

# Congress of the United States

Washington, DC 20515

October 1, 2026

The Honorable Robert F. Kennedy Jr.  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Ave SW  
Washington, DC 20201

Dear Secretary Kennedy:

We recognize and applaud President Donald Trump's consistent commitment to protect the rights of infants born alive after an attempted abortion, infants born prematurely, or infants facing a disability diagnosis. As Members of Congress who share in the President's concern, we urge you to act quickly to implement President Trump's [Executive Order on Protecting Vulnerable Newborn and Infant Children](#) issued during his first term to protect premature infants from discrimination.

The heartbreaking situation of McKenna West and her surrogate baby shows the need for quick federal action on this matter. At her 20-week ultrasound, Ms. West was informed that the baby she was carrying as a surrogate had a serious but treatable heart condition. The baby's biological parents allegedly directed Ms. West to end the child's life through abortion. Ms. West refused and moved to Texas to be close to a hospital where the baby could receive lifesaving care. The biological parents filed a lawsuit in California seeking to establish parental rights and require Ms. West to relocate to California, which would give them the option to withhold lifesaving care from the baby upon birth. On August 11, 2026, the District Court in Dallas County issued an [emergency order](#) granting temporary relief for the protection of the child, directing that he receive life-sustaining care after birth, and preventing his removal from the state of Texas. The baby boy was born the following day, August 12.

We are grateful that Texas law recognized and protected the rights and personhood of Ms. West's surrogate baby and acted to save his life. Sadly, this protection is not uniform in all the states across our nation. Leadership from the Department of Health and Human Services (HHS) is needed to ensure that all vulnerable infants receive equal protection under the law instead of being at the mercy of health care system that may unjustly declare them unworthy of life.

On September 25, 2020, President Trump issued an [Executive Order on Protecting Vulnerable Newborn and Infant Children](#) responding to concerns that hospitals have refused to provide medical screening and stabilizing treatment to vulnerable infants, including those who are premature, born with disabilities, or born in medical distress. The Executive Order states, "It is the policy of the United States to recognize the human dignity and inherent worth of every newborn or other infant child..." It clarifies that all individuals, including vulnerable infants, are protected under federal law, including the [Emergency Medical Treatment and Labor Act \(EMTALA\)](#) (42 U.S.C. 1395dd), [Section 504 of the Rehabilitation Act](#) (29 U.S.C. 794), and [The Born-Alive Infants Protection Act](#) (1 U.S.C. 8).

This Executive Order was never formally rescinded by the Biden Administration. It lays out several important opportunities for the Secretary to strengthen the protection available for vulnerable

newborns and their parents. This includes directing the Secretary to:

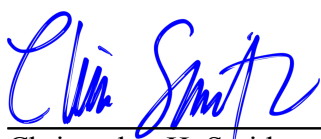
- Ensure all federal funding recipients understand their obligations under federal law toward vulnerable infants.
- Investigate complaints of violations of federal law related to vulnerable infants not receiving appropriate care.
- Take appropriate enforcement actions against individuals or organizations that violate federal law, including termination of federal funding.
- Clarify how parents and hospital staff may submit complaints for investigation under federal laws.
- Prioritize grant funding to develop treatments to improve the survival of vulnerable newborns who have an emergency medical condition in need of stabilizing treatment.

Please act quickly to implement these directives. They offer important opportunities to ensure vulnerable newborns, including newborns with diagnosed disabilities, are receiving the care they deserve no matter where in the United States they are born.

The Executive Order also authorized HHS to issue regulations or guidance that may be necessary to implement it. In compliance, on January 15, 2021, the HHS Office for Civil Rights (OCR) issued a proposed rule, “Special Responsibilities of Medicare Hospitals in Emergency Cases and Discrimination on the Basis of Disability in Critical Health and Human Service Programs or Activities,” seeking to clarify existing law to protect premature infants and adults with disabilities from discrimination. The rule was never finalized. We encourage you to evaluate and consider reissuing a rule on this topic.

We are eager to work with you to ensure our nation values human life, provides equal justice under the law, and respects the rights and of individuals with disabilities. We respectfully request continued dialogue on what steps HHS has taken in the past to comply with this Executive Order and what future steps HHS plans to take.

Sincerely,



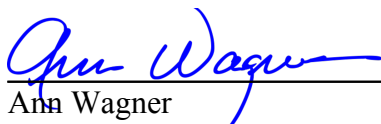
Christopher H. Smith  
Member of Congress



Kat Cammack  
Member of Congress



James Lankford  
United States Senator



Ann Wagner  
Member of Congress



Cindy Hyde-Smith  
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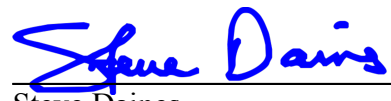
Marsha Blackburn  
United States Senator



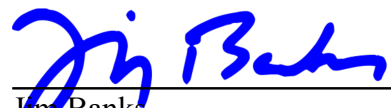
Cynthia M. Lummis  
United States Senator



James C. Justice  
United States Senator



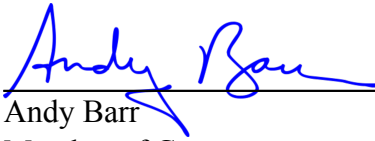
Steve Daines  
United States Senator



Jim Banks  
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Pete Ricketts  
United States Senator



Andy Barr  
Member of Congress



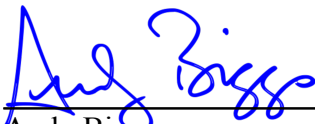
Dusty Johnson  
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Michael Cloud  
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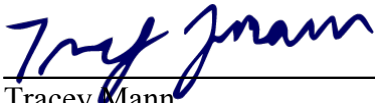
Ron Estes  
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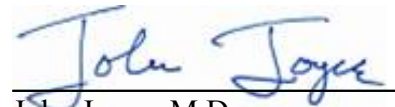
Andy Biggs  
Member of Congress



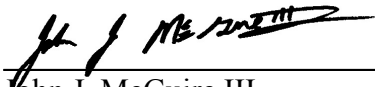
Russ Fulcher  
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Tracey Mann  
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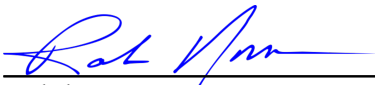
John Joyce, M.D.  
Member of Congress



John J. McGuire III  
Member of Congress



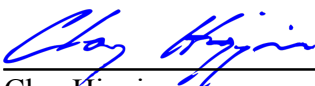
Mike Bost  
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Ralph Norman  
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Glenn "GT" Thompson  
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Clay Higgins  
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Blake D. Moore  
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Ben Cline  
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Glenn Grothman  
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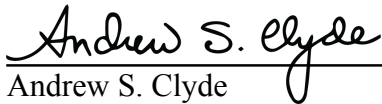
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Josh Brecheen  
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Gary J. Palmer  
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John Rose  
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