



# HOUSE BILL 602: Born-Alive Abortion Survivors Protection Act.

2019-2020 General Assembly

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<b>Committee:</b>	House Health. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 10, 2019
<b>Introduced by:</b>	Reps. McElraft, Conrad, Stevens, Hurley	<b>Prepared by:</b>	Jason Moran-Bates
<b>Analysis of:</b>	First Edition		Committee Staff

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**OVERVIEW:** *House Bill 602 would require medical providers to employ the same duty of care for children born alive after attempted abortions that they would for any other child of the same gestational age. It would also create criminal penalties for medical providers who fail to exercise that duty of care or who fail to report another medical provider's failure to employ that duty of care to the appropriate authorities. Finally, it would make civil remedies available, and clarify that an intentional, overt act that kills a child born alive after an attempted abortion is punishable as murder.*

**CURRENT LAW:** The deliberate killing of infants, including those who have survived an attempted abortion, is a criminal offense. There are currently no laws requiring an affirmative duty of care to preserve the life of infants who survive attempted abortions.

## **BILL ANALYSIS:**

Section 1 of the bill would add Article 1L to Chapter 90 of the General Statutes.

- G.S. 90-21.130 would create definitions for "abortion," "attempt to perform an abortion," and "born alive."
- 90-21.131 would clarify that an infant who survives an abortion is a legal person. Infants born alive in a hospital, clinic, or other healthcare facilities would have the same claims to protection that any other patient at the facility would have.
- 90-21.132 would require health care providers to exercise the same degree of care for an infant born alive after an abortion attempt that they would for any other child born alive at the same gestational age. It would also require providers to ensure that infants born alive after an abortion attempt are immediately transported to a hospital.
- 90-21.133 would require healthcare providers to report violations of G.S. 90-21.132 to the appropriate authorities.
- 90-21.134 would prohibit the prosecution of mothers of infants born alive after attempted abortions for violations of G.S. 90-21.132 and G.S. 90-21.133.
- 90-21.135 would make violations of G.S. 90-21.132 and G.S. 90-21.133 Class D felonies. An overt act that kills a child born alive after an attempted abortion would be punishable as murder under G.S. 14-17(c).
- 90-21.136 would allow a woman upon whom an abortion was attempted in violation of Article 1L to seek civil damages that include objectively verifiable monetary damages, statutory damages equal to three times the cost of the abortion, punitive damages, and attorneys' fees.

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Section 2 would amend G.S. 14-17(c) to clarify that murder includes an intentional, overt act that kills a child born alive.

Section 3 would clarify that prosecutions for offenses committed before the act becomes effective are not abated or affected by the act.

**EFFECTIVE DATE:** Section 2 would become effective December 1, 2019, and apply to offenses committed on or after that date. The remainder of the act would become effective December 1, 2019.