~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 14, 2012

**S. 1149**

Introduced by Senators Campsen, Campbell, Massey, Shoopman, Bright, Gregory, Alexander, Peeler, Grooms, Bryant, S. Martin, Davis, Knotts, L. Martin, Rose, Hayes and Thomas

S. Printed 3/14/12--S.

Read the first time January 26, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1149) to enact the “Born Alive Infant Protection Act” by amending Section 2‑7‑30 of the 1976 Code, relating to the construction of the words “person”, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking the bill in its entirety and inserting:

/ SECTION 1. This act may be referred to and cited as the “Born Alive Infant Protection Act”.

SECTION 2. Section 2‑7‑30 of the 1976 Code is amended to read:

“Section 2‑7‑30. (A) The words ‘person’ and ‘party’ and any other word importing the singular number used in any act or joint resolution shall be held to include the plural and to include firms, companies, associations, and corporations and all words in the plural shall apply also to the singular in all cases in which the spirit and intent of the act or joint resolution may require it. All words in an act or joint resolution importing the masculine gender shall apply to females also and words in the feminine gender shall apply to males. And all words importing the present tense shall apply to the future also.

(B)(1) In determining the meaning of any act or joint resolution of the General Assembly or in a regulation promulgated pursuant to Article 1, Chapter 23, Title 1, unless otherwise defined in the act, joint resolution, or regulation, the words ‘person’, ‘human being’, ‘child’, and ‘individual’ must include every infant member of the species homo sapiens who is born alive at any stage of development.

(2) As used in this subsection, the term ‘born alive’, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from the mother of that member, at any stage of development, who after the expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or 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, or induced abortion.

(3) Nothing in this subsection may be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point before being born alive as defined in this subsection.”

SECTION 3. A provision of this act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be deemed severable here from and shall not affect the remainder hereof or the application of the provision to other persons not similarly situated or to other, dissimilar circumstances.

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

C. BRADLEY HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Department of Health and Human Services

The department reports this bill would have no impact on the General Fund of the State or federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO ENACT THE “BORN ALIVE INFANT PROTECTION ACT” BY AMENDING SECTION 2‑7‑30 OF THE 1976 CODE, RELATING TO THE CONSTRUCTION OF THE WORDS “PERSON” AND “PARTY” AS THOSE WORDS APPEAR IN THE LAWS OF THIS STATE, TO PROVIDE FURTHER FOR THE CONSTRUCTION OF “PERSON”, “HUMAN BEING”, “CHILD”, AND “INDIVIDUAL”, SO THAT THEY INCLUDE EVERY INFANT MEMBER OF SPECIES HOMO SAPIENS WHO IS BORN ALIVE AND TO DEFINE “BORN ALIVE”, TO PROHIBIT THE DEPRIVATION OF MEDICALLY APPROPRIATE AND REASONABLE MEDICAL CARE FOR AN INFANT, TO CLARIFY THE RIGHT OF A PARENT OR GUARDIAN TO REFUSE TREATMENT THAT IS NOT MEDICALLY APPROPRIATE OR REASONABLE, AND TO PROVIDE FOR THE SEVERABILITY AND ENFORCEABILITY OF THE PORTIONS OF THIS SECTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be referred to and cited as the “Born Alive Infant Protection Act”.

SECTION 2. Section 2‑7‑30 of the 1976 Code is amended to read:

“Section 2‑7‑30. (A) The words ‘person’ and ‘party’ and any other word importing the singular number used in any act or joint resolution shall be held to include the plural and to include firms, companies, associations, and corporations and all words in the plural shall apply also to the singular in all cases in which the spirit and intent of the act or joint resolution may require it. All words in an act or joint resolution importing the masculine gender shall apply to females also and words in the feminine gender shall apply to males. And all words importing the present tense shall apply to the future also.

(B)(1) In determining the meaning of any act or joint resolution of the General Assembly or in a regulation promulgated pursuant to Article 1, Chapter 23, Title 1, unless otherwise defined in the act, joint resolution, or regulation, the words ‘person’, ‘human being’, ‘child’, and ‘individual’ must include every infant member of the species homo sapiens who is born alive at any stage of development.

(2) As used in this subsection, the term ‘born alive’, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from the mother of that member, at any stage of development, who after the expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or 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, or induced abortion.

(3) Nothing in this subsection may be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point before being born alive as defined in this subsection.

(4) A person shall not deprive an infant of medically‑appropriate and reasonable medical care and treatment or surgical care.

(5) The requirements of this section shall not be construed to prevent an infant’s parent(s) or guardian(s) from refusing to give consent to medical treatment or surgical care which is not medically necessary or reasonable, including care or treatment which either:

(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 of the treatment or care; or

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

(6) Further, any provision of this act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable here from and shall not affect the remainder hereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.”

SECTION 3. This act takes effect upon approval by the Governor.

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