June 22, 2022, Introduced by Reps. Carra, Eisen, Bezotte, Clements, Maddock and Rendon and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code,"
by amending sections 14 and 15 (MCL 750.14 and 750.15).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 14. (1) Administering drugs, etc., with intent to procure miscarriage—Any person who shall wilfully administer to any pregnant woman any medicine, drug, substance or thing whatever, or shall employ any instrument or other means whatever, with intent thereby to procure the miscarriage of any such woman, unless the
same shall have been necessary to preserve the life of such woman, shall be guilty of a felony, and in case notwithstanding any other provision of law, an individual who purposely performs or attempts to perform an abortion except to save the life of a pregnant woman in a medical emergency is guilty of a felony punishable by imprisonment for not more than 10 years and a fine of not more than $100,000.00.

(2) An individual who violates subsection (1) in a manner that causes the death of such the pregnant woman be thereby produced, the offense shall be deemed is guilty of manslaughter.

In any prosecution under this section, it shall not be necessary for the prosecution to prove that no such necessity existed.

(3) This section does not authorize either of the following:

(a) Charging or convicting a woman with any criminal offense in the death of her own unborn child.

(b) Prohibiting the sale, use, prescription, or administration of a contraceptive measure, drug, or chemical if the contraceptive measure, drug, or chemical is administered before the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure, drug, or chemical is sold, used, prescribed, or administered in accordance with manufacturer instructions.

(4) It is an affirmative defense to prosecution under this section if a licensed physician provides medical treatment to a pregnant woman that results in the accidental or unintentional injury or death to the unborn child.

(5) Nothing in this section shall be construed as authorizing an abortion that is illegal under any other provision of law.
(6) Nothing in the amendatory act that added this subsection shall be construed to repeal or amend, explicitly or by implication, any provision of law prohibiting abortion or repealing any provision of law regulating abortion, including, but not limited to, section 322 or 323.

(7) Nothing in this section shall be interpreted to prohibit the administration of misoprostol for the purposes of treatment of a miscarriage.

(8) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(9) As used in this section:

(a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a fetus that has died as a result of natural causes, accidental trauma, or a criminal assault on the pregnant woman. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

(b) "Contraceptive" means a drug, device, or chemical that prevents conception.

(c) "Imminent harm" is limited exclusively to a physical condition and does not include a mental condition. Medical treatment may not form the basis for an exception to prosecution under this section if it is based on a claim or diagnosis that the pregnant woman will engage in conduct intended to result in her own death or some other form of self-harm.
(d) "Medical emergency" means a condition in which an abortion is necessary to preserve the life of a pregnant woman whose life is endangered and subject to imminent harm arising from the pregnancy by a physical disorder, physical illness, or physical injury including a life-endangering physical condition caused by or arising from the pregnancy itself.

(e) "Miscarriage" means the nondeliberate and spontaneous expulsion of a nonviable fetus that has completed less than 20 weeks of gestation.

Sec. 15. (1) Selling drugs, etc., to produce abortion—Any person who shall in any manner, except as hereinafter provided, advertise, publish, sell or publicly expose for sale any pills, powder, drugs or combination of drugs, designed expressly for the use of females for the purpose of procuring an abortion, shall be guilty of a misdemeanor.

Any drug or medicine known to be designed and expressly prepared for producing an abortion, shall only be sold upon the written prescription of an established practicing physician of the city, village, or township in which the sale is made; and the druggist or dealer selling the same shall, in a book provided for that purpose, register the name of the purchaser, the date of the sale, the kind and quantity of the medicine sold, and the name and residence of the physician prescribing the same. Notwithstanding any other provision of law to the contrary, a person that manufactures, distributes, prescribes, dispenses, sells, or transfers mifepristone, mifegyne, or mifeperex, or any substantially similar generic or nongeneric abortifacient drug in this state for the purpose of an abortion is guilty of a felony punishable by imprisonment for not more than 20 years.
(2) This section shall not be construed to impose civil or criminal liability on a woman upon whom an abortion is performed or attempted in which an abortifacient drug is used.

(3) Nothing in this section shall be interpreted to prohibit the administration of misoprostol for the purposes of treatment of a miscarriage.

(4) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(5) Nothing in the amendatory act that added this subsection shall be construed to repeal or amend, explicitly or by implication, any provision of law prohibiting abortion or repealing any provision of law regulating abortion, including, but not limited to, section 322 or 323.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.