

**LEGAL BIRTH DEFINITION ACT (EXCERPT)**  
**Act 135 of 2004**

\*\*\*\*\* 333.1082 THIS SECTION IS REPEALED BY ACT 286 OF 2023 EFFECTIVE FEBRUARY 13, 2024  
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**333.1082 Findings.**

Sec. 2. The following findings are hereby made:

(a) That in *Roe v Wade* the United States supreme court declared that an unborn child is not a person as understood and protected by the constitution, but any born child is a legal person with full constitutional and legal rights.

(b) That in *Roe v Wade* the United States supreme court made no effort to define birth or place any restrictions on the states in defining when a human being is considered born for legal purposes.

(c) That, when any portion of a human being has been vaginally delivered outside his or her mother's body, that portion of the body can only be described as born and the state has a rational basis for defining that human being as born and as a legal person.

(d) That the state has a compelling interest in protecting the life of a born person.

**History:** 2004, Act 135, Eff. Mar. 30, 2005.

**Constitutionality:** In *Northland Family Planning Clinic v Cox*, 396 F Supp 2d 978 (2005), the federal court for the Eastern District of Michigan held that the legal definition of birth act is unconstitutional because it places an undue burden on a woman's right to an abortion, does not provide a sufficient maternal health exception, requires the physician to balance the maternal and neonatal interests in the life exception, and fails to give clear notice of the activities that are prohibited. (The case is now on appeal to 6th circuit.)

The U.S. 6th Circuit Court of Appeals, affirming the U.S. District Court's decision in *Northland Family Planning v Cox* (docket Nos. 05-2417 and 05-2418, published June 4, 2007), held that the Legal Birth Definition Act, an act initiated by citizen petition, is unconstitutional. The court held that "invalidation of the law is the only available course" since the act "imposed an undue burden on a woman's right to terminate her pregnancy by prohibiting the D and E procedure, because it failed to adequately protect the health of the woman, and because it was void for vagueness due to its confusing language."