

SENATE BILL No. 395

April 23, 2003, Introduced by Senators McMANUS, CROPSEY, GARCIA, GEORGE, CASSIS, PATTERSON, SANBORN, BROWN, HARDIMAN, OLSHOVE, JELINEK, BASHAM, BISHOP, BARCIA, VAN WOERKOM, STAMAS, HAMMERSTROM, SIKKEMA, KUIPERS and ALLEN and referred to the Committee on Judiciary.

A bill to define legal birth and the commencing of legal personhood and rights; and to provide immunity for certain acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "legal birth definition act".

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

4 (a) That in Roe v Wade the United States supreme court
5 declared that an unborn child is not a person as understood and
6 protected by the constitution, but any born child is a legal
7 person with full constitutional and legal rights.

8 (b) That in Roe v Wade the United States supreme court made
9 no effort to define birth or place any restrictions on the states
10 in defining when a human being is considered born for legal
11 purposes.

12 (c) That, when any portion of a human being has been

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1 vaginally delivered outside his or her mother's body, that
2 portion of the body can only be described as born and the state
3 has a rational basis for defining that human being as born and as
4 a legal person.

5 (d) That the state has a compelling interest in protecting
6 the life of a born person.

7 Sec. 3. (1) A perinate shall be considered a legally born
8 person for all purposes under the law.

9 (2) A physician or an individual performing an act, task, or
10 function under the delegatory authority of a physician is immune
11 from criminal, civil, or administrative liability for performing
12 any procedure that results in injury or death of a perinate while
13 completing the delivery of the perinate if, in that physician's
14 reasonable medical judgment, the procedure was necessary to save
15 the life of the mother and every reasonable effort was made to
16 preserve the life of both the mother and the perinate.

17 Sec. 4. As used in this act:

18 (a) "Anatomical part" means any portion of the anatomy of a
19 human being that has not been severed from the body, but not
20 including the umbilical cord or placenta.

21 (b) "Live" means demonstrating 1 or more of the following
22 biological functions:

23 (i) A detectable heartbeat.

24 (ii) Evidence of breathing.

25 (iii) Evidence of spontaneous movement.

26 (c) "Perinate" means a live human being at any point after
27 which any anatomical part of the human being is known to have

1 passed beyond the plane of the vaginal introitus.

2 (d) "Physician" means an individual licensed by the state to
3 engage in the practice of medicine or osteopathic medicine and
4 surgery under article 15 of the public health code, 1978 PA 368,
5 MCL 333.16101 to 333.18838.