

Senate Fiscal Agency  
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**SFA**



**BILL ANALYSIS**

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House Bill 5994 (as reported with amendment)  
House Bill 5995 (as reported with amendment)  
House Bills 5996 and 5997 (as reported without amendment)  
House Bill 5998 (Substitute S-1 as reported)  
Sponsor: Representative Bruce Patterson (House Bill 5994)  
Representative Patricia Birkholtz (House Bill 5995)  
Representative Wayne Kuipers (House Bill 5996)  
Representative Barb Vander Veen (House Bill 5997)  
Representative Doug Bovin (House Bill 5998)  
House Committee: Family and Children Services  
Senate Committee: Families, Mental Health and Human Services

## **CONTENT**

House Bill 5994 would create the "Born Alive Infant Protection Act" to do the following:

- Provide that an newborn who survived an attempted abortion would be considered a newborn surrendered under the Safe Delivery of Newborns Law, if the mother refused to authorize life-sustaining medical treatment or release the newborn for adoption.
- Require the attending physician to provide immediate medical care to the newborn and either request transfer of the newborn to a resident, on-duty, or emergency physician who would have to provide medical care, or call 9-1-1 for emergency transfer of the newborn to a hospital, which would have to provide medical care.

The bill also contains certain legislative findings, including the following: "If an abortion results in the live birth of a newborn, the newborn is a legal person for all purposes under the law"; and, "It is not an infringement on a woman's right to terminate her pregnancy for the state to assert its interest in protecting a newborn whose live birth occurs as the result of an abortion."

The bill would define "live birth" as "the complete expulsion or extraction of a product of conception from its mother, regardless of the duration of the pregnancy, that...shows any evidence of life, including, but not limited to, 1 or more of the following:

- (a) Breathing.
- (b) A heartbeat.
- (c) Umbilical cord pulsation.
- (d) Definite movement of voluntary muscles."

House Bill 5995 would amend the Safe Delivery of Newborns Law to require an emergency service provider, upon receiving a newborn under the proposed Act, to do the following:

- Comply with requirements of the Safe Delivery of Newborns Law to obtain information from or supply information to the parent surrendering the newborn.
- Make no attempt to contact the newborn's parent or parents.
- Provide humane comfort care if the newborn were determined to have no chance of survival due to gestational immaturity in light of available neonatal medical treatment or other condition incompatible with life.

House Bill 5996 would amend the Michigan Penal Code to specify that the felony of child

abandonment would not apply to the mother of a newborn surrendered under the proposed Act. A physician who delivered a live newborn and failed to comply with that Act, however, could be prosecuted for child abandonment.

House Bill 5997 would amend the Child Protection Law to make an exception to the Law's reporting requirements for a newborn described in the proposed Act.

House Bill 5998 (S-1) would amend the Public Health Code to do the following:

- Require a live birth under the proposed Act to be reported to a local registrar in the same manner as other live births are reported, except that the parents would have to be listed as "unknown" and the newborn listed as "Baby Doe".
- Require a funeral director, who first took custody of the body, to report the death of an infant who survived an attempted abortion under the proposed Act and died later; and require the death to be reported in the same manner that any death is reported, except that the deceased infant would have to be listed as "Baby Doe" and no information that would directly identify the infant or the infant's parents could be reported.
- Require the State Registrar or a local registrar, upon request and payment, to issue to specified people an affidavit of parentage filed after June 1, 1997, or a record of stillbirth filed after June 1, 2003.
- Include "medium-chain acyl-coenzyme a dehydrogenase deficiency" (or MCAD deficiency) among the conditions for which newborns must be tested.
- Allow the Department of Community Health, if it performed any of the required tests, to charge a fee of up to \$53.71. (The current fee, as adjusted for inflation, is \$41.86.)

The amendments regarding newborn testing would take effect on April 1, 2003.

House Bills 5995 through 5998 (S-1) are tie-barred to House Bill 5994.

MCL 712.3 (H.B. 5995)  
750.135 (H.B. 5996)  
722.628 (H.B. 5997)  
333.2822 & 333.2843 (H.B. 5998)

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

House Bill 5994 would have little to no fiscal impact on the Family Independence Agency. Medical and emergency transport costs would be incurred in some circumstances, however, and could add to the State's Medicaid program costs.

House Bill 5995 would have no fiscal impact on State or local government.

House Bill 5996 would have an indeterminate impact on State and local government. There are no data to indicate how many doctors would be convicted of child abandonment as a result of an attempted abortion and failing to comply with the requirements of the Born Alive Infant Protection Act. An offender would be guilty of a Class D felony, which has a sentencing guideline minimum range of 0-6 months to 43-76 months. Local units would incur the cost of incarceration in a county jail, which may vary by county from \$27 to \$65 per day. The State would incur the cost of probation at \$4.38 per day as well as the cost of incarceration in a State prison at an average annual cost of \$25,000. In the absence of data, if one assumes that one additional offender would be convicted and would receive the longest allowable minimum sentence, it would cost the State \$158,300.

House Bill 5997 would have an indeterminate fiscal impact on the State and local governments for administrative services associated with an increase in case investigations, as outlined in the Born Alive Infant Protection Act.

House Bill 5998 (S-1) would add MCAD to the list of seven disorders that newborn infants must be tested for in Michigan, and would increase the amount of the fee that the DCH may charge for the newborn screening tests from \$41.86 per birth to \$53.71 per birth. According to the DCH, approximately 133,000 births occur in Michigan each year. As such, it can be estimated that this fee increase would bring in approximately \$1,576,050 of additional fee revenue.

This fee revenue is used by the DCH to cover the costs of the screening program, including equipment and follow-up. The DCH states that the increased fee would fully cover costs associated with performing the MCAD test, including the cost of purchasing or leasing a tandem mass spectrometer, which is a specialized machine that is necessary for performing the test.

Fees for the newborn screening tests are paid for by the hospitals where the births occur; hospitals obtain reimbursement for this cost by billing the patients, if they are private pay, or by billing the patients' insurance, either private or Medicaid. As such, hospitals would likely increase the amount of reimbursement they seek from all sources by \$11.85 per birth. Approximately 40% of births in this State are covered by Medicaid. Medicaid is jointly financed by the State and the Federal government (which pays roughly 55% of Michigan's Medicaid costs); as a result, this bill would cost the State additional Medicaid expenditures or approximately \$269,300.

About one infant in 10,000 to 15,000 births is born with MCAD, or approximately one infant per month in Michigan. The disease is nonsymptomatic at birth and if undetected can lead to death, mental retardation, and/or serious disability. Outcomes can be substantially improved by early treatment. Sufficient data on the sensitivity (false negatives) and specificity (false positives) for the MCAD test are unavailable.

Date Completed: 12-10-02

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.