

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bill 395 (Substitute S-1 as reported)  
Sponsor: Senator Michelle A. McManus  
Committee: Judiciary

### **CONTENT**

The bill would create the "Legal Birth Definition Act" to specify that a "perinate" would be considered a legally born person for all purposes under the law. "Perinate" would mean a live human being at any point after which any anatomical part of that human being was known to have passed beyond the plane of the vaginal introitus until the point of complete expulsion or extraction from the mother's body. "Live" would mean demonstrating one or more of the following biological functions: a detectable heartbeat, evidence of breathing, or evidence of spontaneous movement. "Anatomical part" would mean any portion of the human anatomy that had not been severed from the body, but not including the umbilical cord or placenta.

Under the bill, a physician, or an individual performing an act, task, or function under a physician's delegatory authority, would be immune from criminal, civil, or administrative liability for performing any procedure that resulted in injury to or the death of a perinate while completing the delivery of the perinate if, in the physician's reasonable medical judgment and in compliance with the applicable standard of practice and care, the procedure were necessary to save the mother's life and every reasonable effort were made to preserve the life of both the mother and the perinate.

The bill states that it would not abrogate any existing right, privilege, or protection under criminal or civil law that applies to an embryo or fetus.

The bill specifies the following legislative findings:

- "That in Roe v Wade the United States supreme court declared that an unborn child is not a person as understood and protected by the constitution, but any born child is a legal person with full constitutional and legal rights."
- "That in Roe v Wade the United States supreme court made no effort to define birth or place any restrictions on the states in defining when a human being is considered born for legal purposes."
- "That, when any portion of a human being has been vaginally delivered outside his or her mother's body, that portion of the body can only be described as born and the state has a rational basis for defining that human being as born and as a legal person."
- "That the state has a compelling interest in protecting the life of a born person."

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government.

Date Completed: 4-29-03

Fiscal Analyst: Bethany Wicksall