



596354

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
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



596354

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



596354

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. Upon such hospital admittance, the infant is
51 presumed to be surrendered under s. 383.50(2) and must receive
52 the medical care and social services provided under s.
53 383.50(4), (7), and (8).

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

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

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

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

70 390.0112 Termination of pregnancies; reporting.-



596354

71 (1) The director of any medical facility in which any
72 pregnancy is terminated shall submit a monthly report to the
73 agency which contains the number of procedures performed, the
74 reason for same, ~~and~~ the period of gestation at the time such
75 procedures were performed, and the number of infants born alive
76 during or immediately after an attempted abortion ~~to the agency.~~
77 The agency shall be responsible for keeping such reports in a
78 central place from which statistical data and analysis can be
79 made.

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

81
82 ===== T I T L E A M E N D M E N T =====

83 And the title is amended as follows:

84 Delete everything before the enacting clause
85 and insert:

86 A bill to be entitled
87 An act relating to infants born alive; amending s.
88 390.011, F.S.; defining the term "born alive";
89 amending s. 390.0111, F.S.; providing that an infant
90 born alive during or immediately after an attempted
91 abortion is entitled to the same rights, powers, and
92 privileges as any other child born alive in the course
93 of natural birth; requiring health care practitioners
94 to preserve the life and health of such an infant born
95 alive, if possible; providing for the transport and
96 admittance of an infant born alive to a hospital;
97 providing a presumption that the infant has been
98 surrendered; providing for certain medical and social
99 services for the infant; requiring a health care



596354

100 practitioner or certain employees who have knowledge
101 of any violations with respect to infants born alive
102 after an attempted abortion to report those violations
103 to the Department of Health; providing a penalty;
104 providing for construction; amending s. 390.0112,
105 F.S.; revising a reporting requirement; providing an
106 effective date.