

# HOUSE BILL No. 4851

September 9, 2015, Introduced by Reps. Gamrat, Goike, Runestad, McBroom and Aaron Miller and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
(MCL 750.1 to 750.568) by adding section 325.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           **SEC. 325. (1) THIS SECTION MAY BE KNOWN AND CITED AS THE**  
2           **"PAIN-CAPABLE UNBORN CHILD PROTECTION ACT".**

3           **(2) BEFORE PERFORMING AN ABORTION, A PHYSICIAN SHALL MAKE A**  
4           **DETERMINATION OF THE PROBABLE POSTFERTILIZATION AGE OF THE UNBORN**  
5           **CHILD CONSISTENT WITH THE ACCEPTED STANDARD OF CARE FOR MAKING THAT**  
6           **DETERMINATION, EXCEPT IN THE CASE OF A MEDICAL EMERGENCY.**

7           **(3) A PERSON SHALL NOT PERFORM OR ATTEMPT TO PERFORM AN**  
8           **ABORTION ON A PREGNANT INDIVIDUAL IF IT IS DETERMINED THAT THE**  
9           **UNBORN CHILD HAS A PROBABLE POSTFERTILIZATION AGE OF 20 OR MORE**  
10           **WEEKS, UNLESS IN THE REASONABLE CLINICAL JUDGMENT OF A PHYSICIAN**  
11           **THE ABORTION IS NECESSARY TO AVERT THE PREGNANT INDIVIDUAL'S DEATH.**

1 (4) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY  
2 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR A FINE OF  
3 NOT MORE THAN \$7,500.00, OR BOTH.

4 (5) THIS SECTION DOES NOT APPLY TO ACTIONS TAKEN BY A PREGNANT  
5 INDIVIDUAL.

6 (6) THIS SECTION DOES NOT CREATE A RIGHT TO ABORTION.

7 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A  
8 PERSON SHALL NOT PERFORM AN ABORTION THAT IS PROHIBITED BY LAW.

9 (8) THIS ACT SHALL NOT BE CONSTRUED TO REPEAL BY IMPLICATION  
10 OR OTHERWISE, OR IMPAIR ANY FUTURE ENFORCEMENT OF, SECTION 14, 15,  
11 322, OR 323, OR ANY OTHER PROVISION OF LAW REGULATING OR  
12 RESTRICTING ABORTION.

13 (9) AS USED IN THIS SECTION:

14 (A) "ABORTION" MEANS THAT TERM AS DEFINED IN SECTION 17015 OF  
15 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.17015.

16 (B) "FERTILIZATION" MEANS THE FUSION OF A HUMAN SPERMATOZOON  
17 WITH A HUMAN OVUM.

18 (C) "MEDICAL EMERGENCY" MEANS A CONDITION THAT, ON THE BASIS  
19 OF A PHYSICIAN'S GOOD FAITH CLINICAL JUDGMENT, SO COMPLICATES THE  
20 MEDICAL CONDITION OF A PREGNANT INDIVIDUAL AS TO NECESSITATE THE  
21 IMMEDIATE ABORTION OF HER PREGNANCY TO AVERT HER DEATH OR  
22 NECESSITATES IMMEDIATE TREATMENT OF A PHYSICAL DISORDER, PHYSICAL  
23 ILLNESS, OR PHYSICAL INJURY IN A HOSPITAL OR OTHER EMERGENCY CARE  
24 FACILITY, NOT INCLUDING PSYCHOLOGICAL OR EMOTIONAL CONDITIONS. A  
25 MEDICAL EMERGENCY DOES NOT INCLUDE A CONDITION THAT IS BASED ON A  
26 CLAIM OR DIAGNOSIS THAT THE PREGNANT INDIVIDUAL WILL ENGAGE IN  
27 CONDUCT THAT SHE INTENDS TO RESULT IN HER DEATH.

1           (D) "PROBABLE POSTFERTILIZATION AGE" MEANS THE EXPECTED  
2 POSTFERTILIZATION AGE OF THE UNBORN CHILD AT THE TIME AN ABORTION  
3 IS PLANNED TO BE PERFORMED AS DETERMINED BY THE GOOD FAITH CLINICAL  
4 JUDGMENT OF THE ATTENDING PHYSICIAN.

5           (E) "UNBORN CHILD" MEANS AN INDIVIDUAL ORGANISM OF THE SPECIES  
6 HOMO SAPIENS FROM FERTILIZATION UNTIL LIVE BIRTH.