ***H.R. 962, the Born-Alive Abortion Survivors Protection Act***

#### ***Bill Summary***

H.R. 962, the *Born-Alive Abortion Survivors Protection Act*, was introduced by Rep. Ann Wagner (R-MO) on February 5, 2019. The bill would expand the protections currently in federal law enacted through the Born Alive Infants Protection Act of 2002<sup>2</sup>, which protects any infant human born alive at any stage of gestational development. However, federal law does not

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1. Poll: 77 Percent of Voters Want Congress to Protect Babies Born Alive, Susan B. Anthony List, (Feb. 13, 2019), <https://www.sba-list.org/newsroom/press-releases/poll-77-percent-voters-want-congress-protect-babies-born-alive>.

2. The Born Alive Infants Protection Act of 2002, PL 107-207 (provides that, in determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words “person,” “human being,” “child,” and “individual,” shall include every infant member of the species homo sapiens who is born alive at any stage of development.)

contain a medical standard of care for abortion surviving infants, or criminal penalties for abortionists who deny care to babies who survive abortions. H.R. 962 amends the United States criminal code to ensure that any child who survives an attempted abortion receives access to the same level of care that any other “wanted” premature baby of the same age would receive. It takes the common-sense step of not placing survivors at the mercy of the practitioners who sought to abort them.

H.R. 962 includes the following operative provisions in the case of a child born alive:

- Any health care practitioner present must exercise the same degree of professional care to preserve the life of the child as he or she would render to any other child born alive at the same gestational age.
- The child must be immediately transported and admitted to a hospital.

If a baby born alive is left to die, the practitioner can be imprisoned for up to five years, or a fined, or both. Anyone found guilty of intentionally killing (or attempting to kill) a child born alive shall be punished under federal law for murder. The bill requires that known violations of these provisions be reported by both practitioners and employees of a hospital, physicians office, or abortion clinic. A failure to report subjects the practitioner or employee to the bill’s criminal penalties.

H.R. 962 allows a woman upon whom an abortion was performed to file a civil law suit if her live baby was not provided the care required in this bill. H.R. 962 also prevents the mother of the child born alive from being prosecuted under this law.

Legislation similar to H.R. 962 passed the House on a bipartisan basis in the 114<sup>th</sup> and 115<sup>th</sup> Congresses.<sup>3</sup>

### *HR 962 in the 116<sup>th</sup> Congress*

Killing a baby born alive is infanticide. A majority of Americans agree: once born, every baby deserves protection. According to a February 2019 poll, 70 percent of Democrats support the protections advanced in H.R. 962.<sup>4</sup> However, Democrat leadership in the House of Representatives has repeatedly blocked consideration of H.R. 962.

On February 6, 2019, Republican Leader Kevin McCarthy (R-CA) asked for unanimous consent for the House of Representatives to consider H.R. 962. On nearly every legislative day since then (80 times), Pro-Life members have asked for unanimous consent for H.R. 962 to be considered on the House Floor. Each time, they have been refused.

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3. H.R. 3504, 114th Cong. <https://www.congress.gov/bill/114th-congress/house-bill/3504>; H.R. 4712, 115th Cong. <https://www.congress.gov/bill/115th-congress/house-bill/4712>

4 Poll: 77 Percent of Voters Want Congress to Protect Babies Born Alive, Susan B. Anthony List, (Feb. 13, 2019), <https://www.sba-list.org/newsroom/press-releases/poll-77-percent-voters-want-congress-protect-babies-born-alive>

On April 2, 2019, Republican Whip Steve Scalise (R-LA) and Rep. Ann Wagner (R-MO) filed a petition to discharge H.R.962. If a majority of House members sign the discharge petition, the Rules of the House require a vote to be held on H.R. 962. As of August 1, 2019, 201 members have signed the discharge petition.<sup>5</sup>

### *The Need for HR 962*

Abortionists have repeatedly failed to provide abortion survivors with medical care, and they have not been held to account. H.R. 962 will outline clear federal penalties for the infanticide of abortion survivors, enabling the United States to protect vulnerable babies like these:

