1   _____ BILL NO. _____

2   INTRODUCED BY _____
                                                                      (Primary Sponsor)

3

4   A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE BORN-ALIVE INFANT PROTECTION ACT;

5   PROVIDING THAT INFANTS BORN ALIVE, INCLUDING INFANTS BORN ALIVE AFTER AN ABORTION,

6   ARE LEGAL PERSONS; REQUIRING HEALTH CARE PROVIDERS TO TAKE NECESSARY ACTIONS TO

7   PRESERVE THE LIFE OF A BORN-ALIVE INFANT; PROVIDING A PENALTY; PROVIDING THAT THE

8   PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN

9   EFFECTIVE DATE."

10

11   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12

13   NEW SECTION. **Section 1.   Short title.** [Sections 1 through 7] may be cited as the "Born-Alive

14   Protection Act".

15

16   NEW SECTION. **Section 2.   Findings -- purpose.** (1) The state asserts a compelling interest in

17   protecting the life of any infant born alive following an abortion.

18   (2)   An infant born alive is a legal person for all purposes under the laws of the state and is entitled to

19   the protections of the laws, including the right to appropriate and reasonable medical care and treatment.

20   (3)   In the absence of proper legal protections, newly born infants who have survived abortions have

21   been denied appropriate lifesaving or life-sustaining medical care and treatment and have been left to die.

22

23   NEW SECTION. **Section 3.   Definitions.** As used in [sections 1 through 7], the following definitions

24   apply:

25   (1)   "Abortion clinic" means any health care provider who performs any surgical abortion procedure or

26   provides a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the

27   clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable

28   likelihood cause the death of the unborn child. This includes the off-label use of drugs that are known to have

1   abortion-inducing properties and are prescribed specifically with the intent of causing an abortion, such as

2   misoprostol and methotrexate, but excludes drugs that may be known to cause an abortion but are prescribed

3   for other medical indications.

4   (2)   "Born alive" means the complete expulsion or extraction from the mother of a human infant, at any

5   stage of development, who, after expulsion or extraction, breathes, has a beating heart, or has definite

6   movement of voluntary muscles, regardless of whether the umbilical cord has been cut and regardless of

7   whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, induced

8   abortion, or another method.

9   (3)   "Health care provider" means an individual who may be asked to participate in any way in a health

10   care service or procedure, including but not limited to a physician, physician's assistant, nurse, nurse's aide,

11   medical assistant, hospital employee, medical facility employee, or abortion clinic employee.

12   (4)   "Medical facility" means a public or private hospital, clinic, center, medical school, medical training

13   institute, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or

14   other institution or location in which medical care or treatment is provided to any person.

15

16   NEW SECTION. **Section 4.   Born-alive infant protection.** (1) A born-alive infant, including an infant

17   born in the course of an abortion, must be treated as a legal person under the laws of the state, with the same

18   rights to medically appropriate and reasonable care and treatment.

19   (2)   A health care provider who is present at the time a born-alive infant is born shall take all medically

20   appropriate and reasonable actions to preserve the life and health of the infant.

21

22   NEW SECTION. **Section 5.   Criminal penalties.** (1) A health care provider who purposely, knowingly,

23   or negligently violates [section 4] is guilty of a felony and upon conviction shall be fined an amount not to

24   exceed $50,000, be imprisoned in a state prison for a term not to exceed 20 years, or both.

25   (2)   For the purposes of this section, "purposely", "knowingly", and "negligently" have the meanings

26   provided in 45-2-101.

27

28   NEW SECTION. **Section 6.   Mandatory reporting.** A health care provider, medical facility, abortion

1   clinic, or employee or volunteer of a medical facility or abortion clinic that has knowledge of a failure to comply

2   with the requirements of [section 4] shall immediately report the failure to law enforcement.

3

4   NEW SECTION. **Section 7.   Construction.** [Sections 1 through 7] may not be construed as any

5   indication that other state laws protecting children do not apply to infants born alive during an abortion.

6

7   NEW SECTION. **Section 8.   Right of intervention.** The legislature, by joint resolution, may appoint

8   one or more of its members, who sponsored or cosponsored [this act] in the member's official capacity, to

9   intervene as a matter of right in any case in which the constitutionality of [this act] is challenged.

10

11   NEW SECTION. **Section 9.   Codification instruction.** [Sections 1 through 7] are intended to be

12   codified as a new part in Title 50, chapter 20, and the provisions of Title 50, chapter 20, apply to [sections 1

13   through 7].

14

15   NEW SECTION. **Section 10.   Severability.** If a part of [this act] is invalid, all valid parts that are

16   severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

17   the part remains in effect in all valid applications that are severable from the invalid applications.

18

19   NEW SECTION. **Section 11.   Effective date.** If approved by the electorate, [this act] is effective

20   January 1, 2023.

21

22   NEW SECTION. **Section 12.   Submission to electorate.** [This act] shall be submitted to the qualified

23   electors of Montana at the general election to be held in November 2022 by printing on the ballot the full title of

24   [this act] and the following:

25   []   YES on Legislative Referendum _____.

26   []   NO on Legislative Referendum _____.

27   - END -