

HCS HBs 195 & 1119 -- ABORTION

SPONSOR: Seitz

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Health and Mental Health by a vote of 12 to 5. Voted "Do Pass" by the Standing Committee on Rules- Legislative by a vote of 6 to 3.

The following is a summary of the House Committee Substitute for HBs 195 & 1119.

This bill establishes the "Born-Alive Abortion Survivors Protection Act". The bill mandates that a child born alive during or after an abortion or attempted abortion will have the same rights, privileges, and immunities as any other person, citizen, and resident of Missouri, including any other live-born child.

Any licensed, registered, or certified health care provider who is present at the time a child is born alive during or after an abortion or attempted abortion must exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as a reasonably diligent and conscientious provider would render to any other child born alive at the same gestational age, as well as ensure that the child is transported and admitted to a hospital following such care.

Health care providers or employees of a hospital, physician's office, or abortion clinic who have knowledge of a violation of the provisions of this bill are required to immediately report the violation to an appropriate law enforcement agency, and anyone who fails to do so will be punished upon conviction by no more than five years' imprisonment, by fine in the range between \$2,500-\$10,000, or by both imprisonment and fine.

Additionally, any person who intentionally performs or attempts to perform an overt act that kills a child born alive, as specified in the provisions of this bill, is guilty of first degree murder.

A person is civilly liable, as specified in the bill, when he or she:

- (1) Knowingly, recklessly, or negligently causes the death of a child born alive during or after an abortion or attempted abortion;
- (2) Knowingly fails to comply with the health care provider standards of care provided in the bill;

(3) Knowingly performs or induces, or attempts to perform or induce, an unlawful abortion;

(4) Knowingly aids or abets another person to undergo a self-induced abortion or attempted self-induced abortion, or to procure an unlawful abortion or attempted unlawful abortion;

(5) Knowingly, recklessly, or negligently supplies or makes available any instrument, device, medicine, drug, or any other means or substance for another person to undergo a self-induced abortion or attempted self-induced abortion, or to procure an unlawful abortion or attempted unlawful abortion; or

(6) Knowingly incites, solicits, or otherwise uses speech or writing as an integral part of conduct in violation of a valid criminal statute to influence another person to undergo a self-induced abortion or attempted self-induced abortion, or to procure an unlawful abortion or attempted unlawful abortion.

A cause of action for personal injury, bodily injury, or wrongful death may be brought if injury or death arises out of or results from any of these circumstances to:

(1) A person upon whom an unlawful abortion or attempted abortion was performed or induced;

(2) A person who underwent a self-induced abortion or attempted self-induced abortion, or who procured an unlawful abortion or attempted unlawful abortion;

(3) A child who was born alive during or after an abortion or attempted abortion; or

(4) An unborn child.

In a cause of action for wrongful death, the spouse, partner, parents, siblings, and children of the deceased person, child, or unborn child will be entitled to bring the action and receive damages, attorney's fees, and other costs, as specified in the bill. A defendant cannot plead or prove a defense that the plaintiff assumed or otherwise consented to certain risks involving self-induced or unlawful abortions, or attempted self-induced or unlawful abortions.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that babies who are born alive need to be given the same care as would be given to any other person under such a circumstance, and that those who may be aware of the lack of care being provided to such a baby born alive need to report that wrongdoing to the appropriate authority. The definition of "abortion" does not include miscarriages and they are distinct in statute. To say that children who survive an abortion are unwanted and want to be discarded is abhorrent.

Testifying in person for the bill were Representative Seitz; Campaign Life Missouri; Timothy Faber; Missouri Catholic Conference; Arnie Dienoff; Missouri Right To Life; Chriss White, Liberty Link Missouri.

OPPONENTS: Those who oppose the bill say that there is no language in the bill to distinguish between a spontaneous and non-spontaneous abortion, and that very little of what is discussed in the bill reflects the current practice of care to pregnant women and babies. All pregnancies are unique and one-size-fits-all policies do not work for these complex health care situations.

Testifying in person against the bill were Abortion Action Missouri; Denise Gelina; Abortion Action Missouri.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.