

# Senate Bill 384

Sponsored by Senator THATCHER; Senators BONHAM, WEBER, Representatives LEVY B, RESCHKE (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest:** The Act tells doctors to provide a child born alive with a level of care based on the child's gestational age, even if the child was born after an attempt to abort the child. (Flesch Readability Score: 60.3).

Requires health care practitioners to exercise the proper degree of care to preserve the health and life of a child born alive after an abortion or attempted abortion. Requires a health care practitioner to ensure that a child born alive is transported to a hospital. Creates a crime for failure to exercise proper standard of care, punishable by a maximum of five years' imprisonment, \$125,000 fine, or both.

Allows a specified person to bring a civil action for damages and equitable relief against a health care practitioner for failure to exercise the proper degree of care. Directs the court to award attorney fees to a prevailing plaintiff. Allows the court to order identity or personally identifiable information of plaintiff protected from disclosure.

Defines "individual" for purposes of statute laws of this state to include an infant born alive.

## A BILL FOR AN ACT

1  
2 Relating to abortion; creating new provisions; and amending ORS 174.100.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Sections 1 to 7 of this 2025 Act shall be known and may be cited as the**  
5 **Born-Alive Infants Protection Act.**

6 **SECTION 2. As used in sections 1 to 7 of this 2025 Act:**

7 (1) "Abortion" means the use or prescription of a drug, medicine, instrument or other  
8 substance or device in order to:

9 (a) Intentionally kill the unborn child of a pregnant person; or

10 (b) Terminate a person's pregnancy with a purpose other than:

11 (A) After viability, to produce a live birth and preserve the life and health of the child;

12 or

13 (B) To remove a dead unborn child.

14 (2) "Born alive" means the complete expulsion or extraction of a child from a person at  
15 any stage of the child's development and after the expulsion or extraction, the child is  
16 breathing or has a beating heart, pulsation of the umbilical cord or definite movement of  
17 voluntary muscles, whether the umbilical cord has been severed or not. Expulsion or ex-  
18 traction may occur by natural or induced labor, cesarean section or induced abortion.

19 (3) "Health care practitioner" means a person who is authorized by a health professional  
20 regulatory agency in this state to engage in the practice of a health care discipline.

21 **SECTION 3. (1) When an abortion or attempted abortion results in a child born alive, any**  
22 **health care practitioner who is present at the time the child is born alive shall:**

23 (a) Exercise the same degree of professional skill, care and diligence to preserve the life  
24 and health of the child that a reasonably diligent and conscientious health care practitioner

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 would render to any other child born alive at the same gestational age; and

2 (b) Following the exercise of skill, care and diligence required under paragraph (a) of this  
3 subsection, if the child was not born alive in a hospital, ensure that the child born alive is  
4 immediately transported and admitted to a hospital. If the child was born alive at a hospital,  
5 the health care practitioner shall continue to exercise the skill, care and diligence required  
6 under paragraph (a) of this subsection.

7 (2) A health care practitioner or an employee of a health care clinic where an abortion  
8 or attempted abortion results in a child born alive and who has knowledge of a violation of  
9 subsection (1) of this section shall immediately report the violation to a state law enforce-  
10 ment agency.

11 **SECTION 4.** Nothing in sections 1 to 7 of this 2025 Act shall be construed to affirm, deny,  
12 expand or limit any legal status or legal right of a member of the species *Homo sapiens* at  
13 any point prior to being born alive.

14 **SECTION 5.** (1) A person who knowingly or recklessly violates section 3 (1) of this 2025  
15 Act shall be guilty of the crime of failure to exercise proper standard of care.

16 (2) Failure to exercise proper standard of care is a Class C felony.

17 (3) The person whose pregnancy was terminated or attempted to be terminated may not  
18 be prosecuted for a violation of section 3 (1) of this 2025 Act.

19 **SECTION 6.** (1) A person whose pregnancy was terminated or attempted to be terminated  
20 may maintain a civil action against a person who knowingly or recklessly violates section 3  
21 (1) of this 2025 Act for damages and equitable relief.

