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BILL ANALYSIS

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Senate Bill 776 (as reported without amendment)
Sponsor: Senator Cameron S. Brown
Committee: Health Policy

CONTENT

The bill would add the "Partial-Birth Abortion Ban Act" to the Michigan Penal Code to provide that a physician, an individual performing an act, task, or function under the delegatory authority of a physician, or any other individual who was not a physician or not otherwise legally authorized to perform an abortion who performed a partial-birth abortion and killed a human fetus would be guilty of a felony punishable by imprisonment for up to two years and/or a maximum fine of \$50,000.

It would not be a violation if in the physician's reasonable medical judgment a partial-birth abortion were necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury. A woman who obtained or sought to obtain a partial-birth abortion would not be a conspirator to commit a violation of the bill.

The spouse of the mother, or either of her parents if she were under 18 at the time of the partial-birth abortion, could file a civil action against the individual who performed the procedure unless the plaintiff consented to it or the pregnancy were a result of the plaintiff's criminal conduct. A plaintiff who prevailed could recover actual damages, including damages for emotional distress, and treble damages for the cost of the abortion.

"Partial-birth abortion" would mean an abortion in which the physician, an individual acting under the delegatory authority of the physician, or any other individual performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a headfirst presentation, the entire fetal head is outside the body of the mother, or in the case of a breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus, and performs the overt act that kills the partially delivered living fetus rather than completing the delivery.

Proposed MCL 750.90h

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of performing a partial-birth abortion. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an average annual cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$33,000. Additional penal fine revenue would benefit public libraries.

Date Completed: 1-17-08

Fiscal Analyst: Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

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