# REPRODUCTIVE HEALTH ACT

## Act 286 of 2023

AN ACT 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.

**History:** 2023, Act 286, Eff. Feb. 13, 2024

The People of the State of Michigan enact:

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### 333.26101 Definitions.

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).

**History:** 2023, Act 286, Eff. Feb. 13, 2024

### 333.26103 Constitutional right to reproductive freedom.

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.

**History:** 2023, Act 286, Eff. Feb. 13, 2024

**333.26105 Violation of constitutional right to reproductive freedom; civil action; costs and attorney fees.**

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.

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**History:** 2023, Act 286, Eff. Feb. 13, 2024

**333.26107 Governmental entity violation of constitutional right to reproductive freedom; prohibition.**

Sec. 7.

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

**History:** 2023, Act 286, Eff. Feb. 13, 2024