

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

**Introduced by Reps. Albert, Kahle, Allor, Griffin, Eisen, Green, Steven Johnson, Borton, Martin,
Fink, Markkanen, Slagh, Rendon, Bollin, Carra, Paquette, Meerman, Wozniak, Damoose,
Hornberger and Brann**

ENROLLED HOUSE BILL No. 5558

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” 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:

Sec. 2688. (1) Research shall not knowingly be performed on a dead embryo, fetus, or neonate unless the consent of the mother has first been obtained. Consent is not required for a routine pathological study.

(2) For purposes of this section, consent is conclusively presumed to have been granted by a written statement, signed by the mother that she consents to the use of her dead embryo, fetus, or neonate for research.

(3) Written consent constitutes lawful authorization for the transfer of the dead embryo, fetus, or neonate to a medical research facility.

(4) Research being performed on a dead embryo, fetus, or neonate must be conducted in accordance with the same standards applicable to research conducted under part 101.

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

(a) Except as otherwise provided in subdivision (b), “abortion” means the intentional use of an instrument, drug, or other substance or device to terminate a woman’s pregnancy for a purpose other than any of the following:

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

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

(iii) To preserve the life of the mother.

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

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

Sec. 2690. (1) A person shall not knowingly sell, collect any fee for, transfer, distribute, or give away an embryo, fetus, or neonate for a use that violates sections 2685 to 2689.

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

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

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

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

(a) A hospital.

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

(c) A person that performs an activity under section 2836.

(4) As used in this section:

(a) “Elective abortion” means the intentional use of an instrument, drug, or other substance or device to terminate a woman’s pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a fetus that has died as a result of natural causes, accidental trauma, or a criminal assault on the pregnant woman. Elective abortion does not include any of the following:

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

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

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

(b) “Hospital” means a hospital licensed under article 17.

(c) “Person associated with the physician” means any of the following:

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

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

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

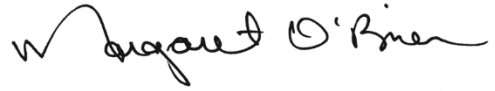
Sec. 2836. (1) All fetal remains resulting from abortions must be disposed of by interment or cremation as those terms are defined in section 2 of the cemetery regulation act, 1968 PA 251, MCL 456.522, or by incineration by a person other than a cemetery registered under the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543. A physician who performs an abortion shall arrange for the final disposition of the fetal remains resulting from the abortion. Disposal of fetal remains resulting from an abortion may occur without the supervision of a funeral director.

(2) This section does not require a physician to discuss the final disposition of the fetal remains with the mother before performing the abortion or obtain authorization from the mother for the final disposition of the fetal remains upon completion of the abortion.

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



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor