

**PERINATE CONSIDERED TO BE A
LEGALLY BORN PERSON**

House Bill 4603
Sponsor: Rep. David Robertson
**Committee: Family and Children
Services**

Complete to 5-2-03

A SUMMARY OF HOUSE BILL 4603 AS INTRODUCED 4-30-03

The bill would create the “Legal Birth Definition Act” to do all of the following:

- categorize “perinates” as persons for legal purposes;
- provide criminal, civil, and administrative immunity to a physician, or a person acting under the authority of a physician, who performs a procedure resulting in a perinate’s injury or death if the physician had determined that the procedure was necessary to save the mother’s life; and
- report various legislative findings.

Legal Birth Under the bill, a perinate would be considered a legally born person for all purposes under the law. “Perinate” would mean a live human being at any point after which any anatomical part of that human being was known to have passed beyond the plane of the vaginal “introitus” (i.e., opening). “Live” would mean demonstrating one or more of the following biological functions: a detectable heartbeat, evidence of breathing, or evidence of spontaneous movement. “Anatomical part” would mean any portion of the human anatomy that had not been severed from the body, but not including the umbilical cord or placenta.

Immunity. The bill specifies that a physician, or an individual performing an act, task, or function under a physician’s delegatory authority, would be immune from criminal, civil, or administrative liability for performing any procedure that resulted in injury to or the death of a perinate while completing the delivery of the perinate if, in the physician’s reasonable medical judgment, the procedure was necessary to save the mother’s life and every reasonable effort was made to preserve the life of both the mother and the perinate.

Legislative Findings. The bill reports the following legislative findings:

- “That in Roe v Wade the United States supreme court declared that an unborn child is not a person as understood and protected by the constitution, but any born child is a legal person with full constitutional and legal rights.”

- “That in Roe v Wade the United States supreme court made no effort to define birth or place any restrictions on the states in defining when a human being is considered born for legal purposes.”
- “That, when any portion of a human being has been vaginally delivered outside his or her mother’s body, that portion of the body can only be described as born and the state has a rational basis for defining that human being as born and as a legal person.”
- “That the state has a compelling interest in protecting the life of a born person.”

Analyst: J. Caver

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.