

## CHAPTER 2013-121

### Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 1129

An act relating to infants born alive; amending s. 390.011, F.S.; defining the term “born alive”; amending s. 390.0111, F.S.; providing that an infant born alive during or immediately after an attempted abortion is entitled to the same rights, powers, and privileges as any other child born alive in the course of natural birth; requiring health care practitioners to preserve the life and health of such an infant born alive, if possible; providing for the transport and admittance of an infant born alive to a hospital; requiring a health care practitioner or certain employees who have knowledge of any violations with respect to infants born alive after an attempted abortion to report those violations to the Department of Health; providing a penalty; providing for construction; amending s. 390.0112, F.S.; revising a reporting requirement; providing an effective date.

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

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

390.011 Definitions.—As used in this chapter, the term:

(4) “Born alive” means the complete expulsion or extraction from the mother of a human infant, at any stage of development, who, after such expulsion or extraction, breathes or has a beating heart, or definite and voluntary movement of muscles, regardless of whether the umbilical cord has been cut and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, Cesarean section, induced abortion, or other method.

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

390.0111 Termination of pregnancies.—

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

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

(b) Any person who performs, or actively participates in, a termination of pregnancy procedure in violation of the provisions of this section which

results in the death of the woman commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(12) INFANTS BORN ALIVE.—

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

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

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

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

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

(f) This subsection does not affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in s. 390.011.

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

390.0112 Termination of pregnancies; reporting.—

(1) The director of any medical facility in which any pregnancy is terminated shall submit a monthly report to the agency which contains the number of procedures performed, the reason for same, and the period of gestation at the time such procedures were performed, and the number of infants born alive during or immediately after an attempted abortion ~~to the agency~~. The agency shall be responsible for keeping such reports in a central place from which statistical data and analysis can be made.

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

Approved by the Governor June 5, 2013.

Filed in Office Secretary of State June 5, 2013.