

CS/HB 1129

2013

1 A bill to be entitled
2 An act relating to infants born alive; amending s.
3 390.011, F.S.; defining the term "born alive";
4 amending s. 390.0111, F.S.; providing that an infant
5 born alive during or immediately after an attempted
6 abortion is entitled to the same rights, powers, and
7 privileges as any other child born alive in the course
8 of natural birth; requiring health care practitioners
9 to preserve the life and health of such an infant born
10 alive, if possible; providing for the transport and
11 admittance of an infant born alive to a hospital;
12 providing a presumption that the infant has been
13 surrendered; providing for certain medical and social
14 services for the infant; requiring a health care
15 practitioner or certain employees who have knowledge
16 of any violations with respect to infants born alive
17 after an attempted abortion to report those violations
18 to the Department of Health; providing a penalty;
19 amending s. 390.0112, F.S.; revising a reporting
20 requirement; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Subsections (4) through (8) of section 390.011,
25 Florida Statutes, are renumbered as subsections (5) through (9),
26 respectively, and a new subsection (4) is added to that section
27 to read:

28 390.011 Definitions.—As used in this chapter, the term:

29 (4) "Born alive" means the complete expulsion or
30 extraction from the mother of a human infant, at any stage of
31 development, who, after such expulsion or extraction, breathes
32 or has a beating heart, or definite and voluntary movement of
33 muscles, regardless of whether the umbilical cord has been cut
34 and regardless of whether the expulsion or extraction occurs as
35 a result of natural or induced labor, Cesarean section, induced
36 abortion, or other method.

37 Section 2. Subsections (12) and (13) of section 390.0111,
38 Florida Statutes, are renumbered as subsections (13) and (14),
39 respectively, subsection (10) is amended, and a new subsection
40 (12) is added to that section to read:

41 390.0111 Termination of pregnancies.—

42 (10) PENALTIES FOR VIOLATION.—Except as provided in
43 subsections (3), ~~and~~ (7), and (12):

44 (a) Any person who willfully performs, or actively
45 participates in, a termination of pregnancy procedure in
46 violation of the requirements of this section commits a felony
47 of the third degree, punishable as provided in s. 775.082, s.
48 775.083, or s. 775.084.

49 (b) Any person who performs, or actively participates in,
50 a termination of pregnancy procedure in violation of the
51 provisions of this section which results in the death of the
52 woman commits a felony of the second degree, punishable as
53 provided in s. 775.082, s. 775.083, or s. 775.084.

54 (12) INFANTS BORN ALIVE.—

55 (a) An infant born alive during or immediately after an
56 attempted abortion is entitled to the same rights, powers, and

57 | privileges as are granted by the laws of this state to any other
58 | child born alive in the course of natural birth.

59 | (b) If an infant is born alive during or immediately after
60 | an attempted abortion, any health care practitioner present at
61 | the time shall humanely exercise the same degree of professional
62 | skill, care, and diligence to preserve the life and health of
63 | the infant as a reasonably diligent and conscientious health
64 | care practitioner would render to an infant born alive in the
65 | course of natural birth.

66 | (c) An infant born alive during or immediately after an
67 | attempted abortion must be immediately transported and admitted
68 | to a hospital pursuant to s. 390.012(3)(c) or rules adopted
69 | thereunder. Upon such hospital admittance, the infant is
70 | presumed to be surrendered under s. 383.50(2) and must receive
71 | the medical care and social services provided under s.
72 | 383.50(4), (7), and (8).

73 | (d) A health care practitioner or any employee of a
74 | hospital, a physician's office, or an abortion clinic who has
75 | knowledge of a violation of this subsection must report the
76 | violation to the department.

77 | (e) A person who violates this subsection commits a
78 | misdemeanor of the first degree, punishable as provided in s.
79 | 775.082 or s. 775.083.

80 | Section 3. Subsection (1) of section 390.0112, Florida
81 | Statutes, is amended to read:

82 | 390.0112 Termination of pregnancies; reporting.—

83 | (1) The director of any medical facility in which any
84 | pregnancy is terminated shall submit a monthly report to the

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85 | agency which contains the number of procedures performed, the
86 | reason for same, ~~and~~ the period of gestation at the time such
87 | procedures were performed, and the number of infants born alive
88 | during or immediately after an attempted abortion ~~to the agency~~.
89 | The agency shall be responsible for keeping such reports in a
90 | central place from which statistical data and analysis can be
91 | made.

92 | Section 4. This act shall take effect July 1, 2013.