

Legislative Analysis



ALLOW CIVIL ACTION FOR COERCIVE ABORTION

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

House Bill 5181

Sponsor: Rep. Margaret O'Brien

Committee: Families, Children, and Seniors

Complete to 2-13-12

A SUMMARY OF HOUSE BILL 5181 AS INTRODUCED 11-29-11

The bill would add Section 2977 to the Revised Judicature Act to specify that an action could be brought by or on behalf of an individual injured by a coercive act prohibited under proposed Section 213a of the Michigan Penal Code. Section 213a would be added by the passage of House Bill 4799, and applies to acts that coerce a pregnant female to have an abortion against her will.

Under the bill, a plaintiff in an action could recover damages for emotional distress and other damages allowed by law. If the damages awarded to a plaintiff for non-economic loss exceeds \$5,000, and damages awarded to the plaintiff in the action of economic loss are \$5,000 or less, the award for non-economic loss would be reduced by the court to \$5,000.

The term "emotional distress" is defined to refer to significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

A person could not bring or maintain an action unless the action is begun within either (1) three years after the claim first accrues to the individual injured by the coercive act, or (2) if the individual injured is less than 18 years of age at the time the claim first occurs, one year after the individual reaches 18 years of age.

The bill states that it "does not create a right to abortion"; and that "notwithstanding any provision . . ., a person shall not perform an abortion that is prohibited by law."

House Bill 5181 is 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, and is also tie-barred to House Bills 5134 and 5182, which 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.

Proposed MCL 600.2977

FISCAL IMPACT:

This bill would have an indeterminate (but likely minimal) fiscal impact on local courts. Courts could face new costs related to an increased civil caseload. The number of actions that would be brought under this bill is not known, but would not likely be a significant portion of a court's caseload.

Legislative Analyst: E. Best
Fiscal Analyst: Erik Jonasson

■ 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.