

By Senator Flores

37-01057C-13

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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 providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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

27 390.011 Definitions.—As used in this chapter, the term:
28 (4) "Born alive" means the complete expulsion or extraction
29 from the mother of a human infant, at any stage of development,

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30 who, after such expulsion or extraction, breathes or has a
31 beating heart, or definite and voluntary movement of muscles,
32 regardless of whether the umbilical cord has been cut and
33 regardless of whether the expulsion or extraction occurs as a
34 result of natural or induced labor, Cesarean section, induced
35 abortion, or other method.

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

40 390.0111 Termination of pregnancies.—

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

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

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

53 (12) INFANTS BORN ALIVE.—

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

58 (b) If an infant is born alive during or immediately after

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

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

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

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

79 Section 3. This act shall take effect July 1, 2013.