

## Termination of Pregnancy (Live Births) Amendment Bill 2024

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**SUBMISSION**  
**Termination of Pregnancy (Live Births) Amendment Bill 2024**  
**Health and Environment Committee**

I fully support and commend Mr Katter, Member for Traeger, for introducing this Bill to parliament. The fact that babies are born alive and left to die following failed late-term abortion is a human rights atrocity.

Article 3 from the Universal Declaration of Human Rights states ‘Everyone has the right to life, liberty and security of person’<sup>1</sup>.

Once a child has been born, and is alive independent of the mother, it should have the right to the same level of medical care as any other newborn child would. When medical staff are protected by law to neglect their duty of care to these children, then we have essentially legalised infanticide.

People who oppose this bill argue that babies being born alive and left to die following an abortion is a ‘myth’<sup>2</sup>, and that such a bill would be ‘nonsensical’<sup>3</sup> and ‘medically unnecessary’<sup>4</sup>.

**The frequency of failed late-term abortion necessitates medical safeguards for these babies:**

Given there is no requirement across all states and territories in Australia for mandatory reporting of abortion, there is only limited information publically available to demonstrate the frequency that this occurs. This means that available statistics are grossly under-reported. According to the Queensland Health Perinatal Annual Reports for 2010-2020, 1153 late term abortions occurred in public hospitals during this period, with 267 occurring in 2020 alone<sup>5</sup>. Over this 10 year period, the rate of late term abortion in Queensland increased by 270%<sup>6</sup>. The most likely reason to account for this is the change to Queensland’s Termination of Pregnancy laws. Of the 1153 late term abortions, 328 babies were born alive due to failed abortion – meaning that almost 1/3 of late term abortions result in a live birth<sup>4</sup>.

These figures demonstrate that a significant number of **babies are born alive** due to failed late term abortion and left to die. No one can deny that this occurs.

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<sup>1</sup> <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

<sup>2</sup> Tory Shepherd, “He’s Tabling a Bill about a Myth”: Calling Bullshit on George Christensen’s “Born Alive” Abortion Move’, Crickey (online, 5 May 2021) .

<sup>3</sup> Paul Karp, ‘George Christensen’s “Nonsensical” Abortion Proposal Could Penalise Doctors up to \$440,000’, The Guardian (online, 23 February 2021) .

<sup>4</sup> Sarah Ison, ‘Political Push to “Protect” Babies Born Alive after Abortion’, The Australian (online, 5 December 2022) .

<sup>5</sup> Queensland Health, Queensland Government, Perinatal Annual Reports for 2010–2020, Table 10.13 (‘Main condition in fetus/neonate by type of perinatal death’).

<sup>6</sup> Sinnerton, Jackie. Qld pregnancy terminations occurring as late as 37 weeks. Courier Mail, 12<sup>th</sup> September 2022

Late term abortion ends the life of a baby who is gestationally viable in most cases. Late term abortions occur anywhere from 20 weeks gestation to full term, with the latest recorded abortions in Queensland occurring at 37 weeks and 1 day<sup>5</sup>. Healthy babies born at 28 weeks gestation have an 80-90% chance of survival<sup>7</sup>.

If these babies were born prematurely rather than aborted, they would be afforded life-saving treatment that would allow them to thrive. It is nonsensical that babies of identical gestational ages be left to die simply because they were ‘marked’ for abortion in utero.

### **Comprehensive crisis pregnancy counselling for late term abortion should be mandated by law:**

Undergoing an abortion after 20 weeks gestation becomes a much more traumatic experience. For the mother, the procedure is more physically demanding and emotionally traumatic, as she comes to terms with the delivery of essentially a small fully formed baby. Even when a mother has chosen to terminate her pregnancy, when a baby is born alive due to failed abortion, she either has to sit by and watch her child die or a strong maternal instinct may compel her to change her mind about the abortion. There are currently no protections in the law that allow the mother to change her mind in that moment and request life-saving treatment for her child.

According to a study published in the Journal of Obstetrics and Gynaecology, ‘[m]any women do change their minds about an initial abortion decision. A change of mind in favour of continued pregnancy is far commoner in second trimester abortion applicants compared to first trimester applicants. In a study of 1419 women who booked for abortion, overall almost 10% subsequently opted to continue pregnancy to term. However, among applicants of over 18 weeks gestation, 75% decided to continue pregnancy’<sup>8</sup>.

Thank you for accepting my submission. Following are 7 recommendations that I support in the establishment of this Bill:

#### **Recommendation 1**

There should be statutory protections at the federal level for all babies born alive in Australia to receive medical care irrespective of the circumstances of their delivery.

#### **Recommendation 2**

There should be national medical protocols put in place (by statute, regulation or otherwise) to govern the provision of medical care to newborn babies following an abortion. These should include, but not be limited to:

- a. Ensuring that newborn babies are immediately assessed for gestational age and viability by a medical practitioner<sup>9</sup>.
- b. The provision of medical care should be based on a formal-equality principle. All newborn babies are entitled to equal treatment under the law. The basis for this equality principle is that a newborn baby possesses independent human rights upon separation from its mother.

#### **Recommendation 3**

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<sup>7</sup> University of Utah Health, ‘When is it Safe to Deliver your Baby?’ (Web page, 2022)

<sup>8</sup> P Clarke, J Smith, T Kelly and M J Robinson, ‘An Infant Who Survived Abortion and Neonatal Intensive Care’ (2005) 25(1) Journal of Obstetrics and Gynaecology

<sup>9</sup> Note this is a recommendation in Inquest into the death of Jessica Jane [2000] NTMC 37

There should be mandatory and robust national data collection on babies born alive following an abortion. This will require the cooperation of state and territory governments and should encompass data collection on the gestational age at birth, gender of the baby, reason for abortion, medical care provided after birth and length of life.

**Recommendation 4**

All pregnant women undertaking a second or third trimester abortion should be given comprehensive crisis pregnancy counselling and be made aware of the risks of late-term abortion, including live birth.

**Recommendation 5**

All babies born alive following an abortion who die prior to discharge from the hospital should be referred to the Coroner for an inquest.

**Recommendation 6**

If the death is unavoidable, the baby must always be given palliative care, with proper attention given to pain relief and the emotional needs of the dying baby.

**Recommendation 7**

All babies born alive following an abortion who die in hospital after their birth are entitled to a birth certificate, death certificate and proper burial or cremation.