



SENATE BILL 359: Born-Alive Abortion Survivors Protection Act.

2019-2020 General Assembly

Committee:		Date:	January 8, 2020
Introduced by:	Sens. Krawiec, Hise, Harrington	Prepared by:	Jennifer H. Bedford
Analysis of:	Ratified		Staff Attorney

OVERVIEW: *As ratified, Senate Bill 359 would place additional explicit requirements on health care practitioners; create two new Class D felonies; and amend civil law, related to a failure to provide care to a child born as a result of an unsuccessful abortion.*

Senate Bill 359 was ratified by the General Assembly on April 16, 2019, and vetoed by the Governor on April 18, 2019.

CURRENT LAW:

Abortion: An abortion is lawful during the first 20 weeks without a medical emergency, and after the first 20 weeks with a determination of a medical emergency. (G. S. 14-45.1)

Death of an unborn child: It is a Class D felony to unlawfully cause the death of an unborn child. (G. S. 14-23.1)

Involuntary manslaughter: It is a Class F felony to kill another human being by a culpably negligent act or omission. (G. S. 14-18)

Second degree murder: It is a Class B2 felony to kill a child born alive, with malice. (G. S. 14-17)

First degree murder: It is a Class A felony to kill a child that is born alive, with malice and a specific intent to kill formed after premeditation and deliberation. (G. S. 14-17)

*It is murder if the child is born alive but dies as the result of injuries inflicted prior to the child being born alive.

BILL ANALYSIS:

Section 1 would:

- Add an Article to Chapter 90 of the General Statutes.
- Define terms.
- Publish findings by the General Assembly.
- Require a healthcare practitioner to care for a child born alive despite an abortion.
- Create a Class D felony with a fine of up to \$250,000 for violation of a healthcare practitioner's duty to provide care to a child born alive despite an abortion.
- Require certain people to report a healthcare practitioner who does not care for a child born alive.
- Create a Class D felony with a fine of up to \$250,000 for violation of the requirement to report a healthcare practitioner's failure to provide care to a child despite an abortion.
- Bar prosecution of a mother for not providing medical care or reporting a lack of medical care for a child born alive despite an abortion.

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- Create a civil claim for a woman whose child was born alive despite an abortion and the healthcare provider failed to provide care, and if care was not provided and it was not reported by someone required to report.

Section 2 would amend the existing murder statute to include "an intentional, overt act performed after the child is born alive".

Section 3 would clarify that prosecutions for offenses committed before the bill becomes effected are not abated or affected by the bill.

EFFECTIVE DATE: This bill was ratified by the General Assembly on April 16, 2019, and was vetoed by the Governor on April 18, 2019.