



AN ACT ADOPTING THE INFANT SAFETY AND CARE ACT; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING INFANT PROTECTIONS; PROVIDING PENALTIES AND PROFESSIONAL SANCTIONS; PROVIDING FOR MANDATORY REPORTING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Short title. [Sections 1 through 8] may be cited as the "Infant Safety and Care Act".

Section 2. Legislative findings. The legislature finds, with respect to [sections 1 through 8], that:

- (1) there is a compelling interest in protecting the life of an infant born alive following an attempted abortion;
- (2) an infant born alive following an attempted abortion is a legal person for all purposes under the laws of this state and is entitled to all protections under these laws; and
- (3) an infant born alive following an attempted abortion in an abortion clinic, medical facility, or other facility is entitled to the same protections under the law that would arise for any newborn infant or for any person who comes to a medical facility or other facility for screening or treatment or otherwise becomes a patient in the facility's care.

Section 3. Definitions. As used in [sections 1 through 8], the following definitions apply:

- (1) "Abortion clinic" means a health care provider that performs any abortion procedure or provides an abortion-inducing drug.
- (2) (a) "Abortion-inducing drug" means a medicine, drug, or any other substance provided, prescribed, or dispensed with the intent to terminate the clinically diagnosable pregnancy of a woman with the

knowledge that the termination will with reasonable likelihood cause the death of the unborn child.

(b) The term includes the off-label use of drugs known to have abortion-inducing properties that are prescribed specifically with the intent of causing an abortion.

(c) The term does not include a drug that may be known to cause an abortion that is prescribed for other medical indications.

(3) "Born alive" means the complete expulsion or extraction from the mother of a human infant, at any stage of development, who, after expulsion or extraction, breathes, has a beating heart, or has definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, induced abortion, or another method.

(4) "Health care provider" means an individual who may be asked to participate in any way in a health care service or procedure, including but not limited to a physician, physician's assistant, nurse, certified nursing assistant, medical assistant, hospital employee, medical facility employee, or abortion clinic employee.

(5) "Knowingly" has the meaning provided in 45-2-101.

(6) "Medical facility" means a public or private hospital, clinic, center, medical school, medical training institute, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location where medical care or treatment is provided to an individual.

(7) "Purposely" has the meaning provided in 45-2-101.

Section 4. Infant safety and protection. (1) A health care provider present at the time an infant is born alive following an abortion or an attempted abortion shall:

(a) exercise the same degree of professional skill, care, and diligence to preserve the life and health of the infant as a reasonably diligent and conscientious health care provider would render to any other infant born alive at the same gestational age; and

(b) following the exercise of skill, care, and diligence required under subsection (1)(a), ensure the infant born alive is immediately transported and admitted to a medical facility.

(2) The requirements of this section may not be construed to prevent an infant's parents or guardian from refusing to give consent to medical treatment or surgical care that is not medically necessary or

reasonable, including care or treatment that:

- (a) is not necessary to save the life of the infant;
- (b) has a potential risk to the infant's life or health that outweighs the potential benefit to the infant

from the treatment or care; or

- (c) will do no more than temporarily prolong the act of dying when death is imminent.

Section 5. Criminal penalties -- professional sanctions -- civil liability. (1) A health care provider who purposely or knowingly violates [section 4] commits a felony offense and, on conviction, shall be subject to a fine not to exceed \$1,000, imprisonment in the state prison for a term not to exceed 5 years, or both.

(2) A licensed health care provider who purposely or knowingly violates the prohibition in [section 4] commits an act of unprofessional conduct, and the individual's license to practice medicine in this state must be suspended for a minimum of 1 year pursuant to Title 37.

(3) In addition to all other remedies available under the laws of this state, failure to comply with the requirements of [sections 1 through 8] provides a basis for:

- (a) a civil malpractice action for actual and punitive damages; and
- (b) a civil fine of not less than \$5,000 for each violation imposed by the department of justice.

Section 6. Mandatory reporting. A health care provider, medical facility, abortion clinic, or employee or volunteer of a medical facility or abortion clinic with knowledge of a violation of [sections 1 through 8] shall immediately report the violation to the department of justice.

Section 7. Right of intervention. The legislature, by joint resolution, may appoint one or more of its members to intervene as a matter of right in any case in which the constitutionality or enforceability of [sections 1 through 8] is challenged.

Section 8. Construction. [Sections 1 through 8] do not prohibit the application of the laws of this state protecting children to infants born alive during an attempted abortion.

Section 9. Codification instruction. [Sections 1 through 8] are intended to be codified as a new part in Title 50, chapter 20, and the provisions of Title 50, chapter 20, apply to [sections 1 through 8].

Section 10. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 11. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 625, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2023.

President of the Senate

Signed this _____ day
of _____, 2023.

HOUSE BILL NO. 625

INTRODUCED BY K. SEEKINS-CROWE, T. MCGILLVRAY, G. HERTZ, D. ZOLNIKOV, M. REGIER, D.
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