



April 10, 2018

Rep. Cale P. Keable, Chair
Members of the House Committee on Judiciary
January Session, 2018, of the State of Rhode Island General Assembly

**Re: Testimony of Bradley N. Kehr, Esq., Government Affairs Counsel,
Americans United for Life, Supporting H 7164, the Born-Alive Infant
Protection Act**

Dear Chair Keable and Honorable Members:

I am Bradley N. Kehr, Government Affairs Counsel with Americans United for Life (AUL). Established in 1971, AUL has been active in all fifty states and is known as the legal architect of the pro-life movement. AUL attorneys are experts on constitutional law and abortion jurisprudence, including the constitutionality of laws protecting children born alive during attempted abortions. We appreciate the opportunity to submit legal testimony concerning the constitutionality of H 7164, the “Born Alive Infant Protection Act.”

H 7164, which is based on AUL model legislation, is constitutional. It specifically requires medical professionals to provide nourishment and “medically appropriate and reasonable medical care and treatment or surgical care” to every infant born alive in Rhode Island regardless of his or her stage of gestational development. Further, the bill criminalizes infanticide in clear terms – any act or failure to act with the intent to kill an infant. The bill’s requirements apply regardless of the circumstances under which an infant is born, and the Act explicitly extends these protections to children born alive during abortions.

In 2002, the federal *Born-Alive Infant Protection Act* became law, clarifying that infants born alive at any stage of development are protected under federal law. Further, 26 states have laws similar to H 7164, establishing a specific affirmative duty for physicians to provide medical care and treatment to born-alive infants at any stage of development.¹ Four additional states have more limited protections.²

¹ These states are: Alabama, Arizona, California, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, New York,

H 7164 is a necessary and important bill. The BAIPA has a limited application. It only extends to those hospitals operated by the federal government or which receive federal funding and their employees. It would not require private or state-operated clinics and hospitals to provide care or medical attention to born-alive infants. Second, H 7164 is more comprehensive and protective than the federal version and reinforces and expands the protections provided in the federal version. Finally, the federal government has limited resources for law enforcement and prosecution, so H 7164 will help ensure the intent and requirements of the federal law are enforced and that violators are prosecuted.

Additionally, Rhode Island's current law seeking to protect babies born alive during attempted abortions has insufficient protections.³ H 7164 specifies that an infant born alive must receive nourishment and that the care provided must be "to preserve the life and health" of the infant, neither of which is contained in current law. These additions ensure clarity on the type of care required for born-alive infants.

The "right to an abortion" does not include the right to a dead child. Through the enactment of the Born Alive Infant Protect Act, the United States Congress, and Rhode Island through previous legislation, recognized that the right to abortion has limits, and is not an absolute, ever-expanding right. In particular, the right to abortion does not extend so far as to justify the denial of fundamental civil rights and protections to born, living human children.

The federal counterpart to this bill passed the United States Senate, perhaps the most deliberative legislative body in the world, 98-0. By enacting H 7164, the State of Rhode Island will demonstrate the same commitment to protecting all of its citizens, regardless of how they are born. Thank you.

Sincerely,



Bradley N. Kehr
Government Affairs Counsel
Americans United for Life

Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Washington, and Wisconsin.

² These states are: Iowa, Minnesota, North Dakota, and Virginia.

³ RI Gen L § 11-9-18 (2017)