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## CLARIFY ABORTION INFORMED CONSENT

**House Bill 5548**

**Sponsor: Rep. Janet Kukuk**

**Committee: Family and Children Services**

**Complete to 4-24-00**

### **A SUMMARY OF HOUSE BILL 5548 AS INTRODUCED 4-11-00**

Public Act 133 of 1993 amended the Public Health Code to require physicians to provide patients with certain information regarding pregnancy and abortion procedures at least 24 hours prior to performing an abortion. (The law was challenged on constitutional grounds. A state lawsuit was settled when the Michigan Supreme Court refused to overturn a court of appeals ruling upholding the law under the state constitution. The law was also challenged in a federal lawsuit, alleging it to be unconstitutional under the U.S. Constitution. The federal lawsuit was settled before going to trial when the plaintiffs and the attorney general reached a settlement agreement. This agreement allowed the law to go into effect in September, 1999.)

House Bill 5548 would amend the Public Health Code to make changes in the 1993 legislation. It would, in effect, modify the settlement agreement referred to above. The bill would make the following changes:

- Current law requires a physician or a qualified person assisting the physician to “present to the patient” certain information. (The settlement agreement that allowed the 1993 law to go into effect provides that the requirement to “present” or “provide” the written materials would be satisfied by any available method of delivery at least 24 hours before the abortion is performed, including, but not limited to, U.S. mail and express mail, courier services, private mail and express mail services, facsimile transmission and electronic mail.) The bill would instead require a physician to “provide the patient with a physical copy” of the information, and would define that phrase to mean giving the patient a copy in person, by registered mail, or by parcel delivery service that requires the recipient to sign for delivery. The bill would further specify that the requirement to provide information to a pregnant patient before an abortion is performed could not be fulfilled by the patient accessing an Internet website or by receiving a facsimile or other electronic transmission of the required information.

- Part of the required information to be given to a patient before an abortion is the probable gestational age of the fetus the patient is carrying. Current law defines the “probable gestational age of the fetus” as meaning the gestational age of the fetus at the time an abortion is planned to be performed, “as determined by the attending physician”. The bill would delete reference to “as determined by the attending physician”.

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- Current law specifies that the information is to be presented to the patient preceded by an explanation that “the patient has the option to review or not review the depiction and description”. The bill would delete this provision.

- Current law requires the physician to provide certain information to the patient before performing an abortion, including the physician’s name, the patient’s right to refuse or withdraw her consent the abortion at any time, and specific risks to the patient of the procedure or of continuing the pregnancy. Under the bill, the physician would have to provide this information and obtain the patient’s consent “personally and in the presence of the patient”.

- The bill would prohibit a physician from requiring or obtaining payment for a service provided to a patient who has inquired about an abortion or scheduled an abortion until after the expiration of the 24-hour required waiting period and until after the patient has signed the required acknowledgment and consent form.

- The bill would amend the language that requires the Department of Community Health to produce the required information to be presented to abortion patients. Under current law, the department is to produce “medically accurate depictions of the development of a human fetus which reflect the actual size of the fetus at 4-week intervals from the fourth week through the twenty-eighth week of gestation”. The bill would amend this provision to allow the use of illustrations or photographs, in addition to “depictions”. It would also require the material to “indicate by scale” the actual size of the fetus, and to do so at 2-week intervals, rather than 4-week intervals. In addition, the bill would delete language that requires the department to make use of curriculum materials from the Michigan Model for Comprehensive School Health Education for the required information.

- In a provision of current law requiring that the information identify the physical complications associated with each abortion procedure, the bill would specify that such complications include current published data regarding any scientifically significant relationship between abortion and increased risk of breast cancer.

MCL 333.17015

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■ 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.