

## From Barack Obama Campaign

### **2001 and 2002: OBAMA JOINED MORE THAN 40% OF THE ILLINOIS SENATE—INCLUDING NUMEROUS REPUBLICANS—IN OPPOSING “BORN ALIVE” BILLS**

**Obama Voted Against Two Born Alive Bills, With Almost a Quarter of the Senate, Saying They Would Be Struck Down.** In 2002, Obama voted against a bill to create the Induced Birth Infant Liability Act to provide that if a child is born alive after an induced labor abortion or other abortion, a parent or public guardian of the child may recover damages for costs of care to preserve and protect the life, health, and safety of the child, punitive damages, and costs and attorney’s fees against a hospital, health care facility, or health care provider who harms or neglects the child or fails to provide medical care to the child after it is born. Obama voted against a bill to amend the Statute on Statutes, to define “born-alive infant” to include “every infant member of the species homo sapiens who is born alive at any stage of development.” Further defines “born alive” to mean “the complete expulsion or extraction from the mother of an infant, at any stage of development, who after that expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut and regardless of whether of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.” Obama predicted the bills would be struck down by a federal court were they to become law. Obama said, “Whenever we define a pre-viable fetus as a person that is protected by the equal protection clause or other elements of the Constitution, we’re saying they are persons entitled to the kinds of protections provided to a child, a 9-month-old child delivered to term... That determination then essentially, if it was accepted by a court, would forbid abortions to take place.” [92<sup>nd</sup> GA, SB 1661, 4/4/02, 3R P; 31-11-10 (BO: N); 92<sup>nd</sup> GA, SB 1662, 4/4/02, 3R P; 30-12-10 (BO: N); Sun-Times, 3/31/01]

- **21 Senators Opposed Senate Bill 1661.** Senators Bowles, Geo-Karis (Republican), Hendon, Molaro, Radogno (Republican), Shaw, Smith, Trotter, Viverito and Welch voted present on Senate Bill 1661. Senators Cullerton, Del Valle, Halvorson, Jacobs, Lightford, Link, Madigan, Obama, Parker (Republican), Ronen and Shadid voted no on Senate Bill 1661. [92<sup>nd</sup> GA, SB 1661, 4/4/02, 3R P; 31-11-10 (BO: N)]
- **22 Senators Opposed Senate Bill 1662.** Senators Bowles, Geo-Karis (Republican), Hendon, Molaro, Radogno (Republican), Shadid, Shaw, Trotter, Viverito and Welch voted present on Senate Bill 1662. Senators Cullerton, Del Valle, Halvorson, Jacobs, Klemm (Republican), Lightford, Link, Madigan, Obama, Parker (Republican), Ronen and Smith voted no on Senate Bill 1662. [92<sup>nd</sup> GA, SB 1662, 4/4/02, 3R P; 30-12-10 (BO: N)]
- **Six Republican Senators Opposed One Or All Born Alive Bills.** Republican Senator Kathleen Parker voted no Senate Bills 1661 and 1662. Republican Senator Christine Radogno voted present on Senate Bills 1661 and 1662. Republican Senator Adeline Geo-Karis voted present on Senate Bills 1661 and 1662. Republican Senator Dick Klemm voted no on Senate Bill 1662. [92<sup>nd</sup> GA, SB 1093, SB 1094, SB 1095, SB 1661, SB 1662]

