



## H.R. 4712 — Born-Alive Abortion Survivors Protection Act, (Blackburn, R-TN)

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### FLOOR SCHEDULE:

Scheduled for consideration on January 19, 2018, subject to a closed [rule](#).

### TOPLINE SUMMARY:

[H.R. 4712](#) would provide for criminal penalties for medical personnel who violate the [Born-Alive Infants Protections Act of 2002](#), by making it a federal crime to fail to provide standard medical care to children born alive during an abortion. It would also apply stronger penalties in cases where an overt act is taken to kill an abortion survivor. This legislation also provides for a civil right of action for mothers of children who survive an abortion to hold the abortion provider accountable.

### COST:

There is no Congressional Budget Office (CBO) cost estimate available.

### CONSERVATIVE CONCERNS:

Many conservatives will be pleased that this important legislation would protect children who survive abortions, provide protections for mothers, and would hold health care professionals accountable,

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

The Born-Alive Infants Protections Act of 2002, signed into law by George W. Bush, extended legal protections to infants born alive after failed abortions. It legally defined a born-alive infant as a “person, human being, child, and individual,” giving any children born alive in the United States the relevant protections of U.S. law.

H.R. 4712 would require any health care practitioner present at the time any child is born to exercise the same standard of care required in normal births to any child born alive as the result of an attempted abortion. Health care practitioners would also be required to ensure the child is immediately transported and admitted to a hospital.

This legislation would require mandatory reporting of violations of this act to state or federal law enforcement agencies. Violations of the provisions of the act would be punishable by fines or imprisonment of not more than 5 years, or both. In the event of an intentional killing of a child born-alive, this legislation would require violators to be punished under [section 1111 of title 18](#), for the intentional or attempted killing of a human being.

Under this legislation, the mother of a child born alive could not be prosecuted.

This legislation would also provide for civil remedies for mothers of children who are born alive as a result of a failed abortion, allowing them to hold abortion providers accountable for their actions. Appropriate relief would include compensatory damages for all injuries both physical and psychological, statutory damages of three times the cost of the attempted abortion, and punitive damages, in addition to reasonable attorney's fees.

H.R. 4712 contains identical language to H.R. 3504 which passed the House in the 114th Congress by a [248-177](#) vote on September 18, 2015. The RSC's legislative bulletin for H.R. 3504 can be found [here](#).

### **OUTSIDE GROUPS:**

[National Right to Life](#): key vote **YES**

[Family Research Council](#): key vote YES

March for Life Action: key vote YES

[Concerned Women for America](#): key vote YES

[Eagle Forum](#): key vote YES

[US Conference of Catholic Bishops](#)

[Susan B. Anthony List](#)

[Americans United for Life](#)

[Priests for Life](#)

American Association of Pro-Life Obstetricians and Gynecologists (AAPLOG)

Alliance Defending Freedom

C-FAM

American Center for Law and Justice (ACLJ)

Liberty Counsel and Liberty Counsel Action

Population Research Institute

### **COMMITTEE ACTION:**

H.R. 4712 was introduced on December 21, 2017, and was referred to the House Committee on the Judiciary.

### **ADMINISTRATION POSITION:**

No Statement of Administration Policy is available at this time.

### **CONSTITUTIONAL AUTHORITY:**

According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: Congress has authority to extend protection to born-alive abortion survivors under the Supreme Court's Commerce Clause precedents and under the Constitution's grants of powers to Congress under the Equal Protection, Due Process, and Enforcement Clauses of the Fourteenth Amendment."

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