

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 for construction; amending s. 390.0112,
20 F.S.; revising a reporting requirement; providing an
21 effective date.

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

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

29 390.011 Definitions.—As used in this chapter, the term:
 30 (4) "Born alive" means the complete expulsion or
 31 extraction from the mother of a human infant, at any stage of
 32 development, who, after such expulsion or extraction, breathes
 33 or has a beating heart, or definite and voluntary movement of
 34 muscles, regardless of whether the umbilical cord has been cut
 35 and regardless of whether the expulsion or extraction occurs as
 36 a result of natural or induced labor, Cesarean section, induced
 37 abortion, or other method.

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

42 390.0111 Termination of pregnancies.—

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

45 (a) Any person who willfully performs, or actively
 46 participates in, a termination of pregnancy procedure in
 47 violation of the requirements of this section commits a felony
 48 of the third degree, punishable as provided in s. 775.082, s.
 49 775.083, or s. 775.084.

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

55 (12) INFANTS BORN ALIVE.—

56 (a) An infant born alive during or immediately after an

57 attempted abortion is entitled to the same rights, powers, and
58 privileges as are granted by the laws of this state to any other
59 child born alive in the course of natural birth.

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

67 (c) An infant born alive during or immediately after an
68 attempted abortion must be immediately transported and admitted
69 to a hospital pursuant to s. 390.012(3)(c) or rules adopted
70 thereunder. Upon such hospital admittance, the infant is
71 presumed to be surrendered under s. 383.50(2) and must receive
72 the medical care and social services provided under s.
73 383.50(4), (7), and (8).

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

78 (e) A person who violates this subsection commits a
79 misdemeanor of the first degree, punishable as provided in s.
80 775.082 or s. 775.083. This subsection shall not be construed as
81 a specific provision of law relating to a particular subject
82 matter that would preclude prosecution of a more general
83 offense, regardless of the penalty.

84 (f) This subsection does not affirm, deny, or contract any

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85 legal status or legal right applicable to any member of the
86 species homo sapiens at any point prior to being born alive as
87 defined in this subsection.

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

90 390.0112 Termination of pregnancies; reporting.—

91 (1) The director of any medical facility in which any
92 pregnancy is terminated shall submit a monthly report to the
93 agency which contains the number of procedures performed, the
94 reason for same, ~~and~~ the period of gestation at the time such
95 procedures were performed, and the number of infants born alive
96 during or immediately after an attempted abortion ~~to the agency.~~

97 The agency shall be responsible for keeping such reports in a
98 central place from which statistical data and analysis can be
99 made.

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