

COERCION TO ABORT & DOMESTIC VIOLENCE

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House Bill 5134

Sponsor: Rep. Nancy Jenkins

House Bill 5182

Sponsor: Rep. Margaret O'Brien

Committee: Families, Children, and Seniors

Complete to 12-5-11

A SUMMARY OF HOUSE BILL 5134 AS INTRODUCED 10-27-11 AND HOUSE BILL 5182 AS INTRODUCED 11-29-11

House Bills 5134 and 5182 would amend sections of the Public Health Code that deal with informed consent requirements for abortions. The bills would require a physician or qualified person assisting the physician to do coercion-to-abort and domestic violence screening, and to require the Department of Community Health to produce information, screening tools, and protocols related to coercion-to-abort and domestic violence.

The bills are tie-barred to House Bills 4798 and 4799, which would create criminal penalties for coercing a pregnant female into having an abortion against her will. The term "coercion to abort" refers to the prohibited actions described in those bills.

House Bill 5134

The bill would add Section 17015a to the Public Health Code. Under the bill, if a patient scheduled an appointment for an abortion after receiving the information currently required to be provided, the physician or qualified person assisting the physician would have to orally screen the patient for coercion-to-abort and domestic violence using the screening tools developed by the Department of Community Health (as provided in House Bill 5182).

If a patient discloses that she is the victim of domestic violence that does not include coercion to abort, the physician or qualified person assisting the physician would be required to follow the protocols developed by the department under Section 17015(11). If the patient discloses coercion to abort, the physician or qualified person assisting the physician would be required to follow the protocols developed by the department under Section 17015(11) and do each of the following:

- Inform the patient that coercion of her to seek an abortion is illegal and is also grounds for a civil action under which she could receive financial compensation for her damages.
- Postpone the performance of the abortion for at least 24 hours after the coercion is disclosed.

If a patient who discloses coercion to abort subsequently returns to the physician seeking an abortion after the 24-hour time period has elapsed, then the physician may perform the abortion, after obtaining the patient's signature on the required acknowledgment and consent form.

If a patient under 18 years old discloses domestic violence or coercion to abort, the physician or qualified assistant would have to report that fact to a local child protective services office.

A private office, freestanding surgical outpatient facility, or other facility or clinic in which abortions are performed would have to post a notice stating that it is illegal for anyone to coerce a woman into seeking an abortion. The notice would have to be posted in a conspicuous place in an area of the facility that was accessible to patients, employees, and visitors. Publications would also have to be made available containing information about violence against women.

House Bill 5182

The bill would require a physician, as part of the informed consent process, to confirm with a patient seeking an abortion that the coercion-to-abort and domestic violence screening required by House Bill 5134 had been performed.

The bill would require the Department of Community Health to do the following.

- Include on the informed consent internet website (1) a statement that is illegal under Michigan law to coerce a woman to have an abortion; (2) a statement that help is available if a woman is being threatened or intimidated; physically emotionally, or sexually harmed; or feels afraid for any reason; and (3) the telephone number of at least one domestic violence hotline.
- Develop, draft, and print (or make available in printable format) in nontechnical English, Arabic, and Spanish, a notice that includes the information listed above and that is required to be posted in facilities and clinics under House Bill 5134. The notice would have to be at least 8.5 inches by 14 inches, and the required statement would have to be printed in at least 44-point type. The notice would have to be made available to physicians through the Michigan Board of Medicine and the Michigan Board of Osteopathic Medicine and Surgery.
- Develop, draft, and print screening tools to be used by a physician or a qualified person assisting the physician while performing the coercion-to-abort and domestic violence screening required under House Bill 5134. In developing the screening tools, the department would have to consider the standards and recommendations of the Joint Committee on Accreditation of Healthcare Organizations, the American Congress of Obstetricians and Gynecologists, and the American Medical Association. The screening tools would have to instruct the physician or person assisting the physician to do, at a minimum, all of the following:

- Orally inform the patient that coercion to abort is illegal and is grounds for a civil action, but clarifying that discussions about pregnancy options, including personal or intensely emotional expressions about those options, are not necessarily coercion to abort and illegal.
 - Orally ask the patient if her husband, parents, siblings, relatives, or employer, the father or putative father of the fetus, the parents of the father or putative father of the fetus, or any other individual has engaged in coercion to abort and coerced her into seeking an abortion.
 - Orally ask the patient if an individual is taking harmful actions against her, including intimidating her, threatening her, physically hurting her, or forcing her to engage in sexual activities against her wishes.
 - Document the findings from the coercion-to-abortion and domestic violence screening in the patient's medical record.
- Develop, draft, and print protocols to be used by a physician or a qualified person assisting a physician if a patient discloses coercion to abort or that domestic violence is occurring, or both, during the coercion-to-abortion and domestic violence screening. In developing the protocols, the department would need to consider the standards and recommendations of the Joint Commission on Accreditation of Healthcare Organizations, the American Congress of Obstetricians and Gynecologists, and the American Medical Association. The protocols would need to instruct the physician or qualified person assisting the physician to do, at a minimum, all the following:
- Follow the requirements listed in the previous subsection, as applicable.
 - Assess the patient's current level of danger.
 - Develop a safety plan with the patient.
 - Refer the patient to law enforcement and domestic violence support organizations.
 - Document any referrals in the patient's medical record.

FISCAL IMPACT:

House Bills 5182 and 5134, as introduced, establish additional requirements for the Department of Community Health to develop and maintain new protocols and information related to the state's existing Informed Consent for Abortion Law and website. These responsibilities will require a modest amount of staff time annually to develop and maintain.

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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.