

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 546 (as introduced 4-27-99)
Sponsor: Senator Joel D. Gougeon
Committee: Families, Mental Health and Human Services

Date Completed: 4-27-99

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 that 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.

A procedure or action performed by a physician that caused the death of a live infant would not be a violation of the bill if, in the physician’s reasonable medical judgment, the mother’s physical condition, at any point after the live infant was partially outside of her body, necessitated the immediate killing and removal of the live infant to prevent the mother’s death. 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.”

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.

Fiscal Analyst: K. Firestone

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.