

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5558

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2688, 2690, and 2836 (MCL 333.2688, 333.2690,
and 333.2836), section 2690 as amended by 2016 PA 386 and section
2836 as added by 2012 PA 499.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2688. (1) Research ~~may~~**shall** not knowingly be performed
2 ~~upon~~**on** a dead embryo, fetus, or neonate unless the consent of the
3 mother has first been obtained. Consent ~~shall not be~~**is not**
4 required ~~in the case of~~**for** a routine pathological study.
5 (2) For purposes of this section, consent ~~shall be~~**is**
6 conclusively presumed to have been granted by a written statement,
7 signed by the mother that she consents to the use of her dead

1 embryo, fetus, or neonate for research.

2 (3) Written consent ~~shall constitute~~**constitutes** lawful
3 authorization for the transfer of the dead embryo, fetus, or
4 neonate to **a** medical research ~~facilities~~**facility**.

5 (4) Research being performed ~~upon~~**on** a dead embryo, fetus, or
6 neonate ~~shall~~**must** be conducted in accordance with the same
7 standards applicable to research conducted ~~pursuant to~~**under** part
8 101.

9 (5) **Except as otherwise provided in section 27 of article I of**
10 **the state constitution of 1963, research shall not knowingly be**
11 **performed on an organ, tissue, or cell taken from a dead embryo,**
12 **fetus, or neonate obtained from an abortion. As used in this**
13 **subsection:**

14 (a) **Except as otherwise provided in subdivision (b),**
15 **"abortion" means the intentional use of an instrument, drug, or**
16 **other substance or device to terminate a woman's pregnancy for a**
17 **purpose other than any of the following:**

18 (i) **To increase the probability of a live birth.**

19 (ii) **To preserve the life or health of the child after live**
20 **birth.**

21 (iii) **To preserve the life of the mother.**

22 (iv) **To remove a fetus that has died as a result of natural**
23 **causes, accidental trauma, or a criminal assault on the pregnant**
24 **woman.**

25 (b) **Abortion does not include the use or prescription of a**
26 **drug or device intended as a contraceptive.**

27 Sec. 2690. (1) A person shall not knowingly sell, collect any
28 fee for, transfer, distribute, or give away an embryo, fetus, or
29 neonate for a use that ~~is in violation of~~**violates** sections 2685 to

1 2689.

2 (2) Except as otherwise provided in subsection (3), a
3 physician, or a person associated with the physician, who, as a
4 result of the physician's performing an elective abortion,
5 possesses a dead embryo, fetus, or neonate shall not knowingly
6 financially benefit from or receive any type of compensation for
7 either of the following:

8 (a) Allowing a person that was not involved in the performance
9 of the elective abortion to have access to the embryo, fetus, or
10 neonate for the purpose of the person taking possession and control
11 of the embryo, fetus, or neonate, including the organs, tissues, or
12 cells of the embryo, fetus, or neonate.

13 (b) Transferring possession and control of the embryo, fetus,
14 or neonate, including the organs, tissues, or cells of the embryo,
15 fetus, or neonate, to a person that was not involved in the
16 performance of the elective abortion.

17 (3) Subsection (2) does not apply to any of the following:

18 (a) A hospital.

19 (b) A person that is performing an activity as part of that
20 person's employment with a hospital or a contract with a hospital.

21 (c) A person that performs an activity under section ~~2688 or~~
22 2836.

23 (4) As used in this section:

24 (a) "Elective abortion" means the intentional use of an
25 instrument, drug, or other substance or device to terminate a
26 woman's pregnancy for a purpose other than to increase the
27 probability of a live birth, to preserve the life or health of the
28 child after live birth, or to remove a fetus that has died as a
29 result of natural causes, accidental trauma, or a criminal assault

1 on the pregnant woman. Elective abortion does not include any of
2 the following:

3 (i) The use or prescription of a drug or device intended as a
4 contraceptive.

5 (ii) The intentional use of an instrument, drug, or other
6 substance or device by a physician to terminate a woman's pregnancy
7 if the woman's physical condition, in the physician's reasonable
8 medical judgment, necessitates the termination of the woman's
9 pregnancy to avert her death.

10 (iii) Treatment on a pregnant woman who is experiencing a
11 miscarriage or has been diagnosed with an ectopic pregnancy.

12 (b) "Hospital" means a hospital licensed under article 17.

13 (c) "Person associated with the physician" means any of the
14 following:

15 (i) An employee of the physician or other individual who
16 assists the physician in performing an elective abortion.

17 (ii) A private physician practice, professional corporation, or
18 freestanding surgical outpatient facility licensed under article
19 17, that is owned or operated by the physician and in which an
20 elective abortion is performed.

21 (iii) A private physician practice, professional corporation, or
22 freestanding surgical outpatient facility licensed under article
23 17, that employs or contracts with the physician to perform an
24 elective abortion.

25 Sec. 2836. (1) All fetal remains resulting from abortions
26 ~~shall~~**must** be disposed of by interment or cremation as those terms
27 are defined in section 2 of the cemetery regulation act, 1968 PA
28 251, MCL 456.522, or by incineration by a person other than a
29 cemetery registered under the cemetery regulation act, 1968 PA 251,

1 MCL 456.521 to 456.543. ~~Unless the mother has provided written~~
2 ~~consent for research on the fetal remains under section 2688, a~~ **A**
3 physician who performs an abortion shall arrange for the final
4 disposition of the fetal remains resulting from the abortion.
5 Disposal of fetal remains resulting from an abortion may occur
6 without the supervision of a funeral director.

7 (2) This section does not require a physician to discuss the
8 final disposition of the fetal remains with the mother before
9 performing the abortion, ~~nor does it require a physician to~~ **or**
10 obtain authorization from the mother for the final disposition of
11 the fetal remains upon completion of the abortion.

12 Enacting section 1. This amendatory act takes effect 90 days
13 after the date it is enacted into law.