

HOUSE BILL NO. 5542

November 10, 2021, Introduced by Reps. Pohutsky, Brixie, Hope, Morse, Haadsma, Steckloff, Koleszar, Cavanagh, Lasinski, Stone, Kuppa, Scott, Puri, Sowerby, Hood, Rabhi, Rogers, Anthony, Tate, Tyrone Carter, Ellison, Hertel, Bolden, Weiss, Sneller, Brabec, Thanedar, Aiyash, Manoogian, Breen and Sabo and referred to the Committee on Health Policy.

A bill to establish certain rights related to abortion and reproductive health; to regulate the performance of abortions under certain circumstances; to provide for the powers and duties of certain state and local governmental officers and entities; to provide remedies; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "reproductive health act".

3 Sec. 3. As used in this act:

1 (a) "Abortion" means the intentional use of an instrument,
2 drug, or other substance or device to terminate an individual's
3 pregnancy for a purpose other than to increase the probability of a
4 live birth, to preserve the life or health of the child after live
5 birth, or to remove a fetus that has died as a result of natural
6 causes, accidental trauma, or a criminal assault on the pregnant
7 individual. Abortion does not include the use or prescription of a
8 drug or device that prevents pregnancy, including by preventing the
9 implantation of an embryo.

10 (b) "Fetal viability" means that, in the good-faith
11 professional judgment of an attending health care professional and
12 based on the particular facts of the case before that health care
13 professional, there is a significant likelihood of the fetus's
14 sustained survival outside of the uterus without the application of
15 extraordinary medical measures.

16 (c) "Local unit of government" means any political subdivision
17 of this state, including, but not limited to, school districts,
18 community and junior colleges, state universities, cities,
19 villages, townships, charter townships, counties, charter counties,
20 authorities created by the state, and authorities created by other
21 local units of government.

22 (d) "Pregnancy" means the human reproductive process,
23 beginning with the implantation of an embryo.

24 Sec. 5. (1) An individual, including an individual under state
25 control and supervision, has the following fundamental rights:

26 (a) The fundamental right to choose or refuse contraception or
27 sterilization.

28 (b) If the individual becomes pregnant, the fundamental right
29 to carry the pregnancy to term, to give birth to a child, or to

1 have an abortion before fetal viability or at any time if, in the
2 professional judgement of a health care professional, an abortion
3 is necessary to protect the life or health of the pregnant
4 individual.

5 (2) This state shall not, deny, interfere with, or
6 discriminate against a right described in subsection (1) in
7 regulating or providing a benefit, a facility, a service, or
8 information.

9 Sec. 7. A health care professional, if within his or her scope
10 of practice, may perform an abortion before fetal viability. If the
11 health care professional determines that there is fetal viability,
12 the health care professional may perform an abortion only if, in
13 the professional judgment of the health care professional, the
14 abortion is necessary to protect the life or health of the pregnant
15 individual.

16 Sec. 9. This state shall not prosecute, punish, or otherwise
17 deprive a pregnant individual of a right for an act or failure to
18 act by the individual during the individual's pregnancy, if the
19 predominant basis for the prosecution, punishment, or deprivation
20 of the right is the potential, actual, or perceived impact on any
21 of the following:

22 (a) The individual's pregnancy or the pregnancy's outcome.

23 (b) The individual's own health.

24 Sec. 11. (1) A person alleging a violation of this act,
25 including a violation committed by this state, may bring a civil
26 action for appropriate injunctive relief or damages, or both, in
27 the appropriate state or federal court.

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

1 Sec. 13. A local unit of government may regulate abortion and
2 reproductive health, but only in a manner that provides greater
3 protections regarding abortion and reproductive health than are
4 provided for in this act.

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

7 (a) Sections 14, 40, and 90h of the Michigan penal code, 1931
8 PA 328, MCL 750.14, 750.40, and 750.90h.

9 (b) The legal birth definition act, 2004 PA 135, MCL 333.1081
10 to 333.1085.

11 (c) Sections 17014, 17015, 17015a, 17016, 17017, 17515, 17516,
12 17517, and 20115 of the public health code, 1978 PA 368, MCL
13 333.17014, 333.17015, 333.17015a, 333.17016, 333.17017, 333.17515,
14 333.17516, 333.17517, and 333.20115.

15 (d) The parental rights restoration act, 1990 PA 211, MCL
16 722.901 to 722.908.

17 (e) Section 1 of 2002 PA 360, MCL 333.1091.

18 (f) The abortion insurance opt-out act, 2013 PA 182, MCL
19 550.541 to 550.551.

20 Enacting section 2. This act takes effect 90 days after the
21 date it is enacted into law.

22 Enacting section 3. This act applies to every state law,
23 ordinance, policy, procedure, practice, and government action in
24 existence on or after the effective date of this act.

25 Enacting section 4. This act does not take effect unless all
26 of the following bills of the 101st Legislature are enacted into
27 law:

28 (a) Senate Bill No. ____ or House Bill No. 5543 (request no.
29 00704'21 a).

- 1 (b) Senate Bill No.____ or House Bill No. 5544 (request no.
2 00704'21 b).
- 3 (c) Senate Bill No.____ or House Bill No. 5545 (request no.
4 00704'21 c).
- 5 (d) Senate Bill No.____ or House Bill No. 5546 (request no.
6 00704'21 d).
- 7 (e) Senate Bill No.____ or House Bill No. 5547 (request no.
8 00704'21 e).
- 9 (f) Senate Bill No.____ or House Bill No. 5548 (request no.
10 00704'21 f).