

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 546 (as reported by the Committee of the Whole)
Sponsor: Senator Joel D. Gougeon
Committee: Families, Mental Health and Human Services

CONTENT

The bill would create the "Infant Protection Act" within the Michigan Penal Code. Under the bill, it would be a felony, punishable by imprisonment for life or any term of years, a maximum fine of \$50,000, or both, if a person intentionally performed a procedure or took any action upon a "live infant" with the intent to cause the infant's death. "Live infant" would mean a human fetus at any point after any "part of the fetus" existed outside of the mother's body and had a detectable heartbeat, evidence of spontaneous movement, or evidence of breathing. "Part of the fetus" would mean any portion of the body of a human fetus that had not been severed from the fetus.

It would not be a violation of the bill if a physician took measures, at any point after a live infant was partially outside the mother's body, that, in the physician's reasonable medical judgment, were necessary to save the life of the mother and if every reasonable precaution were also taken to save the life of the live infant. The bill also would not apply to an action taken by the mother.

The bill includes a statement that "The legislature finds all of the following:"

- "That the constitution and laws of this nation and this state hold that a live infant completely expelled from his or her mother's body is recognized as a person with constitutional and legal rights and protection."
- "That a live infant partially outside his or her mother is neither a fetus nor potential life, but is a person."
- "That the United States Supreme Court decisions defining a right to terminate pregnancy do not extend to the killing of a live infant that has begun to emerge from his or her mother's body."
- "That the state has a compelling interest in protecting the life of a live infant by determining that a live infant is a person deserving of legal protection at any point after any part of the live infant exists outside of the mother's body."

The bill would take effect on October 1, 1999.

Proposed MCL 750.90g

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 546 would have an indeterminate fiscal impact on State government.

There are no data to indicate how many people would be convicted of causing the death of a live infant as defined in the bill. Assuming that an average life sentence resulted in an offender being incarcerated for 50 years, and that the average cost of incarceration during that time was \$22,000 per year, for each person convicted of this crime the State would incur \$1.1 million of cost.

Date Completed: 5-5-99

Fiscal Analyst: K. Firestone