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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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<b>2003 Wisconsin Act 110</b> [2003 Assembly Bill 372]	<b>Definition of “Live Birth”</b>
2003 Acts: <a href="http://www.legis.state.wi.us/2003/data/acts/">www.legis.state.wi.us/2003/data/acts/</a>	Act Memos: <a href="http://www.legis.state.wi.us/lc/act_memo/act_memo.htm">www.legis.state.wi.us/lc/act_memo/act_memo.htm</a>

2003 Wisconsin Act 110 addresses the meaning of the terms “born alive” and “live birth” as those terms appear in Wisconsin statutory and administrative law. The Act is based on the federal Born-Alive Infants Protection Act of 2002, enacted as P.L. 107-207 and codified as 1 U.S.C. s. 8.

Act 110 provides that in the construction of Wisconsin laws, the term “live birth” is to be construed as follows unless the construction would produce a result inconsistent with the manifest intent of the Legislature:

“Live birth” means the complete expulsion or extraction from his or her mother, of a human being, 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, a cesarean section, or an abortion, as defined in s. 253.10 (2) (a).

For purposes of the definition of “live birth,” “breathes” means “draws air into and expels it out of the lungs one or more times.”

Act 110 also includes two rules for construing Wisconsin laws that are to be observed unless construction in accordance with the rule would produce a result inconsistent with the manifest intent of the Legislature. The two rules of construction are: (1) an individual who undergoes a live birth is born alive; and (2) if a statute or rule refers to a live birth or to the circumstances in which an individual is born alive, the statute or rule shall be construed so that whoever undergoes a live birth as the result of an abortion, as defined in s. 253.10 (2) (a), has the same legal status and legal rights as a human being at any point after the human being undergoes a live birth as the result of natural or induced labor or a cesarean section.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

Under the Act, the new rules of statutory construction may not be construed to affirm, deny, expand, or contract a legal status or legal right that is applicable to a human being at any point before the human being undergoes a live birth.

*Effective Date:* January 8, 2004.

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