**Obama Voted Present On “Born Alive” Bills.** Obama voted present on a bill to amend the Illinois Abortion Law of 1975, providing that no abortion procedure that, in the medical judgment of the attending physician, has a reasonable likelihood of resulting in a live born child shall be undertaken unless there is in attendance a physician other than the physician performing or inducing the abortion who shall address the child’s viability and provide medical care for the child and provides that a physician inducing an abortion that results in a live born child shall provide for the soonest practicable attendance of a physician other than the physician performing or inducing the abortion to immediately assess the child’s viability and provide medical care for the child. Also provides that a live child born as a result of an abortion shall be fully recognized as a human person and that all reasonable measures consistent with good medical practice shall be taken to

preserve the life and health of the child. Obama voted present on a bill to amend the Statute on Statutes, to define “born-alive infant” to include “every infant member of the species homo sapiens who is born alive at any stage of development.” Obama voted present on a bill to create the Induced Birth Infant Liability Act states that it is the intent of the General Assembly to protect the life of a child born alive as the result of an induced labor abortion, provides that a parent of the child or the public guardian of the county in which a child was born alive after an induced labor abortion or any other abortion has a cause of action against any hospital, health care facility or health care provider that fails to provide medical care for the child after birth. [92<sup>nd</sup> GA, SB 1093, 3/30/01, 3R P; 34-6-12; 92<sup>nd</sup> GA, SB 1094, 3/30/01, 3R P; 34-5-13; 92<sup>nd</sup> GA, SB 1095, 3/30/01, 3R P; 33-6-13]

- **17 Senators Opposed Senate Bill 1093.** Senators Bowles, Del Valle, Halvorson, Hendon, Jacobs, Lightford, Molaro, Obama, Radogno (Republican), Shadid and Viverito voted present on Senate Bill 1093. Senators Link, Madigan, Parker (Republican), Ronen, Silverstein and Welch voted no on Senate Bill 1093. [92<sup>nd</sup> GA, SB 1093, 3/30/01, 3R P; 34-6-12]
- **18 Senators Opposed Senate Bill 1094.** Senators Bowles, Clayborne, Halvorson, Jacobs, Lightford, Molaro, Myers (Republican), Obama, Radogno (Republican), Shadid, Viverito, Weaver (Republican) and Welch voted present on Senate Bill 1094. Senators Del Valle, Link, Parker (Republican), Ronen and Silverstein voted no on Senate Bill 1094. [92<sup>nd</sup> GA, SB 1094, 3/30/01, 3R P; 34-5-13]
- **18 Senators Opposed Senate Bill 1095.** Senators Bowles, Clayborne, Del Valle, Halvorson, Hendon, Jacobs, Lightford, Molaro, Obama, Radogno (Republican), Shadid, Viverito and Welch voted present on Senate Bill 1095. Senators Link, Madigan, Parker (Republican), Ronen and Silverstein voted no on Senate Bill 1095. [92<sup>nd</sup> GA, SB 1095, 3/30/01, 3R P; 33-5-13]
- **Four Republican Senators Opposed One Or All Born Alive Bills.** Republican Senator Radogno voted present and Republican Parker voted no on Senate Bill 1093. Republican Senators Myers, Radogno, and Weaver voted present on Senate Bill 1094 and Republican Senator Parker voted against. Radogno voted present and Parker voted against Senate Bill 1095. [92<sup>nd</sup> GA, SB 1093, 3/30/01, 3R P; 34-6-12; 92<sup>nd</sup> GA, SB 1094, 3/30/01, 3R P; 34-5-13; 92<sup>nd</sup> GA, SB 1095, 3/30/01, 3R P; 33-6-13]

## **OBAMA SUPPORTED AND NARAL DIDN'T OPPOSE 2002's FEDERAL BAIPA**

**Obama Said He Would Have Supported Federal Born-Alive Legislation.** The [Chicago Tribune](#) reported, “Obama said that had he been in the US Senate two years ago, he would have voted for the Born-Alive Infants Protection Act, even though he voted against a state version of the proposal. The federal version was approved; the state version was not. Both measures required that if a fetus survived an abortion procedure, it must be considered a person. Backers argued it was necessary to protect a fetus if it showed signs of life after being separated from its mother...the difference between the state and federal versions, Obama explained, was that the state measure lacked the federal language clarifying that the act would not be used to undermine Roe vs. Wade.” [Chicago Tribune, 10/4/04]

