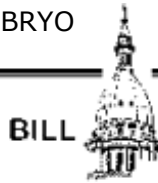




Senate Fiscal Agency
P. O. Box 30036
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**BILL ANALYSIS**

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House Bill 4777 (Substitute H-1 as passed by the House)
Sponsor: Representative William Van Regenmorter
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 11-7-05

CONTENT

The bill would amend the Revised Judicature Act (RJA) to allow a wrongful death action to be based on the death of an embryo or fetus caused by a person who committed a wrongful or negligent act against a pregnant woman. The bill also would require that a wrongful death action be brought by the personal representative of the deceased, rather than the deceased "person".

Under the RJA, whenever the death of a person or injuries resulting in death are caused by wrongful act, neglect, or the fault of another, which would have entitled the injured party to maintain an action and recover damages had death not ensued, the person or corporation that would have been liable if the individual had not died is liable in an action for damages notwithstanding the death. The bill would include in this provision a death described in Section 2922a of the RJA. (That section provides that a person who commits a wrongful or negligent act against a pregnant woman is liable for damages if the act results in a miscarriage or stillbirth or physical injury to or the death of the embryo or fetus.)

In addition, the RJA requires that a wrongful death action "be brought by, and in the name of, the personal representative of the estate of the deceased person". The bill would delete "person" from that provision.

MCL 60.2922

BACKGROUND

Public Act 211 of 1998 added Section 2922a to the RJA to specify that a person who commits a wrongful or negligent act against a pregnant woman is liable for damages if the act results in a miscarriage or stillbirth or physical injury to the embryo or fetus. Public Act 164 of 2002 amended that section to add a reference to the death of the embryo or fetus.

Liability under Section 2922a 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 health 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.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The fiscal impact of this legislation is indeterminate. To the extent that the bill would pave the way for an increase in civil suits, there could be an increase in costs to the courts, but it is difficult to predict. There are no data on how many lawsuits of this type are filed.

Fiscal Analyst: Stephanie Yu

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.