

SENATE BILL NO. 546

April 27, 1999, Introduced by Senators GOUGEON, SCHWARZ, ROGERS, HAMMERSTROM, EMMONS, VAN REGENMORTER, SHUGARS, BENNETT, STEIL, SCHUETTE, HOFFMAN, STILLE, DUNASKISS, SIKKEMA, JAYE, JOHNSON, GOSCHKA, MC MANUS, NORTH, MC COTTER, KOIVISTO, HART, DINGELL and MILLER and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 90g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 90G. (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED
2 AS THE "INFANT PROTECTION ACT".

3 (2) THE LEGISLATURE FINDS ALL OF THE FOLLOWING:

4 (A) THAT THE CONSTITUTION AND LAWS OF THIS NATION AND THIS
5 STATE HOLD THAT A LIVE INFANT COMPLETELY EXPELLED FROM HIS OR HER
6 MOTHER'S BODY IS RECOGNIZED AS A PERSON WITH CONSTITUTIONAL AND
7 LEGAL RIGHTS AND PROTECTION.

8 (B) THAT A LIVE INFANT PARTIALLY OUTSIDE HIS OR HER MOTHER
9 IS NEITHER A FETUS NOR POTENTIAL LIFE, BUT IS A PERSON.

10 (C) THAT THE UNITED STATES SUPREME COURT DECISIONS DEFINING
11 A RIGHT TO TERMINATE PREGNANCY DO NOT EXTEND TO THE KILLING OF A

1 LIVE INFANT THAT HAS BEGUN TO EMERGE FROM HIS OR HER MOTHER'S
2 BODY.

3 (D) THAT THE STATE HAS A COMPELLING INTEREST IN PROTECTING
4 THE LIFE OF A LIVE INFANT BY DETERMINING THAT A LIVE INFANT IS A
5 PERSON DESERVING OF LEGAL PROTECTION AT ANY POINT AFTER ANY PART
6 OF THE LIVE INFANT EXISTS OUTSIDE OF THE MOTHER'S BODY.

7 (3) EXCEPT AS PROVIDED IN SUBSECTIONS (4) AND (5), A PERSON
8 WHO INTENTIONALLY PERFORMS A PROCEDURE OR TAKES ANY ACTION UPON A
9 LIVE INFANT WITH THE INTENT TO CAUSE THE DEATH OF THE LIVE INFANT
10 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR LIFE OR ANY
11 TERM OF YEARS OR A FINE OF NOT MORE THAN \$50,000.00, OR BOTH.

12 (4) A PROCEDURE OR ACTION PERFORMED BY A PHYSICIAN THAT
13 CAUSES THE DEATH OF A LIVE INFANT IS NOT A VIOLATION OF SUBSEC-
14 TION (3) IF, IN THE PHYSICIAN'S REASONABLE MEDICAL JUDGMENT, THE
15 MOTHER'S PHYSICAL CONDITION, AT ANY POINT AFTER THE LIVE INFANT
16 IS PARTIALLY OUTSIDE THE MOTHER'S BODY, NECESSITATES THE IMMEDI-
17 ATE KILLING AND REMOVAL OF THE LIVE INFANT TO PREVENT HER DEATH.

18 (5) SUBSECTION (3) DOES NOT APPLY TO AN ACTION TAKEN BY THE
19 MOTHER.

20 (6) AS USED IN THIS SECTION:

21 (A) "LIVE INFANT" MEANS A HUMAN FETUS AT ANY POINT AFTER ANY
22 PART OF THE FETUS EXISTS OUTSIDE OF THE MOTHER'S BODY AND THAT
23 HAS 1 OR MORE OF THE FOLLOWING:

24 (i) A DETECTABLE HEARTBEAT.

25 (ii) EVIDENCE OF SPONTANEOUS MOVEMENT.

26 (iii) EVIDENCE OF BREATHING.

1 (B) "PART OF THE FETUS" MEANS ANY PORTION OF THE BODY OF A
2 HUMAN FETUS THAT HAS NOT BEEN SEVERED FROM THE FETUS.

3 (C) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED TO ENGAGE IN
4 THE PRACTICE OF ALLOPATHIC MEDICINE OR THE PRACTICE OF OSTEO-
5 PATHIC MEDICINE AND SURGERY UNDER ARTICLE 15 OF THE PUBLIC HEALTH
6 CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.