

1 terms shall include each member of the species homo sapiens who is born  
2 alive.

3 New Sec. 4. (a) In the event an abortion or attempted abortion results  
4 in a child being born alive, any healthcare provider present at the time the  
5 child is born alive shall:

6 (1) Exercise the same degree of professional skill, care and diligence  
7 to preserve the life and health of the child as a reasonably diligent and  
8 conscientious healthcare provider would render to any other child born  
9 alive at the same gestational age; and

10 (2) ensure that the child who is born alive is immediately transported  
11 ~~and admitted~~ to a hospital.

12 (b) Any healthcare provider or any employee of a medical care  
13 facility who has knowledge of a failure to comply with the requirements of  
14 subsection (a) shall immediately report such failure to an appropriate law  
15 enforcement agency.

16 New Sec. 5. (a) Any person who knowingly or recklessly violates  
17 section 4, and amendments thereto, shall be guilty of a severity level 10,  
18 nonperson felony.

19 (b) Any person who intentionally performs or attempts to perform an  
20 overt act that kills a child who is born alive during an abortion or  
21 attempted abortion shall be guilty of a severity level 1, person felony.

22 (c) The provisions of this section shall not apply to the woman upon  
23 whom the abortion is performed or attempted.

24 New Sec. 6. (a) The woman upon whom the abortion or attempted  
25 abortion was performed, the father of the child born alive and, if the  
26 woman has not attained 18 years of age at the time the abortion or  
27 attempted abortion is performed, the parents or custodial guardian of the  
28 woman upon whom the abortion or attempted abortion was performed may  
29 bring a civil action for any violation of section 4, and amendments thereto,  
30 to obtain appropriate relief.

31 (b) Any person who is not the woman upon whom the abortion or  
32 attempted abortion was performed shall be barred from bringing any  
33 action under this section if the pregnancy resulted from such person's  
34 criminal conduct.

35 (c) The prevailing party in any action brought under this section may  
36 be awarded reasonable attorney fees, except that if the prevailing party is  
37 the defendant, then the court shall find that the plaintiff's action was  
38 frivolous and brought in bad faith before the court and may award attorney  
39 fees to such defendant.

40 New Sec. 7. In any civil or criminal action brought pursuant to  
41 section 5 or 6, and amendments thereto, upon a motion by either party or  
42 sua sponte, the court shall determine whether the anonymity of any woman  
43 upon whom an abortion or attempted abortion was performed shall be

*Striking in line 11*