



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**BAN PARTIAL-BIRTH
ABORTIONS**

House Bill 5889
Sponsor: Rep. James Ryan
Committee: Human Services

Complete to 5-23-96

A SUMMARY OF HOUSE BILL 5889 AS INTRODUCED 5-21-96

The bill would amend the Public Health Code (MCL 333.16221 et. al.) to prohibit a "partial-birth abortion," which would be defined under the bill to mean an abortion in which the physician -- or an individual acting under the delegatory authority of the physician performing the abortion -- "partially vaginally delivers a living fetus before killing the fetus and completing the delivery". "Abortion" would be defined under the bill to mean 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 dead fetus. Abortion would not include the use or prescription of a drug or device intended as a contraceptive. In addition, the bill would define "fetus" to mean an individual organism of the species Homo Sapiens in utero.

Sanctions. Currently, under the code, the Department of Community Health may investigate activities related to the practice of health professions and report its findings to the appropriate disciplinary subcommittee. If the disciplinary subcommittee finds that grounds for disciplinary subcommittee action exist, then it can impose certain sanctions. House Bill 5889 would add to the list of activities that constitute grounds for disciplinary action that of performing a partial-birth abortion, even if the abortion is otherwise permitted by law. The sanction for the violation would be denial, suspension, or revocation of a licensee's license or a registrant's registration for no less than two years.

Affirmative Defense. Under the bill, the following actions would constitute an affirmative defense to disciplinary proceedings initiated under the code for a violation of the prohibition against performing partial-birth abortions:

**** That a medical emergency existed when the partial-birth abortion was performed.** "Medical emergency" would be defined under the bill to mean that condition which, on the basis of the physician's good faith clinical judgment, so complicated the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay would create serious risk of substantial and irreversible impairment of a major bodily function.

**** That no other procedure would have resolved the medical emergency.**

The bill would specify, however, that, notwithstanding any other provision of the bill, a person could not perform an abortion that was prohibited by law, and that the provisions of the bill would not create a right to abortion.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.