

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 395

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

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 under any of the
14 following circumstances:

15 (a) If the perinate is being expelled from the mother's body
16 as a result of a spontaneous abortion.

17 (b) If in that physician's reasonable medical judgment and in
18 compliance with the applicable standard of practice and care, the
19 procedure was necessary in either of the following
20 circumstances:

21 (i) To save the life of the mother and every reasonable
22 effort was made to preserve the life of both the mother and the
23 perinate.

24 (ii) To avert an imminent threat to the physical health of
25 the mother, and any harm to the perinate was incidental to
26 treating the mother and not a known or intended result of the
27 procedure performed.

1 Sec. 4. Nothing in this act shall abrogate any existing
2 right, privilege, or protection under criminal or civil law that
3 applies to an embryo or fetus.

4 Sec. 5. As used in this act:

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

8 (b) "Imminent threat to the physical health" means a physical
9 condition that if left untreated would result in substantial and
10 irreversible impairment of a major bodily function.

11 (c) "Live" means demonstrating 1 or more of the following
12 biological functions:

13 (i) A detectable heartbeat.

14 (ii) Evidence of breathing.

15 (iii) Evidence of spontaneous movement.

16 (iv) Umbilical cord pulsation.

17 (d) "Perinate" means a live human being at any point after
18 which any anatomical part of the human being is known to have
19 passed beyond the plane of the vaginal introitus until the point
20 of complete expulsion or extraction from the mother's body.

21 (e) "Physician" means an individual licensed by the state to
22 engage in the practice of medicine or osteopathic medicine and
23 surgery under article 15 of the public health code, 1978 PA 368,
24 MCL 333.16101 to 333.18838.