

**This document references the all Legislators; House Members, Senators, Governor who voted for the HF1/SF1/PRO Act.**

**Specifically to Recall Timothy James Walz, Governor of the State of Minnesota. Case file # A23-0353**

**The Fourteenth Amendment (Amendment XIV) to the United States Constitution Section 1.**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**116 STAT. 926 PUBLIC LAW 107–207—AUG. 5, 2002**

**Public Law 107–207**

**107th Congress**

**An Act**

To protect infants who are born alive.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. SHORT TITLE.** This Act may be cited as the “Born-Alive Infants Protection Act of 2002”.

**SEC. 2. DEFINITION OF BORN-ALIVE INFANT.** (a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

**“§ 8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant** “(a) 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. “(b) As used in this section, the term ‘born alive’, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion. “(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being ‘born alive’ as defined in this section.”. (b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item: “8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant.”. Approved August 5, 2002

LEGISLATIVE HISTORY—H.R. 2175: HOUSE REPORTS: No. 107–186 (Comm. on the Judiciary). CONGRESSIONAL RECORD, Vol. 148 (2002): Mar. 12, considered and passed House. July 18, considered and passed Senate. WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002): Aug. 5, Presidential remarks. Æ

## **Minnesota Statute 145.423 ABORTION; LIVE BIRTHS.**

Subdivision 1. **Recognition; medical care.** A born alive infant as a result of an abortion shall be fully recognized as a human person and accorded immediate protection under the law. All reasonable measures consistent with good medical practice, including the compilation of appropriate medical records, shall be taken by the responsible medical personnel to preserve the life and health of the born alive infant.

Subd. 2. **Physician required.** When an abortion is performed after the 20th week of pregnancy, a physician, other than the physician performing the abortion, shall be immediately accessible to take all reasonable measures consistent with good medical practice, including the compilation of appropriate medical records, to preserve the life and health of any born alive infant that is the result of the abortion.

Subd. 3. **Death.** If a born alive infant described in subdivision 1 dies after birth, the body shall be disposed of in accordance with the provisions of section 145.1621.

Subd. 4. **Definition of born alive infant.** (a) In determining the meaning of any Minnesota statute, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of Minnesota, 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. (b) As used in this section, the term "born alive," with respect to a member of the species *Homo sapiens*, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who, after such expulsion or extraction, breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of a natural or induced labor, cesarean section, or induced abortion. (c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species *Homo sapiens* at any point prior to being born alive, as defined in this section.

Subd. 5. **Civil and disciplinary actions.** (a) Any person upon whom an abortion has been performed, or the parent or guardian of the mother if the mother is a minor, and the abortion results in the infant having been born alive, may maintain an action for death of or injury to the born alive infant against the person who performed the abortion if the death or injury was a result of simple negligence, gross negligence, wantonness, willfulness, intentional conduct, or another violation of the legal standard of care. (b) Any responsible medical personnel that does not take all reasonable measures consistent with good medical practice to preserve the life and health of the born alive infant, as required by subdivision 1, may be subject to the suspension or revocation of that person's professional license by the professional board with authority over that person. Any person who has performed an abortion and against whom judgment has been rendered pursuant to paragraph (a) shall be subject to an automatic suspension of the person's professional license for at least one year and said license shall be reinstated only after the person's professional board requires compliance with this section by all board licensees. (c) Nothing in this subdivision shall be construed to hold the mother of the born alive infant criminally or civilly liable for the actions of a physician, nurse, or other licensed health care provider in violation of this section to which the mother did not give her consent.

Subd. 6. **Protection of privacy in court proceedings.** In every civil action brought under this section, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure.

The Official Publication of the State of Minnesota Revisor of Statutes 1 MINNESOTA STATUTES 2022 145.423 court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each order must be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

Subd. 7. **Status of born alive infant.** Unless the abortion is performed to save the life of the woman or fetus, or, unless one or both of the parents of the born alive infant agree within 30 days of the birth to accept the parental rights and responsibilities for the child, the child shall be an abandoned ward of the state and the parents shall have no parental rights or obligations as if the parental rights had been terminated pursuant to section 260C.301. The child shall be provided for pursuant to chapter 256J.

