A bill to list certain constitutional rights related to reproductive freedom; to prohibit the violation of certain rights and provide remedies; to provide for the powers and duties of certain state and local governmental officers and entities; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) A state interest is "compelling" as that term is described in section 28 of article I of the state constitution of 1963.

(b) "Fetal viability" means that term as defined in section 28 of article I of the state constitution of 1963.

(c) "Governmental entity" means any of the following:

(i) This state and its agencies, departments, commissions,
courts, boards, councils, and statutorily created task forces.

(ii) A county, city, village, township, school district, or other political subdivision of this state.

(iii) An agency, department, court, board, commission, or council of a political subdivision described in subparagraph (ii).

(iv) An official of any of the entities described in subparagraph (i), (ii), or (iii).

Sec. 3. (1) As provided in section 28 of article I of the state constitution of 1963, the following apply in this state:

(a) Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including, but not limited to, prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

(b) An individual's right to reproductive freedom shall not be denied, burdened, nor infringed upon unless justified by a compelling state interest achieved by the least restrictive means.

(c) Notwithstanding the above, the state may regulate the provision of abortion care after fetal viability, provided that in no circumstance shall the state prohibit an abortion that, in the professional judgment of an attending health care professional, is medically indicated to protect the life or physical or mental health of the pregnant individual.

(d) The state shall not penalize, prosecute, or otherwise take adverse action against an individual based on their actual, potential, perceived, or alleged pregnancy outcomes, including, but not limited to, miscarriage, stillbirth, or abortion. Nor shall the state penalize, prosecute, or otherwise take adverse action against
someone for aiding or assisting a pregnant individual in exercising
their right to reproductive freedom with their voluntary consent.

(2) In determining whether an abortion is medically indicated
to protect the life or physical or mental health of a pregnant
individual under subsection (1)(c), the attending health care
professional may consider any factor that the attending health care
professional considers relevant to the well-being of the pregnant
individual, including, but not limited to, the pregnant
individual's age and physical, emotional, psychological, and
familial considerations.

Sec. 5. (1) An individual or entity, or the individual's or
entity's legal representative, who alleges a violation of the
individual's or entity's rights under section 28 of article I of
the state constitution of 1963 or section 3 by a governmental
entity may bring a civil action for injunctive relief, damages, or
any other appropriate remedy, in the appropriate state or federal
court.

(2) The attorney general may enforce section 3 through a civil
action for injunctive relief, damages, or any other appropriate
remedy.

(3) A court shall award reasonable costs and attorney fees to
a plaintiff who prevails in an action brought under this section.

Sec. 7. A governmental entity shall not violate section 28 of
article I of the state constitution of 1963.

Enacting section 1. The following acts and parts of acts are
repealed:

(a) Sections 90h and 323 of the Michigan penal code, 1931 PA
328, MCL 750.90h and 750.323.

(b) The legal birth definition act, 2004 PA 135, MCL 333.1081
(c) 2002 PA 360, MCL 333.1091.

Enacting section 2. This act does not take effect unless Senate Bill No. 474 of the 102nd Legislature is enacted into law.