

**SUSPEND THE RULES AND PASS THE BILL, H.R. 4292, WITH AN
AMENDMENT**

**(The amendment strikes out all after the enacting clause and inserts
a new text)**

106TH CONGRESS
2^D SESSION

H. R. 4292

To protect infants who are born alive.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2000

Mr. CANADY of Florida introduced the following bill; which was referred to
the Committee on the Judiciary

A BILL

To protect infants who are born alive.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

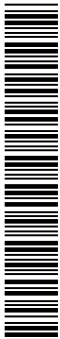
3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Born-Alive Infants
5 Protection Act of 2000”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) It has long been an accepted legal principle
9 that infants who are born alive, at any stage of de-



1 velopment, are persons who are entitled to the pro-
2 tections of the law. But recent decisions by the
3 United States Supreme Court and the United States
4 Court of Appeals for the Third Circuit have ex-
5 panded *Roe v. Wade* and brought this well-settled
6 principle into question.

7 (2) In *Stenberg v. Carhart*, 120 S. Ct. 2597
8 (2000), the United States Supreme Court struck
9 down a Nebraska law banning partial-birth abortion,
10 a procedure in which an abortionist delivers an un-
11 born child's body until only the head remains inside
12 of the womb, punctures the back of the child's skull
13 with scissors, and sucks the child's brains out before
14 completing the delivery. What was described in *Roe*
15 v. *Wade* as a right to abort "unborn children" has
16 thus been extended by the Court to include the vio-
17 lent destruction of partially born children just inches
18 from complete birth.

19 (3) The *Carhart* Court considered the location
20 of an infant's body at the moment of death during
21 a partial-birth abortion --- delivered partly outside
22 the body of the mother --- to be of no legal signifi-
23 cance in ruling on the constitutionality of the Ne-
24 braska law. Instead, implicit in the *Carhart* decision
25 was the pernicious notion that a partially born in-



1 fant's entitlement to the protections of the law is de-
2 pendent upon whether or not the partially born
3 child's mother wants him or her.

4 (4) Following *Stenberg v. Carhart*, on July 26,
5 2000, the United States Court of Appeals for the
6 Third Circuit made that point explicit in *Planned*
7 *Parenthood of Central New Jersey v. Farmer*, 220
8 F.3d 127 (3rd Cir. 2000), in the course of striking
9 down New Jersey's partial-birth abortion ban. Ac-
10 cording to the Third Circuit, under *Roe* and
11 *Carhart*, it is "nonsensical" and "based on semantic
12 machinations" and "irrational" line-drawing for a
13 legislature to conclude that an infant's location in
14 relation to his or her mother's body has any rel-
15 evance in determining whether that infant may be
16 killed.

17 (5) Instead, the *Farmer* Court repudiated New
18 Jersey's classification of the prohibited procedure as
19 being a "partial birth," and concluded that a child's
20 status under the law, regardless of the child's loca-
21 tion, is dependent upon whether the mother intends
22 to abort the child or to give birth. The *Farmer*
23 Court stated that, in contrast to an infant whose
24 mother intends to give birth, an infant who is killed
25 during a partial-birth abortion is not entitled to the



1 protections of the law because “[a] woman seeking
2 an abortion is plainly not seeking to give birth.” In
3 other words, a real child, with an objective existence,
4 is treated as merely a conceptual construct, and in
5 that way, swept aside as though he or she had no
6 existence at all that anyone was obliged to acknowl-
7 edge.

8 (6) The logical implications of Carhart and
9 Farmer are both obvious and disturbing. Under the
10 logic of these decisions, once a child is marked for
11 abortion, it is wholly irrelevant whether that child
12 emerges from the womb as a live baby. That child
13 may still be treated as though he or she did not
14 exist, and would have not the slightest rights under
15 the law no right to receive medical care, to be sus-
16 tained in life, or to receive any care at all.

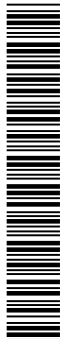
17 (7) And if a child who survives an abortion and
18 is born alive would have no claim to the protections
19 of the law, there would, then, be no basis upon
20 which the government may prohibit an abortionist
21 from completely delivering an infant before killing
22 the child or leaving the child to die. The “right to
23 abortion,” under this logic, means nothing less than
24 the right to a dead baby, no matter where the killing
25 takes place.