- **Abortion survivor Gianna Jensen** survived a saline abortion and was rushed to a hospital. In testimony before the House of Representatives, she said, *“The only reason I am alive is the fact that the abortionist had not yet arrived at work that morning. Had he been there, he would have ended my life by strangulation, suffocation, or simply leaving me there to die.”* She asks, *“If abortion is about women’s rights, then what were mine?”*
- **Abortion survivor Melissa Ohden** was supposed to be left to die in a bucket of formaldehyde in a utility closet but was saved by two nurses. In testimony before the House of Representatives, she said, *“As a fellow American, as a fellow human being, I deserved the same right to life, the same equal protection under the law as each and every one of you.”*
- **Abortionist Kermit Gosnell** was found by a Grand Jury to have “regularly and illegally delivered live, viable, babies in the third trimester of pregnancy – and then murdered these newborns by severing their spinal cords with scissors.”<sup>6</sup>
- **Former abortion clinic employee Deborah Edge** recounts, “I saw the abortionist puncture the soft spot in the baby’s head or snip its neck if it was delivered alive.”<sup>7</sup>
- **18-year-old Sycloria Williams** saw her 23-week-old baby girl born alive at an abortion clinic. The baby was stuffed, gasping for breath, into a biohazard bag and the bag was sealed shut.<sup>8</sup>
- **A pregnant woman (22-weeks pregnant)** asked the abortionists what they would do if her baby were taken out right then while his heart was still beating. The response: *“We don’t tell women this, and a lot of women don’t even ask this questions, but if were to*

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5 Petition to Discharge the Committee on Rules from Consideration of H.Res. 102, <http://clerk.house.gov/116/lrc/pd/petitions/DisPet0001.xml>

6. Grand Jury Report, Office of the Philadelphia District Attorney, <https://cdn.cnsnews.com/documents/Gosnell.%20Grand%20Jury%20Report.pdf> (Jan. 14, 2011).

7. Deborah Edge, Fox News, *I Worked at an abortion clinic like Dr. Gosnell’s House of Horrors*, <https://www.foxnews.com/opinion/i-worked-at-an-abortion-clinic-like-dr-gosnells-house-of-horrors#ixzz2SYPfXRes> (last updated May 8, 2015).

8. Fox News, *Lawsuit: Florida Clinic Botched Abortion, Threw Out Live Baby*, <https://www.foxnews.com/story/lawsuit-florida-clinic-botched-abortion-threw-out-live-baby> (last updated Jan. 14, 2015).

*proceed with the abortion and the baby was to come out still alive and active, most likely we would break the baby's neck.”<sup>9</sup>*

In July 2015, the Center for Medical Progress (CMP) began releasing undercover videos that revealed senior Planned Parenthood officials engaged in conversations about selling the body parts of unborn children. Some videos suggest that some abortionists have less incentive to provide care to a child born alive than they do to provide tissue procurement companies with intact dead children.

For example, in one video produced by the Center for Medical Progress (CMP), a young woman who used to work for a tissue procurement organization describes her experience after one abortion: *“This is the most gestated fetus and the closest thing to a baby that I’ve seen... **And she just taps the heart and it starts beating... Since the fetus was so intact, she said, ‘OK, well this is a really good fetus and it looks like we can procure a lot from it. We’re going to procure brain.’”**<sup>10</sup>*

### **Witness Biographies**

**Tessa Longbons**, Research Associate, Charlotte Lozier Institute

Ms. Longbons is a research associate with the Charlotte Lozier Institute. Assisting CLI’s data analytics department, Tessa focuses on abortion statistics at the state and national levels. Her research tracks U.S. abortion trends and the characteristics of abortions and abortion providers in the United States. She recently coauthored peer-reviewed research on abortion providers’ use of hospital admitting privileges and has analyzed abortion statistics from 41 states and New York City.

Tessa earned a B.A. in Communications from Thomas Edison State University. She lives in Washington, D.C.

**Dr. Robin Pierucci, M.D., M.A., Clinical Neonatologist**

Dr. Robin Pierucci, M.D. is a wife, mother, clinical neonatologist, and medical director of a 50-bed neonatal intensive care unit (NICU). She completed her residency in pediatrics as well as her fellowship in neonatology at the Children’s Hospital of Wisconsin, Medical College of Wisconsin. She also has a master’s degree in Bioethics and completed the National Catholic Bioethics Center ethics certificate course.

In addition to her clinical duties, Dr. Pierucci remains active in perinatal palliative care, as well as leading ongoing research and care of infants with Neonatal Abstinence Syndrome. She has authored multiple publications and has spoken around the country on multiple perinatal and

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9. Life News, *Planned Parenthood Doc Said She Would “Break Baby’s Neck” if Born Alive After Abortion*, <https://www.lifenews.com/2019/02/27/planned-parenthood-doc-said-she-would-break-the-babys-neck-if-born-alive-after-abortion/> (Feb. 27, 2019).

