

SENATE BILL NO. 814

March 04, 2020, Introduced by Senators THEIS, MACDONALD, LASATA, BARRETT, LAUWERS, HORN, DALEY, LUCIDO, VICTORY, MCBROOM, OUTMAN, ZORN, VANDERWALL, BUMSTEAD, BIZON, SCHMIDT, RUNESTAD, NESBITT, STAMAS, SHIRKEY, JOHNSON and MACGREGOR and referred to the Committee on Health Policy and Human Services.

A bill to amend 2002 PA 687, entitled
"Born alive infant protection act,"
by amending the title and section 3 (MCL 333.1073).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to assert the state's interest in protecting all
3 individuals; ~~and~~ to prescribe responsibilities and procedures in
4 regard to a newborn whose live birth results from an abortion; **and**
5 **to prescribe penalties.**

1 Sec. 3. (1) If an abortion results in a live birth and, after
2 being informed of the newborn's live birth, the newborn's mother
3 expresses a desire not to assume custody and responsibility for the
4 newborn, by refusing to authorize all necessary life sustaining
5 medical treatment for the newborn or releasing the newborn for
6 adoption, the newborn ~~shall be~~ **is** considered a newborn who has been
7 surrendered to an emergency service provider under the safe
8 delivery of newborns law, chapter XII of the probate code of 1939,
9 1939 PA 288, MCL 712.1 to 712.20. The procedures of the safe
10 delivery of newborns law, chapter XII of the probate code of 1939,
11 1939 PA 288, MCL 712.1 to 712.20, ~~shall~~ **must** be followed in regard
12 to the custody and care of the newborn.

13 (2) **A physician attending an abortion shall comply with the**
14 **following:**

15 **(a) If ~~an~~the abortion is performed in a hospital setting and**
16 **results in a live birth, the physician attending the abortion shall**
17 **provide immediate medical care to the newborn, inform the mother of**
18 **the live birth, and request transfer of the newborn to a resident,**
19 **on-duty, or emergency room physician who shall provide medical care**
20 **to the newborn. In providing medical care to the newborn under this**
21 **subdivision, the physician attending the abortion shall exercise**
22 **the same degree of professional skill, care, and diligence to**
23 **preserve the life of the newborn that a physician would provide to**
24 **any other newborn of the same gestational age. A person who**
25 **violates this subdivision is guilty of a felony punishable by**
26 **imprisonment for not more than 2 years or a fine of not more than**
27 **\$50,000.00, or both.**

28 **(b) If ~~an~~the abortion is performed in a setting other than a**
29 **hospital ~~setting~~and results in a live birth, ~~a~~the physician**

1 attending the abortion shall provide immediate medical care to the
2 newborn and call 9-1-1 for an emergency transfer of the newborn to
3 a hospital that shall provide medical care to the newborn. In
4 providing medical care to the newborn under this subdivision, the
5 physician attending the abortion shall exercise the same degree of
6 professional skill, care, and diligence to preserve the life of the
7 newborn that a physician would provide to any other newborn of the
8 same gestational age. A person who violates this subdivision is
9 guilty of a felony punishable by imprisonment for not more than 2
10 years or a fine of not more than \$50,000.00, or both.

11 (3) An individual who has knowledge of a failure to comply
12 with subsection (2) shall report that failure to the appropriate
13 law enforcement agency. An individual who violates this subsection
14 is guilty of a misdemeanor punishable by imprisonment for not more
15 than 93 days or a fine of not more than \$500.00, or both.

16 (4) If an abortion is performed that results in a live birth,
17 the mother upon whom the abortion was performed shall not be
18 prosecuted for a violation of this section, an attempt to violate
19 this section, or a conspiracy to violate this section.

20 (5) ~~(3)~~—A live birth described in this act ~~shall~~**must** be
21 reported as required in section 2822 of the public health code,
22 1978 PA 368, MCL 333.2822.

23 (6) ~~(4)~~—If a newborn is considered a newborn who has been
24 surrendered to an emergency service provider under the safe
25 delivery of newborns law, chapter XII of the probate code of 1939,
26 1939 PA 288, MCL 712.1 to 712.20, as provided in subsection (1),
27 the identity of the newborn's mother and father becomes
28 confidential and ~~shall~~**must** not be revealed, either orally or in
29 writing.

1 (7) ~~(5)~~—The attending physician who transfers care of a live
2 newborn under this section to another physician or a 9-1-1
3 emergency responder shall transmit to the mother of the newborn any
4 information provided to the attending physician by the emergency
5 service provider who received custody of the newborn under the safe
6 delivery of newborns law, chapter XII of the probate code of 1939,
7 1939 PA 288, MCL 712.1 to 712.20, as provided in section 3 of the
8 safe delivery of newborns law, chapter XII of the probate code of
9 1939, 1939 PA 288, MCL 712.3.

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.