22 (2)(a) A court shall award attorney fees to a plaintiff who prevails in an action described  
23 in subsection (1) of this section.

24 (b) A court shall award attorney fees to a defendant against whom an action described  
25 in subsection (1) of this section is brought if the action is not successful and the court de-  
26 termines that the action is frivolous or was brought in bad faith.

27 (3) A civil action for violation of section 3 (1) of this 2025 Act may not be maintained  
28 against a person whose pregnancy was terminated or attempted to be terminated.

29 **SECTION 7.** (1) In an action brought under section 6 of this 2025 Act, the court shall rule,  
30 either by the court's own motion or that of a party, whether the identity or any personally  
31 identifiable information of the plaintiff should be exempt from disclosure, unless the plaintiff  
32 consents in a signed writing to the disclosure of the plaintiff's identity or personally iden-  
33 tifiable information.

34 (2) If the court determines, under subsection (1) of this section, that the plaintiff's  
35 identity or any personally identifiable information of the plaintiff should be exempt from  
36 disclosure, the court shall issue orders to the parties, witnesses and counsel regarding the  
37 protection from disclosure and shall direct that the court record be sealed and that the  
38 proceedings be closed to the public to the extent necessary to protect from disclosure the  
39 plaintiff's identity or personally identifiable information.

40 (3) An order issued under this section must include written findings explaining:

41 (a) Why the plaintiff's identity or personally identifiable information should be protected  
42 from disclosure;

43 (b) Why the order is necessary to protect the plaintiff's identity or personally identifiable  
44 information from disclosure;

45 (c) How the order is narrowly tailored to achieve protection from disclosure; and

1       **(d) Why no reasonable less restrictive alternative means exist to ensure protection from**  
2 **disclosure.**

3       **(4) This section may not be construed to prevent the disclosure of the identity of the**  
4 **plaintiff or of witnesses to the defendant or defendant’s counsel.**

5       **SECTION 8.** ORS 174.100 is amended to read:

6       174.100. As used in the statute laws of this state, unless the context or a specially applicable  
7 definition requires otherwise:

8       (1) “Any other state” includes any state and the District of Columbia.

9       (2) “City” includes any incorporated village or town.

10       (3) “County court” includes board of county commissioners.

11       (4) “Gender identity” means an individual’s gender-related identity, appearance, expression or  
12 behavior, regardless of whether the identity, appearance, expression or behavior differs from that  
13 associated with the gender assigned to the individual at birth.

14       (5) “Husband and wife,” “husband or wife,” “husband” or “wife” means spouses or a spouse in  
15 a marriage.

16       **(6) “Individual” includes an infant member of the species Homo sapiens who is born alive,**  
17 **as described in section 2 of this 2025 Act, at any stage of the member’s development.**

18       [(6)] (7) “May not” and “shall not” are equivalent expressions of an absolute prohibition.

19       [(7)] (8) “Person” includes individuals, corporations, associations, firms, partnerships, limited li-  
20 ability companies and joint stock companies.

21       [(8)] (9) “Sexual orientation” means an individual’s actual or perceived heterosexuality,  
22 homosexuality or bisexuality.

23       [(9)] (10) “State Treasury” includes those financial assets the lawful custody of which are vested  
24 in the State Treasurer and the office of the State Treasurer relating to the custody of those financial  
25 assets.

26       [(10)] (11) “To” means “to and including” when used in a reference to a series of statute  
27 sections, subsections or paragraphs.

28       [(11)] (12) “United States” includes territories, outlying possessions and the District of Columbia.

29       [(12)] (13) “Violate” includes failure to comply.

30       **SECTION 9. Sections 1 to 7 of this 2025 Act and the amendments to ORS 174.100 by sec-**  
31 **tion 8 of this 2025 Act apply to abortions performed or attempted on or after the effective**  
32 **date of this 2025 Act.**

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