



**Written Testimony of Catherine Glenn Foster, Esq.  
President & CEO, Americans United for Life  
In support of A. 179  
Submitted to the Assembly Health Committee  
May 7, 2019**

Dear Chair Sanfelippo and Members of the Committee:

I serve as President and CEO of Americans United for Life (AUL), America's original and most active pro-life advocacy organization. Established in 1971, AUL has dedicated nearly 50 years to advocating for everyone to be welcomed in life and protected in law. In my practice, I specialize in life-related legislation and constitutional law. I appreciate the opportunity to submit testimony in support of A. 179, which would require an abortion practitioner to take all medically appropriate steps to preserve the life of a born-alive infant.

In 2002, the federal Born-Alive Infant Protection Act (BAIPA) became law, clarifying that infants born alive at any stage of development are recognized as persons under federal law. On the Senate floor, Senator Boxer voiced her strong support for the bill, exclaiming, "Who would be more vulnerable than a newborn baby?" She continued, stating that "all of our people deserve protection, from the very tiniest infant to the most elderly among us."<sup>1</sup> While the federal BAIPA ensures that all infants born alive have equal legal standing regardless of how they are born, it does not ensure life-saving protection. It is still necessary to require an affirmative action by a physician to ensure that an infant born alive after an abortion receives the same level of medical care as any other infant would.

A. 179 is more comprehensive than the federal BAIPA, reinforces the legal status provided in the federal version, and expands protections for born-alive infants. A. 179 states all health care providers "present at the time an abortion or attempted abortion results in a child born alive" must "[e]xercise the same degree of professional skill, care, and diligence, to preserve the life and health" of the child that the provider "would render to any other child born alive at the same gestational age." The provider must also "ensure that the child born alive is immediately transported and admitted to a hospital." These requirements would ensure all born-alive infants will get the medical care and attention they need to survive.

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<sup>1</sup> Congressional Record, S7062-S7064, June 28, 2001.

Additionally, while Wisconsin currently gives born-alive children legal rights in certain circumstances,<sup>2</sup> the Act would bring Wisconsin in line with many other states that require physicians to provide medical care to the infant. At least eighteen states have laws creating a specific affirmative duty for physicians to provide medical care and treatment to born-alive infants at any stage of development.<sup>3</sup> At least two additional states have laws creating a specific affirmative duty for physicians to provide medical care and treatment to born-alive infants after viability.<sup>4</sup>

A. 179 is also necessary because the federal BAIPA has limited application. It only extends to hospitals operated by the federal government or which receive federal funding, and the hospital's employees. It would not require private or state-operated clinics and hospitals to provide care or medical attention to born-alive infants. However, the "right" to an abortion does not include the right to kill a live-born child, or justify the denial of basic protections for born, living human infants, and A. 179 would create the affirmative duty of healthcare providers to give medically appropriate and reasonable care for the most vulnerable members of the community.

In conclusion, Wisconsin should support A. 179, thereby continuing to uphold its duty to protect the lives of all its citizens, no matter the circumstances in which they were born. Thank you.

Sincerely,



Catherine Glenn Foster, M.A., J.D.  
President & CEO  
Americans United for Life

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<sup>2</sup> "If a statute or rule refers to a live birth or to the circumstance in which an individual is born alive, the statute or rule shall be construed so that whoever undergoes a live birth as the result of an abortion . . . has the same legal status and legal rights as a human being at any point after the human being undergoes a live birth as the result of natural or induced labor or a cesarean section." Wis. Stat. § 990.001(17)(b).

<sup>3</sup> See, e.g., Ala. Code § 26-22-3(c)(5), Ariz. Rev. Stat. Ann. § 36-2301, Ark. Code Ann. § 20-16-604, Cal. Health & Safety Code § 123435, Del. Code Ann. tit. 24 § 1795, Fla. Stat. § 390.0111, 720 Ill. Comp. Stat. § 510/6(2)(b), Ind. Code § 16-34-2-3, La. Rev. Stat. Ann. § 40:1061.12, Me. Rev. Stat. tit. 22 § 1594, Mich. Comp. Laws § 333.1073, Minn. Stat. § 145.423, Neb. Rev. Stat. § 28-331, Nev. Rev. Stat. § 442.270, 18 Pa. Cons. Stat. § 3212, R.I. Gen. Laws § 11-9-18, Tenn. Code Ann. § 39-15-206, and Wash. Rev. Code § 18.71.240.

<sup>4</sup> See, e.g., Miss. Code Ann. § 97-3-4 and Wyo. Stat. Ann. § 35-6-104.