- **NARAL Didn't Oppose Federal BAIPA For Its Clear Legal Difference Between A Fetus In Utero Versus A Child That's Born.** NARAL Executive Vice President Mary Jane Gallagher said, “We, in fact, did not oppose this bill. There's a clear legal difference now between a fetus in utero versus a child that's born. And when a child is born, they deserve every protection that this country can provide them.” [CNN, 8/5/02]

- **NARAL Statement:** “In the statement, NARAL says, “Consistent with our position last year, NARAL does not oppose passage of the Born Alive Infants Protection Act. Last year’s committee and floor debate served to clarify the bill’s intent and assure us that it is not targeted at Roe v. Wade or a woman’s right to choose.” [\[NARAL release, 6/13/01\]](#)”

## **2003 BORN ALIVE LEGISLATION OBAMA OPPOSED IN COMMITTEE DID NOT HAVE THE SAME IMPACT AS FEDERAL LEGISLATION**

### **Planned Parenthood: “Although The Definition Is Similar To The Proposed Federal Legislation, Its Application Would Have A Different Impact On State Abortion Law.”**

Planned Parenthood wrote in a fact sheet, “SB 1082 & SB 1083 are NOT the same as the so-called “Born Alive Infant Protection Act” which was recently passed in the U. S. House. The federal legislation is considered to be a restatement of existing federal law. It does not amend or change current Illinois law. Federal law does not regulate abortion practice. That is left to the states. Therefore, it is state legislation that would affect abortion practice in Illinois. The package of SB 1082 & SB 1083 creates new provisions in Illinois law. Although the definition is similar to the proposed federal legislation, its application would have a different impact on state abortion law.” [Planned Parenthood Fact Sheet, 2/28/03]

**Illinois State Medical Society Opposed SB 1082.** Robert Kane, legal counsel to the Illinois State Medical Society, filed a committee witness slip stating the Medical Society opposition to Senate Bill 1082. [Committee Witness Slip, SB 1082]

## **2005 BILL THAT PASSED AFTER OBAMA LEFT THE SENATE WAS SIGNIFICANTLY DIFFERENT THAN THE ONE THAT OBAMA DEALT WITH IN HIS COMMITTEE IN 2003, WASN’T OPPOSED BY PRO-CHOICE GROUPS**

**2005 Bill: “Unlike Earlier Versions That Failed, This Bill Does Not Spell Out What Medical Care Doctors Must Provide When An Abortion Procedure Ends In A Live Birth. The Legislation Also Specifically Says It Has No Impact On Illinois Abortion Laws.”** “Activists on both sides of the abortion debate found a rare patch of common ground Wednesday: legislation that says any live birth - even one that occurs during an abortion - is a person with legal rights. The measure was unanimously approved by the House civil law committee and now moves to the House floor. Unlike earlier versions that failed, this bill does not spell out what medical care doctors must provide when an abortion procedure ends in a live birth. The legislation also specifically says it has no impact on Illinois abortion laws. Still, anti-abortion groups are pleased. ‘What it does is support the legal principle that infants that are born alive, regardless of their stage of development or the circumstances of their birth, are persons and deserve protection under the law,’ said Dawn Behnke, an attorney who lobbies for the Illinois Federation for Right to Life. Abortion rights supporters said they were satisfied that this legislation is not an attempt to restrict abortion. Pam Sutherland, president of the Illinois Planned Parenthood Council, said the legislation will simply ensure babies get the medical care their doctors and parents think is appropriate.” [AP, 5/9/05]

**The Born Alive Bill That Passed Into Law In IL—In Addition to Including the Language from the Failed 2003 Legislation and Federal Law—Stated That “Nothing In This Section Shall Be Construed To Affect Existing Federal Or State Law Regarding Abortion” or “Generally Accepted Medical Standards.”** In determining the meaning of any statute or of any rule, regulation, or interpretation of the various administrative agencies of this State, the words ‘person’, ‘human being’, ‘child’, and ‘individual’ shall include every infant member of the species homo sapiens who is born alive at any stage of development. (b) As used in this Section, the term ‘born alive’, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord,

or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion. (c) Nothing in this Section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive, as defined in this Section. (d) Nothing in this Section shall be construed to affect existing federal or State law regarding abortion. (e) Nothing in this Section shall be construed to alter generally accepted medical standards. [94<sup>th</sup> GA, [HB 984](#), PA 94-0559, 8/12/05]

