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SFA**BILL ANALYSIS**

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Senate Bill 346 (as introduced 3-20-01)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

Date Completed: 9-19-01

CONTENT

The bill would amend the Revised Judicature Act (RJA) to provide that a person who committed a wrongful or negligent act against a pregnant woman would be liable for damages if the act resulted in the death of the woman's embryo or fetus. Currently, liability attaches if a person commits a wrongful or negligent act against a pregnant woman and the act results in miscarriage, stillbirth, or physical injury to her embryo or fetus. The bill would add death of the embryo or fetus to that provision.

The liability provision does not apply to any of the following:

- An act committed by the pregnant woman.
- A medical procedure performed by a physician or other licensed medical professional within the scope of his or her practice and with the pregnant woman's consent or the consent of a person who may lawfully provide consent on her behalf, or without consent as required by a medical emergency.
- The lawful dispensation, administration, or prescription of medication.

MCL 600.2922a

BACKGROUND

Public Act 211 of 1998 amended the RJA to enact the provision for liability of a person who commits a wrongful or negligent act against a pregnant woman and causes her miscarriage or stillbirth or physical injury to her embryo or fetus.

Public Act 238 of 1998 amended the Michigan Penal Code to prescribe criminal penalties for certain criminal or grossly negligent acts committed against a pregnant woman that cause her miscarriage or stillbirth or physical injury to her embryo or fetus. Public Act 2 of 2001 (Senate Bill 71), which took effect on June 1, 2001, amended those provisions to extend the penalties to conduct causing the death of an embryo or fetus.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: B. Bowerman

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