1 (8) Credible public testimony received by the
2 Subcommittee on the Constitution of the Committee
3 on the Judiciary indicates that this is, in fact, al-
4 ready occurring. According to eyewitness accounts,
5 live-birth abortions are indeed being performed, re-
6 sulting in live-born premature infants who are sim-
7 ply left to die, sometimes without the provision of
8 even basic comfort care such as warmth and nutri-
9 tion.

10 (9) Statements made by proponents of abortion
11 indicate that they support this expansion of *Roe v.*
12 *Wade*. For example, on July 20, 2000, the National
13 Abortion and Reproductive Rights Action League
14 ("NARAL") issued a press release criticizing the
15 Born-Alive Infants Protection Act because, in
16 NARAL's view, recognizing the legal personhood of
17 premature infants who are born alive after surviving
18 abortions constitutes an "assault" on *Roe v. Wade*.
19 According to NARAL, by seeking legal protection
20 for born-alive infants "at any stage of development,"
21 including those not yet considered to have achieved
22 "viability," the proponents of this Act are "directly
23 contradicting one of *Roe's* basic tenets".

24 (10) Thus, having created in *Roe v. Wade* a
25 legal regime in which a child's status under the law



1 was dependent upon that child's location in relation
2 to the body of his or her mother --- "born" or "un-
3 born" --- the Federal judiciary has now rejected that
4 regime as irrational, creating instead an expanded
5 Roe v. Wade regime in which a child's entitlement
6 to the protections of the law depends upon whether
7 the child's mother intends to abort the child or to
8 give birth.

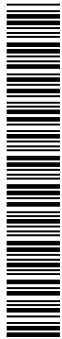
9 (b) PURPOSE.—It is the purpose of this Act—

10 (1) to repudiate the flawed notion that a child's
11 entitlement to the protections of the law is depend-
12 ent upon whether that child's mother or others want
13 him or her;

14 (2) to repudiate the flawed notion that the right
15 to an abortion means the right to a dead baby, re-
16 gardless of where the killing takes place;

17 (3) to affirm that every child who is born alive
18 --- whether as a result of induced abortion, natural
19 labor, or caesarean section --- bears an intrinsic dig-
20 nity as a human being which is not dependent upon
21 the desires, interests, or convenience of any other
22 person, and is entitled to receive the full protections
23 of the law;

24 (4) to establish firmly that, for purposes of
25 Federal law, the term "person" includes an infant



1 who is completely expelled or extracted from his or
2 her mother and who is alive regardless of whether or
3 not the baby's development is believed to be, or is
4 in fact, sufficient to permit long-term survival, and
5 regardless of whether the baby survived an abortion.

6 **SEC. 3. DEFINITION OF BORN-ALIVE INFANT.**

7 (a) IN GENERAL.—Chapter 1 of title 1, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§8. ‘Person’, ‘human being’, ‘child’, and ‘individual’**
11 **as including born-alive infant**

12 “(a) In determining the meaning of any Act of Con-
13 gress, or of any ruling, regulation, or interpretation of the
14 various administrative bureaus and agencies of the United
15 States, the words ‘person’, ‘human being’, ‘child’, and ‘in-
16 dividual’, shall include every infant member of the species
17 homo sapiens who is born alive at any stage of develop-
18 ment.

19 “(b) As used in this section, the term ‘born alive’,
20 with respect to a member of the species homo sapiens,
21 means the complete expulsion or extraction from its moth-
22 er of that member, at any stage of development, who after
23 such expulsion or extraction breathes or has a beating
24 heart, pulsation of the umbilical cord, or definite move-
25 ment of voluntary muscles, regardless of whether the um-



1 bilical cord has been cut, and regardless of whether the
2 expulsion or extraction occurs as a result of natural or
3 induced labor, cesarean section, or induced abortion.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of chapter 1 of title 1, United States
6 Code, is amended by adding at the end the following new
7 item:

“8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive in-
fant.”.

