

By the Committee on Health Policy; and Senator Flores

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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 requiring a health care practitioner or certain
13 employees who have knowledge of any violations with
14 respect to infants born alive after an attempted
15 abortion to report those violations to the Department
16 of Health; providing a penalty; providing for
17 construction; amending s. 390.0112, F.S.; revising a
18 reporting requirement; providing an effective date.

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

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

26 390.011 Definitions.—As used in this chapter, the term:
27 (4) "Born alive" means the complete expulsion or extraction
28 from the mother of a human infant, at any stage of development,
29 who, after such expulsion or extraction, breathes or has a

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

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

39 390.0111 Termination of pregnancies.—

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

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

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

52 (12) INFANTS BORN ALIVE.—

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

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

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

64 (c) An infant born alive during or immediately after an
65 attempted abortion must be immediately transported and admitted
66 to a hospital pursuant to s. 390.012(3)(c) or rules adopted
67 thereunder.

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

72 (e) A person who violates this subsection commits a
73 misdemeanor of the first degree, punishable as provided in s.
74 775.082 or s. 775.083. This subsection shall not be construed as
75 a specific provision of law relating to a particular subject
76 matter that would preclude prosecution of a more general
77 offense, regardless of the penalty.

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

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

84 390.0112 Termination of pregnancies; reporting.—

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

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

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