Subd. 8. **Severability.** If any one or more provision, section, subdivision, sentence, clause, phrase, or word of this section or the application of it to any person or circumstance is found to be unconstitutional, it is declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality. The legislature intends that it would have passed this section, and each provision, section, subdivision, sentence, clause, phrase, or word, regardless of the fact that any one provision, section, subdivision, sentence, clause, phrase, or word is declared unconstitutional.

Subd. 9. **Short title.** This section may be cited as the "Born Alive Infants Protection Act."

History: 1976 c 170 s 1; 1997 c 215 s 4; 2015 c 71 art 8 s 44

**Minnesota House File (HF) 1, Amendment 19-2 Removal of partial Birth procedures in Minnesota with exceptions. Otherwise known as dilation & extraction/DNC, dismemberment in utero, can now occur anytime during the 3<sup>rd</sup> trimester to the 40 week/moment of birth in Minnesota. This is where a “born alive” would happen as none of these procedures are painless, and the baby will struggle to survive. HF1 Amendment 22-2, asked for protections for viable babies in the 3<sup>rd</sup> trimester as was evidenced in Doe vs Gomez, with exceptions for rape, incest, life of mother. Elective abortions after 21.6 weeks being prohibited with exceptions mentioned was a standard set by Doe vs Gomez until HF1. Both A-19-2 and A-22-2 amendments were voted against by said House Representative.**

**Similarly, in the Senate the companion bill Senate File (SF) 1 had similar amendments. A-103 shored up the Doe vs Gomez ruling, which had timeline protections for viable babies, with exceptions. It was set at 21 weeks in this amendment, A-107 requested 22 weeks, A-108 requested 25 weeks, A-109 requested 32 weeks, A-110 requested 36 weeks. Viability in Doe vs Gomez set 21.6 weeks as precedence for viability. A-211 non allowance of partial birth abortions as elective abortions, with exceptions for rape, incest, life of mother. all these requested amendments were voted down by said Senator.**

**A-53 requested prohibiting saline abortions, A-221 requested prohibiting dismemberment of unborn alive 3<sup>rd</sup> trimester babies, 21.6 week gestational to moment of birth protections, with exceptions. Again, voted down by said Senator.**

5 live births in 2021, that were recorded, abortions performed in Minnesota where the babies were born alive in 2021 due to botched abortions. 2 infants were viable. No measures were taken to preserve life were reported and the infants did not survive. 2 were given comfort care, viable babies given no medical treatment, the infants did not survive. 1 infant had fetal anomalies reported resulting in death shortly after birth. 5 viable babies that did not survive from botched abortions & were not investigated by our Attorney General. With no Minnesota Government Agency having or giving oversight of abortionists there will be no felonies under [Minn. Stat. § 145.412](#) . Having the Minnesota Government not overseeing agencies providing 3<sup>rd</sup> trimester abortions is a dereliction of duty on our legislative officials as well as the Minnesota Attorney General.

The 14th Amendment to the U.S. Constitution establishes “birthright citizenship”. It provides that all people born in the territory of the U.S. are citizens. The clause establishes that all people who are born in the United States automatically become U.S. citizens, regardless of the citizenship of the child’s parents. The status of the parent is irrelevant to the child being Born a US citizen. U.S. soil and not choice is what determines citizenship; thus, it is location and not parental choice that determines citizenship. Even if that birth takes place in a abortion providers business, due to a botched abortion.

HF1/SF1/Pro Act removes all prohibitions and timelines as to when the abortion care takes place. Elective Abortions with this legislation can take place up to the moment of birth. This Legislation removed provisions for viable babies, there are no restrictions, protections or oversight as to fetal tissue being dealt with in the 3<sup>rd</sup> trimester. No oversight of fetal tissue, even if it is still crying or trying to breathe. No rules, no government oversight, no liability for baby, all undone by HF1/SF1/PRO Act.

To say these lives were not important, I reference the difference one life can make-I reflect on George Floyd. One life is valuable at any age, and the Attorney General’s Office has a duty to view them as worthy of protection. Again, it is a dereliction of duty to not do your job as Government Officials in protecting viable babies & assuring the public the babies born alive are given medical care; not just “comfort care” designed for end of life status.

