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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
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The Committee on Health Policy (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

390.011 Definitions.—As used in this chapter, the term:
(4) "Born alive" means the complete expulsion or extraction from the mother of a human infant, at any stage of development, who, after such expulsion or extraction, breathes or has a



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13 beating heart, or definite and voluntary movement of muscles,
14 regardless of whether the umbilical cord has been cut and
15 regardless of whether the expulsion or extraction occurs as a
16 result of natural or induced labor, Cesarean section, induced
17 abortion, or other method.

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

22 390.0111 Termination of pregnancies.—

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

25 (a) Any person who willfully performs, or actively
26 participates in, a termination of pregnancy procedure in
27 violation of the requirements of this section commits a felony
28 of the third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30 (b) Any person who performs, or actively participates in, a
31 termination of pregnancy procedure in violation of the
32 provisions of this section which results in the death of the
33 woman commits a felony of the second degree, punishable as
34 provided in s. 775.082, s. 775.083, or s. 775.084.

35 (12) INFANTS BORN ALIVE.—

36 (a) An infant born alive during or immediately after an
37 attempted abortion is entitled to the same rights, powers, and
38 privileges as are granted by the laws of this state to any other
39 child born alive in the course of natural birth.

40 (b) If an infant is born alive during or immediately after
41 an attempted abortion, any health care practitioner present at



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42 the time shall humanely exercise the same degree of professional
43 skill, care, and diligence to preserve the life and health of
44 the infant as a reasonably diligent and conscientious health
45 care practitioner would render to an infant born alive at the
46 same gestational age in the course of natural birth.

47 (c) An infant born alive during or immediately after an
48 attempted abortion must be immediately transported and admitted
49 to a hospital pursuant to s. 390.012(3)(c) or rules adopted
50 thereunder.

51 (d) A health care practitioner or any employee of a
52 hospital, a physician's office, or an abortion clinic who has
53 knowledge of a violation of this subsection must report the
54 violation to the department.

55 (e) A person who violates this subsection commits a
56 misdemeanor of the first degree, punishable as provided in s.
57 775.082 or s. 775.083. This subsection shall not be construed as
58 a specific provision of law relating to a particular subject
59 matter that would preclude prosecution of a more general
60 offense, regardless of the penalty.

61 (f) This subsection does not affirm, deny, expand, or
62 contract any legal status or legal right applicable to any
63 member of the species homo sapiens at any point prior to being
64 born alive as defined in this subsection.

65 Section 3. Subsection (1) of section 390.0112, Florida
66 Statutes, is amended to read:

67 390.0112 Termination of pregnancies; reporting.—

68 (1) The director of any medical facility in which any
69 pregnancy is terminated shall submit a monthly report to the
70 agency which contains the number of procedures performed, the



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71 reason for same, ~~and~~ the period of gestation at the time such
72 procedures were performed, and the number of infants born alive
73 during or immediately after an attempted abortion to the agency.
74 The agency shall be responsible for keeping such reports in a
75 central place from which statistical data and analysis can be
76 made.

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

78
79 ===== T I T L E A M E N D M E N T =====

80 And the title is amended as follows:

81 Delete everything before the enacting clause
82 and insert:

83 A bill to be entitled
84 An act relating to infants born alive; amending s.
85 390.011, F.S.; defining the term "born alive";
86 amending s. 390.0111, F.S.; providing that an infant
87 born alive during or immediately after an attempted
88 abortion is entitled to the same rights, powers, and
89 privileges as any other child born alive in the course
90 of natural birth; requiring health care practitioners
91 to preserve the life and health of such an infant born
92 alive, if possible; providing for the transport and
93 admittance of an infant born alive to a hospital;
94 requiring a health care practitioner or certain
95 employees who have knowledge of any violations with
96 respect to infants born alive after an attempted
97 abortion to report those violations to the Department
98 of Health; providing a penalty; providing for
99 construction; amending s. 390.0112, F.S.; revising a



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reporting requirement; providing an effective date.