<sup>10</sup> Center for Medical Progress, *Human Capital: Episode 3 – Planned Parenthood’s Custom Abortions for Superior Product*, <https://www.youtube.com/watch?v=FzMAycMMXp8> (Aug. 19, 2015).

ethical issues. In the last year she has had articles published in *The Federalist* and *National Review Online*. Dr. Pierucci has appeared on a number of programs aired on EWTN including, Women of Grace, The Journey Home, EWTN Live, and her documentary about in vitro fertilization. She has also recently become an associate scholar with the Charlotte Lozier Institute.

When not at work, Dr. Pierucci can be found driving one of the kids to or from practices at random fields or hockey rinks or cheering at one of their games.

### **Jill Stanek, R.N.**

When it would have been easier to look the other way, Jill Stanek's commitment to Christ led her to risk her job, reputation, and friendships to stop the terrible practices of abortion and infanticide. Jill was a registered nurse in the Labor & Delivery Department at Christ Hospital in Oak Lawn, Illinois. She discovered not only were abortions being committed there, but babies were being aborted alive to die without medical care.

When hospital leaders said that they would not stop, Jill went public and has become a national figure in the effort to protect both born and pre-born infants.

Jill has been quoted in the national and international media on television, radio, and in print. There are hundreds of examples, but some include:

*Associated Press, CNN, Fox News, The Guardian, Los Angeles Times, London Telegraph, MSNBC, Newsweek, New York Times, O'Reilly Factor, Politico, Time, USA Today, U.S. News and World Report, Wall Street Journal, Washington Post, Washington Times, and World Magazine*

Jill has testified 10 times before Congressional committees and several state legislatures. Jill's testimony was read on multiple occasions during key U.S. Congressional debates on the Partial Birth Abortion Ban and Born Alive Infants Protection Act.

Jill remained at the hospital fighting the fight from the inside until she was terminated in 2001 for reasons related to her public outspokenness to its abortion practices.

On August 5, 2002, President George W. Bush invited Jill to his signing of the Born Alive Infants Protection Act, which will protect live aborted children from infanticide. The president publicly thanked Jill for her help during his speech.

Jill is a member of Parkview Christian Church in Orland Park, Illinois. She is wife to Rich; mother of three children; and grandmother to 12 grandsons - with two more babies on the way! She has addressed many groups at the local, national, and international levels sharing her testimony and giving an insider's view to the atrocity of abortion.

## **Dr. Kathi A. Aultman, M.D., Retired Ob/Gyn**

Kathi Aultman, M.D. is a board-certified Ob/Gyn and a Life-Fellow of the American College of Obstetricians and Gynecologists. She obtained her B.A. at Drew University College of Liberal Arts in 1972, earned her medical degree at the University of Florida College of Medicine in 1977, and completed her Ob/Gyn Residency at the University of Florida affiliated Jacksonville Health Education Program in 1981.

Dr. Aultman was a co-founder and co-director of the first Rape Treatment Center in Jacksonville, Florida and performed sexual assault exams on women and children as a medical examiner for Duval and Clay Counties. She performed 1<sup>st</sup> trimester suction D&C abortions and received special training in 2<sup>nd</sup> trimester D&E's. She also served as the medical director for Planned Parenthood of Jacksonville from 1981 to 1983. Her experiences doing abortions, and those in her Ob/Gyn practice, led her to a pro-life position. She subsequently testified extensively before state and congressional bodies, in state courts, and assisted various state attorneys and the Justice Department in defending the ban on partial-birth abortion. She has more recently testified at the state and national level on a variety of pro-life bills.

She served on the Ethics Commission of the Christian Medical and Dental Associations from June 2000 to June 2002. Dr. Aultman participated in Clay County's We Care program and the Healing Hands Clinic in Jacksonville to provide free care for uninsured patients. She cared for the female crew members of Mercy Ships in and out of the country and participated in their medical outreaches overseas.

Dr. Aultman received the Clay County Medical Society's "Award of Excellence" and the Florida Medical Association's Distinguished Physician Certificate, "A Physician Who Cares" and their "Harold Strasser, MD Good Samaritan Award." She served on the Ethics Commission of the Christian Medical and Dental Associations, the Quality Assurance Committee for NF OB/GYN Associates, the Governing Board (Chair for many years), Medical Executive Committee and Quality Assurance Committees of the Orange Park Surgery Center and the Board of Community Health Outreach which provides medical and dental care as well as food and other services to the needy.

She retired after 33 years from her medical practice in Orange Park, Florida where she worked from 1981-2014. She is currently an associate scholar with the Charlotte Lozier Institute and is a member of the American Association of Pro-life Obstetricians and Gynecologists.