## **BORN ALIVE PRINCIPLE WAS ALREADY THE LAW IN ILLINOIS**

**Illinois Law Already Stated That In The Unlikely Case That An Abortion Would Cause A Live Birth, A Doctor Should “Provide Immediate Medical Care For Any Child Born Alive As A Result Of The Abortion.”** The Chicago Tribune reported, “For more than 20 years, Illinois law has required that when ‘there is a reasonable likelihood of sustained survival of the fetus outside the womb, with or without artificial support,’ an abortion may only be performed if a physician believes ‘it is necessary to preserve the life or health of the mother.’ And in such cases, the law requires that the doctor use the technique ‘most likely to preserve the life and health of the fetus’ and perform the abortion in the presence of ‘a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for any child born alive as a result of the abortion.’” [Chicago Tribune, 8/17/04]

	Language Clearly Threatening Roe	So Called "Neutrality Clause"	Language Explicitly Indicating No Effect on IL Abortion Law
2001, <a href="#">SB1095</a> Obama Voted Present On Floor	(c) A live child born as a result of an abortion shall be fully recognized as a human person and accorded immediate protection under the law.		
2002, <a href="#">SB 1662</a> Obama Voted Against on Floor	(c) A live child born as a result of an abortion shall be fully recognized as a human person and accorded immediate protection under the law.		
2002 Federal <a href="#">Law</a> Obama Would Have Supported		(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being "born alive" as defined in this section.	
2003, <a href="#">SB1082</a> Obama Voted Against in Committee	(c) A live child born as a result of an abortion shall be fully recognized as a human person and accorded immediate protection under the law. <b>REMOVED BY AMENDMENT</b>	(c) Nothing in this Section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this Section. <b>ADDED BY AMENDMENT</b>	
2005 <a href="#">Law</a> Passed in IL After Obama		(c) Nothing in this Section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive, as defined in this Section.	(d) Nothing in this Section shall be construed to affect existing federal or State law regarding abortion. (e) Nothing in this Section shall be construed to alter generally accepted medical standards.

➤ **Illinois Law Stated That A Doctor Must Preserve The Life And Health Of A Fetus If In The Course Of An Abortion, There Is Reasonable Likelihood Of Sustained Survival.** The Illinois Compiled Statutes stated that any physician who intentionally performs an abortion when, in his medical judgment based on the particular facts of the case before him, there is a reasonable likelihood of sustained survival of the fetus outside the womb, with or without artificial support, shall utilize that method of abortion which, of those he knows to be available, is in his medical judgment most likely to preserve the life and health of the fetus. No abortion shall be performed or induced when the fetus is viable unless there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for any child born alive as a result of the abortion. Subsequent to the abortion, if a child is born alive, the physician required to be in attendance shall exercise the same degree of professional skill, care and diligence to preserve the life and health of the child as would be required of a physician providing immediate medical care to a child born alive in the course of a pregnancy termination which was not an abortion. Violation of these statutes constituted a Class 3 felony. [[Illinois Compiled Statutes](#), 720 ILCS 510/6]

### **DIFFERENCES IN BORN ALIVE BILLS**

**\*All born alive bills contained these first two sections (with the Federal legislation referring to “the United States” instead of “this state”)**

(a) In determining the meaning of any statute or of any rule, regulation, or interpretation of the various administrative agencies of this State, the words "person", "human being", "child", and "individual" shall include every infant member of the species homo sapiens who is born alive at any stage of development.

(b) As used in this Section, the term "born alive", with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.