Attorney General Webpage, <https://www.ag.state.mn.us/AbortionRights/>

## Guidance for providers of abortion and reproductive healthcare

- [Minn. Stat. § 145.4242](#) requires physicians or referring physicians to provide patients with specific information 24 hours before performing an abortion. However, those disclosures are *not required* in medical emergencies or in care provided in the course of managing a miscarriage. In addition, the 24-hour delay does *not apply* to medical emergencies or miscarriage management.
- For all other abortion procedures, the physician or referring physician is *only* obligated to inform the patient about the “medically accurate” risks associated with the procedure. If, in the physician’s judgment, the procedure does not lead to risks of breast cancer, danger to subsequent pregnancies, or infertility, the physician or referring physician is *not required* to discuss those items.
- Although [Minn. Stat. § 145.412](#) imposes criminal penalties for performing an abortion in specific limited circumstances, no abortion provider in Minnesota has *ever* been convicted of a violation under this law based on conduct within the scope of their medical practice.

**Minnesota Statute 2022**  
**145.412 CRIMINAL ACTS.**

**Subdivision 1. Requirements.**

It shall be unlawful to willfully perform an abortion unless the abortion is performed:

- (1) by a physician licensed to practice medicine pursuant to chapter 147, or a physician in training under the supervision of a licensed physician;
- (2) in a hospital or abortion facility if the abortion is performed after the first trimester;
- (3) in a manner consistent with the lawful rules promulgated by the state commissioner of health; and
- (4) with the consent of the woman submitting to the abortion after a full explanation of the procedure and effect of the abortion.

**Subd. 2. Unconsciousness; lifesaving.**

It shall be unlawful to perform an abortion upon a woman who is unconscious except if the woman has been rendered unconscious for the purpose of having an abortion or if the abortion is necessary to save the life of the woman.

*[See Note.]*

**Subd. 3. Viability.**

It shall be unlawful to perform an abortion when the fetus is potentially viable unless:

- (1) the abortion is performed in a hospital;
- (2) the attending physician certifies in writing that in the physician's best medical judgment the abortion is necessary to preserve the life or health of the pregnant woman; and
- (3) to the extent consistent with sound medical practice the abortion is performed under circumstances which will reasonably assure the live birth and survival of the fetus.

*[See Note.]*

**Subd. 4. Penalty.**

A person who performs an abortion in violation of this section is guilty of a felony.

**History:**

[1974 c 177 s 2](#); [1977 c 305 s 45](#); [1985 c 248 s 70](#); 1986 c 444

**NOTE:** Subdivisions 2 and 3, clauses (2) and (3), were found unconstitutional in *Hodgson v. Lawson*, 542 F.2d 1350 (8th Cir. 1976), but see also *Dobbs v. Jackson Women's Health Organization*, 142 S.Ct. 2228 (2022).

**All of these above Statutes are undone by HF1/SF1/PRO Act which guarantees zero oversight of babies born alive or viable infants. Which will make the Attorney Generals Job easier to justify inaction on his part concerning born alive babies.**

As referenced in the Recall petition, The 14<sup>th</sup> Amendment belongs to every Citizen including babies born alive. The PRO Act is undoing **MN Statute 145.412** and is in direct violation of the **US Constitution's 14<sup>th</sup> Amendment** which ensures any person born in the United States, is a citizen of the United States. It states: “**...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;**” HF1/SF1/PRO Act denies the right to the most basic thing: a viable or Baby born alive from a botched abortion deserves from the 14<sup>th</sup> Amendment, Life. With all the protections, rights & privileges guaranteed a US citizen. This Legislator voting in the Affirmative for HF1/SF1/PRO Act are the grounds for this recall :(1) Thus changing Minnesota's existing laws under Doe vs Gomez; (2) Abridges the babies privileges to life, by removing born alive protections, guaranteed under the US Constitution's 14<sup>th</sup> Amendment for a US born Citizen in Minnesota. This legislation went far beyond Roe vs Wade in it's attempt to have abortions for anyone, for any reason, for anytime of pregnancy. As a conservative Minnesotans, we got our red wave with HF1/SF1/PRO Act & Democrat voters also received the red wave they were not expecting as well.