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FISCAL IMPACT REPORT

SPONSOR Montoya/Herrell **ORIGINAL DATE** 2/1/16
LAST UPDATED 2/2/16 **HB** 275

SHORT TITLE Require Medical Care for all Infants **SB** _____

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Moderate	Moderate	Moderate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Senate Bills 242 and 243

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Bill 275 if enacted would

- 1) Define “born alive,” as applied to an infant born or a fetus/infant removed or expelled from its mother’s uterus through abortion, as showing any sign of life, including breathing, heartbeat, pulsation of the umbilical cord, or definite movement of muscles.
- 2) Require that nutritional support be given to all “born alive” infants.
- 3) Require that life-saving measures be initiated in all cases where a fetus or infant is born alive, with the exception of measures that
 - a. Were unnecessary to save the life, OR
 - b. Had potential risks to the infant’s life or health that outweighed the potential benefits of that treatment, OR
 - c. Would do nothing more than temporarily prolong the act of dying.
- 4) Require that abortion providers take all steps to preserve the life and health of an infant born alive, transferring infants as necessary to preserve life and health.
- 5) Require that the physician must delegate someone else to care for the infant if occupied with caring for the mother.

- 6) Treat all infants born alive according to the above definitions as a full person, and have birth and death certificates prepared.
- 7) Prohibit research involving born alive infants.
- 8) Require that anyone knowing of a violation of this statute report it to a state and/or federal authority.
- 9) Define killing a “born alive infant” as a first degree felony, and attempting to do so, as a second degree felony.
- 10) Prescribe civil remedies for women whose infants “born alive” are not cared for as required in this statute.
- 11) Establish a task force to monitor “born alive infants” composed of two DOH and 3 CYFD members, creating a list of reporting requirements. The task force would send CYFD caseworkers to monitor each elective abortion provider on a monthly basis, reporting annually to the Governor and the Legislature.

FISCAL IMPLICATIONS

CYFD and DOH would be asked to provide members to the “task force,” with CYFD also required to send employees to make monthly visits to providers of abortion services to ascertain compliance with this statute and report on their findings. No additional funds are allotted in this bill to cover those personnel costs. The agencies have not found it easy to estimate these costs due to uncertainty over the frequency with which the task force would meet, and uncertainty as to the requirement for monthly inspections of abortion providers.

CYFD commented: “Three CYFD employees would have to be part of a task force. It is not certain how long it would take for the task force to complete its duties so the fiscal impact related to the task force itself are currently unknown.

“CYFD caseworkers would have to do monthly inspections and staff interviews at every facility statewide that performs elective abortions to assess whether appropriate measures and care are being given to “born alive” infants and whether the reporting guidelines are being followed. Given that there is no restriction to indicate it is only children “born alive” pursuant to subsection D of section 2 of this bill, the bill obligates CYFD to assess every birth occurring at such facilities, which would take significant resources. Additionally, as CYFD caseworkers are trained to assess abuse and neglect, rather than medical malpractice, either additional FTEs with medical experience would be necessary or significant training for non-medical employees would be necessary.”

DOH commented that “Two DOH employees would be involved in creating reporting guidelines for born alive births. It is unclear how much time and involvement this will entail. Insufficient information is provided to accurately estimate resources needed and level of expertise required. It is also unclear how birth and death certificate registration would be monitored. If Vital Records has to develop and implement new administrative procedures and assign staff to this task, costs are estimated at \$75,000 per year based on comparable activities within Vital Records.”

CYFD stated that its personnel costs would be “moderate;” that would be in addition to at least \$75,000 per year for DOH

ADMINISTRATIVE IMPLICATIONS

CYFD would require additional FTEs to carry out its duties, especially given the medical nature of CYFD's assessments under this bill. It is unknown how many FTE will be required. DOH has also commented on needing extra staff to implement this bill, if enacted: aside from assigning two members to the task force, the requirement that birth and death certificates be created for each born alive infant would require additional staff in that division of DOH.

CYFD is responsible for assessing abuse and neglect of children. The duties of inspecting and interviewing staff at medical facilities may be more appropriately placed with the Department of Health, rather than CYFD.

CYFD is charged with assessing every child birth in every facility that offers elective abortions. It is unclear from the bill if that was its true intent or if it meant only to include those infants who are born alive after an attempted abortion.

PERFORMANCE IMPLICATIONS

Neither DOH nor CYFD has performance measures related to this bill.

SIGNIFICANT ISSUES

Abortions are frequently performed due to the pregnancy's having been initiated by rape or incest, or because the infant has been found to have severe, life-threatening abnormalities. In none of these cases is an exception made to the requirement for life-saving care. On some occasions, parents want to hold and comfort their severely malformed infants while dying is occurring; this bill, if enacted, would appear to prohibit the medical care staff from allowing that to occur if any of the signs of life listed were present.

RELATES to SB 242 and SB 243, both of which regulate partial and late-term abortion.

TECHNICAL ISSUES

CYFD comments that "The criminal penalty in the bill related to infant death is a strict liability penalty. Any overt act that kills a child will result in life imprisonment, whether to not that act was intended to save the child or kill the child. The only intent in this bill is related to the act itself, not the intended result of the act."

LAC/jle