



2003 SENATE BILL 195

June 10, 2003 - Introduced by Senators LAZICH, STEPP, ROESSLER, HARSDORF, BRESKE, ZIEN, SCHULTZ, KEDZIE, S. FITZGERALD, KANAVAS, LEIBHAM, A. LASEE, REYNOLDS, WELCH and BROWN, cosponsored by Representatives GUNDRUM, VUKMIR, WEBER, KRAWCZYK, A. WILLIAMS, TOWNS, McCORMICK, ALBERS, LADWIG, NISCHKE, JESKEWITZ, HUNDERTMARK, STASKUNAS, GROTHMAN, VAN ROY, J. FITZGERALD, AINSWORTH, HINES, PETROWSKI, NASS, FREESE, LEMAHIEU, GOTTLIEB, KREIBICH, HUEBSCH, VRAKAS, OTT, J. WOOD, PETTIS, KESTELL, SUDER, HAHN, M. LEHMAN, GUNDERSON, FRISKE, LOEFFELHOLZ, LOTHIAN, BIES and JENSEN. Referred to Committee on Judiciary, Corrections and Privacy.

- 1 **AN ACT to create** 990.001 (17), 990.01 (4m) and 990.01 (19j) of the statutes;
2 **relating to:** live birth or the circumstance of being born alive.

Analysis by the Legislative Reference Bureau

Under current law, the terms “live birth” and “born alive” are not defined and are used in various statutes, including those relating to abortion and disposition of property to heirs at death.

This bill defines “born alive” and “live birth” for application to all of the statutes. Further, the bill requires statutory construction such that one who is born alive or who undergoes a live birth as the result of an abortion has the same legal status and legal rights as a human being at any point after the human being is born alive or undergoes a live birth as the result of natural or induced labor or a cesarean section. Lastly, the bill prohibits construction of this requirement to affirm, deny, expand, or contract a legal status or legal right that is applicable to a human being at any point before the human being is born alive or undergoes a live birth.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 **SECTION 1.** 990.001 (17) of the statutes is created to read:

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1 990.001 (17) LIVE BIRTH OR CIRCUMSTANCE OF BEING BORN ALIVE. (a) If a statute
2 or rule refers to a live birth or to the circumstance in which an individual is born alive,
3 the statute or rule shall be construed so that whoever is born alive or undergoes a
4 live birth as the result of an abortion, as defined in s. 253.10 (2) (a), has the same legal
5 status and legal rights as a human being at any point after the human being is born
6 alive or undergoes a live birth as the result of natural or induced labor or a cesarean
7 section.

8 (b) Paragraph (a) may not be construed to affirm, deny, expand, or contract a
9 legal status or legal right that is applicable to a human being at any point before the
10 human being is born alive or undergoes a live birth.

11 **SECTION 2.** 990.01 (4m) of the statutes is created to read:

12 990.01 (4m) BORN ALIVE. “Born alive” means, with respect to a human being,
13 completely expelled or extracted from his or her mother, at any stage of development,
14 and, after the expulsion or extraction, taking a breath or having a beating heart,
15 pulsation of the umbilical cord, or definite movement of voluntary muscles,
16 regardless of whether the umbilical cord has been cut, and regardless of whether the
17 expulsion or extraction occurs as a result of natural or induced labor, a cesarean
18 section, or an abortion, as defined in s. 253.10 (2) (a).

19 **SECTION 3.** 990.01 (19j) of the statutes is created to read:

20 990.01 (19j) LIVE BIRTH. “Live birth” means the complete expulsion or
21 extraction from his or her mother, of a human being, at any stage of development,
22 who, after the expulsion or extraction, breathes or has a beating heart, pulsation of
23 the umbilical cord, or definite movement of voluntary muscles, regardless of whether
24 the umbilical cord has been cut, and regardless of whether the expulsion or

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1 extraction occurs as a result of natural or induced labor, a cesarean section, or an
2 abortion, as defined in s. 253.10 (2) (a).

3 (END)