

# SENATE BILL No. 1270

May 7, 2002, Introduced by Senators GARCIA, SANBORN, SHUGARS, GOSCHKA, STEIL, VAN REGENMORTER, SIKKEMA, HAMMERSTROM, GOUGEON, MC MANUS, NORTH, MC COTTER, MILLER, BENNETT, SCHUETTE and HOFFMAN and referred to the Committee on Families, Mental Health and Human Services.

A bill to assert the state's interest in protecting all individuals; and to prescribe responsibilities and procedures in regard to a newborn whose live birth results from an abortion.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. (1) This act shall be known and may be cited as the  
2 "born alive infant protection act".

3       (2) As used in this act:

4       (a) "Abortion" means the intentional use of an instrument,  
5 drug, or other substance or device to terminate a woman's preg-  
6 nancy for a purpose other than to increase the probability of a  
7 live birth, to preserve the life or health of the newborn after  
8 live birth, or to remove a dead fetus. Abortion does not include  
9 the use or prescription of a drug or device intended as a  
10 contraceptive.

1 (b) "Live birth" means the complete expulsion or extraction  
2 of the offspring of a pregnant woman that, after the expulsion or  
3 extraction, shows any evidence of life, whether or not the umbil-  
4 ical cord has been cut or the placenta is attached.

5 Sec. 2. The legislature finds all of the following:

6 (a) The state has a paramount interest in protecting all  
7 individuals.

8 (b) If an abortion results in the live birth of a newborn,  
9 the newborn is a legal person for all purposes under the law.

10 (c) A woman's right to terminate pregnancy ends when the  
11 pregnancy is terminated. It is not an infringement on a woman's  
12 right to terminate her pregnancy for the state to assert its  
13 interest in protecting a newborn whose live birth occurs as the  
14 result of an abortion.

15 Sec. 3. (1) If an abortion results in a live birth and,  
16 after being informed of the newborn's live birth, the newborn's  
17 mother expresses a desire not to assume custody and responsibil-  
18 ity for the newborn, by refusing to authorize all necessary life  
19 sustaining medical treatment for the newborn or releasing the  
20 newborn for adoption, the newborn shall be considered a newborn  
21 who has been surrendered to an emergency service provider under  
22 the safe delivery of newborns law, chapter XII of the probate  
23 code of 1939, 1939 PA 288, MCL 712.1 to 712.20. The procedures  
24 of the safe delivery of newborns law, chapter XII of the probate  
25 code of 1939, 1939 PA 288, MCL 712.1 to 712.20, shall be followed  
26 in regard to the custody and care of the newborn.

1 (2) If an abortion performed in a hospital setting results  
2 in a live birth, a physician attending the abortion shall inform  
3 the mother of the live birth and request a resident, on-duty, or  
4 emergency room physician to provide medical care for the  
5 newborn. If an abortion performed in other than a hospital set-  
6 ting results in a live birth, a physician attending the abortion  
7 shall call 9-1-1 for an emergency transfer of the newborn to a  
8 hospital.

9 (3) A live birth described in this act shall be reported as  
10 required in section 2822 of the public health code, 1978 PA 368,  
11 MCL 333.2822.

12 (4) If a newborn is considered a newborn who has been sur-  
13 rendered to an emergency service provider under the safe delivery  
14 of newborns law, chapter XII of the probate code of 1939, 1939 PA  
15 288, MCL 712.1 to 712.20, as provided in subsection (1), the  
16 identity of the newborn's mother and father becomes confidential  
17 and shall not be revealed, either orally or in writing.

18 (5) The attending physician who transfers care of a live  
19 newborn under this section to another physician or a 9-1-1 emer-  
20 gency responder shall transmit to the mother of the newborn any  
21 information provided to the attending physician by the emergency  
22 service provider who received custody of the newborn under the  
23 safe delivery of newborns law, chapter XII of the probate code of  
24 1939, 1939 PA 288, MCL 712.1 to 712.20, as provided in subsection  
25 (3).