

# HOUSE RESEARCH

## Bill Summary

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**Subject:** Born Alive Infants Protection Act

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### Overview

This bill amends existing law that requires medical professionals to take all reasonable measures to preserve the life and health of a child born alive as a result of an abortion. The bill makes conforming changes to “born alive infant,” which the bill defines. The bill also, among other things, provides for civil and disciplinary penalties against medical professionals who violate the requirements of the bill.

#### Section

**1** **Forms.** Amends § 145.4131, subdivision 1. Adds to the list of required information on form provided to the commissioner of health by an abortion provider. Addition includes whether the abortion resulted in a born alive infant, medical actions taken to preserve the life of the born alive infant, whether the born alive infant survived, and the status of the born alive infant if the infant did survive.

**2** **Abortion; life births.** Amends § 145.423 by making conforming changes and adding subdivisions 4 to 8.

**Subd. 1. Recognition; medical care.** Makes conforming changes to “born alive infant.” The law as written requires all reasonable measures be taken to preserve the life and health of a child born alive as a result of an abortion.

**Subd. 2. Physician required.** Makes conforming changes to “born alive infant.” The law as written requires a physician, other than the physician performing the abortion, to be immediately accessible when an abortion is being performed after the twentieth week of pregnancy in order to take appropriate measures to preserve the life and health of a born alive infant.

## Section

**Subd. 3. Death.** Makes conforming changes to “born alive infant.” The law as written requires certain procedures for disposal of a body of a born alive child who has died.

**Subd. 4. Definition of born alive infant.** (a) States that any infant human who is born alive at any stage of development must be included in the determination of any Minnesota law or ruling with the words “person,” “human being,” “child,” and “individual.”

(b) States that “born alive” means, regardless of how the human was extracted or whether the umbilical cord has been cut, any human who (1) breathes, (2) has a beating heart, (3) has pulsation of the umbilical cord, or (4) has definite movement of voluntary muscles.

(c) Prohibits anything in this section from being construed to affirm, deny, expand, or contract any legal status or legal right to a human prior to being born alive.

**Subd. 5. Civil and disciplinary actions.** (a) Creates a cause of action against the abortion provider by the person upon whom an abortion was performed, or the parent or guardian of the mother if the mother is a minor, for death of or injury to a born alive infant if the death or injury was caused by simple negligence, gross negligence, wantonness, willfulness, intentional conduct, or another violation of the legal standard of care.

(b) Requires a court to render judgment for reasonable attorney fees for any plaintiff described in paragraph (a) who had judgment rendered in their favor. Requires reasonable attorney fees to be rendered to the defendant if judgment was rendered for the defendant and the court finds the plaintiff’s suit was frivolous and brought in bad faith.

(c) Allows suspension or revocation of a medical personnel’s professional license if that person does not take all reasonable measures to preserve the life and health of a born alive infant as required by subdivision 1. Requires an automatic suspension of a person’s medical license for one year if the person performed an abortion and had judgment rendered against them under paragraph (a) and states reinstatement requirements.

(d) Prohibits this section from being construed to create a cause of action against the mother of a born alive infant, civilly or criminally, for the actions of medical personnel in violation of this section for which she did not give her consent.

**Subd. 6. Protection of privacy in court proceedings.** Requires a court to rule if the anonymity of any female upon whom an abortion was performed or attempted should be preserved from the public if the female does not consent to disclosure. Provides requirements for the court if the court determines anonymity should be preserved. Requires any person who is not a public official to use a pseudonym if bringing an action under subdivision 5 if there is no written consent from the female upon whom the abortion was performed or attempted.

**Section**

**Subd. 7. Status of born alive infant.** States that a born alive infant will be an abandoned ward of the state and the parents will have no parental rights unless the abortion was performed to save the life of the woman or fetus or unless one or both parents agree within 30 days of birth to accept the parental rights and responsibilities for the child.

**Subd. 8. Severability.** Allows for severability of any one or more provisions of this section if any part is found to be unconstitutional.

**Subd. 9. Short title.** States this act may be cited as the “Born Alive Infants Protection Act.”