



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 25, 2020
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 3275 – Pain-Capable Unborn Child Protection Act

(Sen. Graham, R-SC, and 47 cosponsors)

S. 311 – Born-Alive Abortion Survivors Protection Act

(Sen. Sasse, R-NE, and 50 cosponsors)

The Administration strongly supports S. 3275, the Pain-Capable Unborn Child Protection Act, and S. 311, the Born-Alive Abortion Survivors Protection Act. The Administration appreciates the diligent work of lawmakers to protect America's unborn and newly born children.

A growing body of medical evidence shows that unborn children may experience pain as early as the 12th week of development. Additionally, scientific research on fetal development published as recently as January 2020 has found that it is highly probable that an unborn child will feel pain between 12 and 24 weeks of gestation. This research also noted that surgeons and medical teams who perform invasive treatments on unborn children routinely recommend fetal anesthesia and pain relief as a matter of practice, but those who perform abortions rarely do so.

S. 3275 would make it unlawful to perform an abortion after 20 weeks of development, with limited exceptions. This bill reflects the most up-to-date scientific findings and a more compassionate and principled approach to determining permissible abortion timeframes. A legal framework for abortions centered upon viability, which is when an infant is able to survive outside of the womb, is not morally justifiable if an unborn infant is capable of feeling pain well before that date.

S. 311 would require that healthcare providers treat newborns, irrespective of the circumstances of their birth, as human patients. In 2002, the Born-Alive Infants Protection Act ensured that an infant born alive after a failed abortion would be legally protected. Unfortunately, that legal protection has not always resulted in physical protection. For example, when a child survives an attempted abortion, there is often little incentive for an abortion practitioner to provide even basic medical care to ensure the child's continued survival. In fact, since 2002, evidence has shown that, in many instances, abortion providers have not treated newborns as persons, nor have they provided the type of care that would be provided to a premature infant of spontaneous birth.

Recent studies supported by National Institutes of Health-funded research have shown that extremely preterm babies, delivered at 22 weeks, are now more likely to survive than ever

before. This research also shows that intensive, active medical care administered immediately can greatly improve those babies' survival rates and increase rates of surviving without neurological impairment.

S. 311 would help give babies born during an attempted abortion the same opportunity to survive and thrive as these other babies. It would do so by making it a crime, and grounds for civil liability, for a physician to fail to provide medical care to a child who survives an abortion procedure. At the same time, S. 311 would establish a civil right of action for, and prevent criminal prosecution and penalties from being brought against, the mothers of such children. Thus placing the responsibility squarely with the healthcare practitioner, whose Hippocratic oath requires them "to help the sick and abstain from wrong-doing and harm."

For more than 2,000 years, physicians have sworn a Hippocratic oath to do what is right and care for the sick. Together, S. 3275 and S. 311 would enshrine these principles into law as they relate to the unborn and premature infants. Our most helpless Americans cannot protect themselves from pain or from those who would callously allow them to die. The government, therefore, has a compelling responsibility to defend the rights and interests of these babies, including to be free from excruciating or unnecessary pain. All babies have the same dignity. They should not have to endure pain, and they should receive critical life-saving care regardless of whether they are born in a hospital, at home, or in an abortion clinic.

If S. 3275 or S. 311 were presented to the President in their current forms, his advisors would recommend that he sign them into law.

* * * * *