

# SENATE BILL NO. 110

March 01, 2023, Introduced by Senators JOHNSON, ALBERT, DALEY, VICTORY, OUTMAN, LAUWERS, RUNESTAD, THEIS and LINDSEY and referred to the Committee on Government Operations.

A bill to amend 2002 PA 687, entitled  
"Born alive infant protection act,"  
by amending sections 1 and 3 (MCL 333.1071 and 333.1073).

**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 that term as defined in section 17015 of  
5 the public health code, 1978 PA 368, MCL 333.17015.

6           (b) "Health care provider" means an individual who may be

1 asked to participate in any way in a health care service or  
 2 procedure, including, but not limited to, a physician's assistant,  
 3 nurse, nurse's aide, medical assistant, hospital employee, medical  
 4 facility employee, or abortion clinic employee.

5 (c) ~~(b)~~—"Live birth" means the complete expulsion or  
 6 extraction of a product of conception from its mother, regardless  
 7 of the duration of the pregnancy, that after expulsion or  
 8 extraction, whether or not the umbilical cord has been cut or the  
 9 placenta is attached, shows any evidence of life, including, but  
 10 not limited to, 1 or more of the following:

11 (i) Breathing.

12 (ii) A heartbeat.

13 (iii) Umbilical cord pulsation.

14 (iv) Definite movement of voluntary muscles.

15 (d) "Physician" means an individual licensed to engage in the  
 16 practice of allopathic medicine or the practice of osteopathic  
 17 medicine and surgery under article 15 of the public health code,  
 18 1978 PA 368, MCL 333.16101 to 333.18838.

19 Sec. 3. (1) If an abortion results in a live birth and, after  
 20 being informed of the newborn's live birth, the newborn's mother  
 21 expresses a desire not to assume custody and responsibility for the  
 22 newborn, by refusing to authorize all necessary life sustaining  
 23 medical treatment for the newborn or releasing the newborn for  
 24 adoption, the newborn ~~shall~~**must** be considered a newborn who has  
 25 been surrendered to an emergency service provider under the safe  
 26 delivery of newborns law, chapter XII of the probate code of 1939,  
 27 1939 PA 288, MCL 712.1 to 712.20. The procedures of the safe  
 28 delivery of newborns law, chapter XII of the probate code of 1939,  
 29 1939 PA 288, MCL 712.1 to 712.20, ~~shall~~**must** be followed in regard

1 to the custody and care of the newborn.

2 (2) If an abortion performed in a hospital setting results in  
3 a live birth, the physician **or other health care provider** attending  
4 the abortion shall provide immediate medical care to the newborn **by**  
5 **taking all medically appropriate and reasonable actions to preserve**  
6 **the life of the newborn**, inform the mother of the live birth, and  
7 request transfer of the newborn to a resident, on-duty, or  
8 emergency room physician who shall provide medical care to the  
9 newborn. If an abortion performed in other than a hospital setting  
10 results in a live birth, a physician **or other health care provider**  
11 attending the abortion shall provide immediate medical care to the  
12 newborn **by taking all medically appropriate and reasonable actions**  
13 **to preserve the life of the newborn** and call 9-1-1 for an emergency  
14 transfer of the newborn to a hospital that shall provide medical  
15 care to the newborn. **A physician or other health care provider**  
16 **attending an abortion who purposely, knowingly, or negligently**  
17 **fails to provide immediate medical care as required under this**  
18 **subsection is guilty of a felony punishable by imprisonment for not**  
19 **more than 4 years or a fine of not more than \$10,000.00, or both.**

20 (3) A live birth described in this act ~~shall~~**must** be reported  
21 as required in section 2822 of the public health code, 1978 PA 368,  
22 MCL 333.2822.

23 (4) If a newborn is considered a newborn who has been  
24 surrendered to an emergency service provider under the safe  
25 delivery of newborns law, chapter XII of the probate code of 1939,  
26 1939 PA 288, MCL 712.1 to 712.20, as provided in subsection (1),  
27 the identity of the newborn's mother and father becomes  
28 confidential and ~~shall~~**must** not be revealed, either orally or in  
29 writing.

1           (5) The attending physician who transfers care of a live  
2 newborn under this section to another physician or a 9-1-1  
3 emergency responder shall transmit to the mother of the newborn any  
4 information provided to the attending physician by the emergency  
5 service provider who received custody of the newborn under the safe  
6 delivery of newborns law, chapter XII of the probate code of 1939,  
7 1939 PA 288, MCL 712.1 to 712.20, as provided in section 3 of the  
8 safe delivery of newborns law, chapter XII of the probate code of  
9 1939, 1939 PA 288, MCL 712.3.

10           Enacting section 1. This amendatory act takes effect 90 days  
11 after the date it is enacted into law.