

HCS HBs 195 & 1119 -- BORN-ALIVE ABORTION SURVIVORS PROTECTION ACT
(Seitz)

COMMITTEE OF ORIGIN: Standing Committee on Health and Mental Health

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, 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

(5) 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 can 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 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 bill specifies the natural and spontaneous loss of an unborn child before fetal viability will not be construed to be an abortion.