

# HOUSE BILL No. 6366

December 2, 2004, Introduced by Rep. Robertson and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
(MCL 750.1 to 750.568) by adding section 90h.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 90h. (1) The legislature finds all of the following:

2       (a) That the state has a compelling interest in the  
3 preservation and protection of all human life.

4       (b) That the guarantee of due process applies to born and  
5 unborn human beings.

6       (c) That recombinant DNA technology has reinforced the fact  
7 that the life of a human being begins when the ovum is fertilized  
8 by male sperm.

9       (d) That the interests of pregnant mothers have been  
10 adversely affected as abortions terminate the constitutionally  
11 protected fundamental interest of the pregnant mother in her

1 relationship with her child and abortions are performed without a  
2 truly informed or voluntary consent or knowing waiver of the  
3 woman's rights and interests.

4 (e) That the state has a duty to protect the pregnant  
5 mother's fundamental interest in her relationship with her unborn  
6 child.

7 (f) That abortion procedures impose significant risks to the  
8 health and life of the pregnant mother including, but not limited  
9 to, severe depression, suicidal ideation, suicide, attempted  
10 suicide, posttraumatic stress disorders, adverse impact in the  
11 lives of women, physical injury, and a greater risk of death than  
12 risks associated with carrying the unborn child to full term and  
13 childbirth.

14 (g) That a pregnant mother and her unborn child each possess  
15 a natural and inalienable right to life under the Michigan  
16 constitution.

17 (2) Except as provided in subsection (3) or (4), a person  
18 shall not do either of the following unless it is necessary to  
19 preserve the life of the pregnant woman or if there is a serious  
20 risk of substantial and irreversible impairment of a major bodily  
21 function of the pregnant woman:

22 (a) Knowingly administer, prescribe for, procure for, or sell  
23 to any pregnant woman any medicine, drug, or other substance with  
24 the specific intent of causing the termination of the life of an  
25 unborn human being.

26 (b) Use or employ any instrument or procedure upon a pregnant  
27 woman with the specific intent of causing the termination of the

1 life of an unborn human being.

2 (3) It is not a violation of subsection (2) if a person  
3 sells, uses, prescribes, or administers a contraceptive measure,  
4 drug, or chemical, as long as the contraceptive measure, drug, or  
5 chemical is administered prior to the time when a pregnancy could  
6 be determined through conventional medical testing and if the  
7 contraceptive measure is sold, used, prescribed, or administered  
8 in accordance with manufacturer instructions.

9 (4) It is not a violation of subsection (2) if a physician  
10 performs a medical procedure designed or intended to prevent the  
11 death of a pregnant mother or a serious risk of substantial and  
12 irreversible impairment of a major bodily function of the  
13 pregnant woman as long as the physician under those circumstances  
14 has made reasonable medical efforts to preserve both the life of  
15 the mother and the life of her unborn child in a manner  
16 consistent with conventional medical practice.

17 (5) Subsection (2) does not apply to an action taken by a  
18 physician that results in the accidental or unintentional injury  
19 or death of the unborn child. A mother upon whom an abortion is  
20 performed or attempted is not subject to any criminal convictions  
21 or penalties under this section.

22 (6) A person who violates subsection (2) is guilty of a  
23 felony punishable by imprisonment for life or any term of years  
24 or a fine of not more than \$50,000.00, or both.

25 (7) As used in this section:

26 (a) "Fertilization" means that point in time when a male  
27 human sperm penetrates the zona pellucida of a female human

1 ovum.

2 (b) "Physician" means an individual licensed to engage in the  
3 practice of medicine or the practice of osteopathic medicine and  
4 surgery under article 15 of the public health code, 1978 PA 368,  
5 MCL 333.16101 to 333.18838.

6 (c) "Serious risk of the substantial and irreversible  
7 impairment of a major bodily function" means any medically  
8 diagnosed condition that so complicates the pregnancy of the  
9 woman as to directly or indirectly cause the substantial and  
10 irreversible physical impairment of the pregnant woman.

11 (d) "Unborn human being" means an individual organism of the  
12 species homo sapiens living in utero throughout the entire  
13 embryonic and fetal ages of the unborn organism from  
14 fertilization to full gestation and childbirth.