

COERCION TO ABORT & DOMESTIC VIOLENCE

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5134 (Substitute H-1)
Sponsor: Rep. Nancy E. Jenkins

House Bill 5182 (Substitute H-1)
Sponsor: Rep. Margaret E. O' Brien
Committee: Families, Children, and Seniors

Complete to 3-7-12

A SUMMARY OF HOUSE BILLS 5134 & 5182 AS REPORTED FROM COMMITTEE

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 would 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. The bills are also tie-barred to House Bill 5181, which

House Bill 5134

The bill would add Section 17015a to the Public Health Code. Under the bill at the time a patient first presents at a private office, freestanding surgical outpatient facility, or other facility or clinic in which abortions are performed for the purpose of obtaining an abortion, the physician or other qualified person assisting the physician, would have to orally screen the patient for coercion-to-abort 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, including domestic violence that involves 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) of the Code. (That section of the Code would be expanded by House Bill 5182, as described later.)

If a patient under 18 years old discloses domestic violence or coercion to abort, by an individual responsible for the health or welfare of the minor, the physician or qualified person assisting 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 (whose content is prescribed in House Bill 5182) 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 is accessible to patients, employees, and visitors. Publications containing information about violence against women would also have to be made available in an area accessible to patients, employees, and visitors.

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-abortion and domestic violence screening required by House Bill 5134 had been performed.

The bill would also require the physician or person assisting the physician, not less than 24 hours before that physician performs an abortion, to provide the patient with a physical copy of a prescreening summary on the prevention of coercion to abort.

The Department of Community Health, after considering the standards and recommendations of the Joint Commission on Accreditation of Healthcare Organizations, the Michigan Domestic Violence Prevention and Treatment Board, the Michigan Coalition Against Domestic and Sexual Violence or a successor organization, and the American Medical Association, would have to:

- Develop, draft, and print (or make available in printable format), in nontechnical English, Arabic, and Spanish, a notice 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 be printed in at least 44-point type and must contain at a minimum all of the following: (1) a statement that it 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 prescreening summary on prevention of coercion to abort that, at a minimum, contains the information listed in the paragraph above, and notifies the patient that an oral screening for coercion to abort will be conducted before she gives written consent to obtain an abortion.
- Develop, draft, and print screening and training tools and accompanying training materials to be used by a physician or a qualified person assisting the physician while performing the coercion-to-abortion screening required under House Bill 5134. 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 screening in the patient's medical record.

- Develop, draft, and print protocols and accompanying training materials to be utilized 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 screening. 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 of House Bill 5134, as applicable.

-- Assess the patient's current level of danger.

-- Explore safety options with the patient.

--Provide referral information to the patient regarding law enforcement and domestic violence and sexual assault support organizations.

-- Document any referrals in the patient's medical record.

FISCAL IMPACT:

House Bills 5182 and 5134 establish additional requirements for the Department of Community Health to develop and maintain new protocols, screening and training tools, notices for public posting and other information for providers and the public related to the Informed Consent for Abortion Law and website. These responsibilities will require a modest amount of staff time and related costs annually to develop and maintain.

POSITIONS:

Michigan Right to Life testified in support of the bills. 92-14-12)

Michigan Catholic Conference supports the bills. (2-14-12)

Michigan Coalition Against Domestic and Sexual Violence testified in support of the bills. (2-14-12)

Michigan Family Forum supports the bills. (2-14-12)

ACLU of Michigan opposes the bills. (2-14-12)

American Congress of Obstetricians and Gynecologists opposes House Bill 5134. (2-14-12)

Legislative Analyst: E. Best
Fiscal Analyst: Susan Frey

■ 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.