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Senate Bills 154 and 155 (Substitute S-2 as passed by the Senate)

Sponsor: Senator Mallory McMorrow

Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 8-13-25

CONTENT

Senate Bill 154 (S-2) would enact the "Access to Health Facilities Act" to do the following:

- **Prohibit an individual from threatening, intimidating, or interfering with another individual obtaining or providing reproductive health services.**
- **Prohibit an individual from intentionally damaging or destroying the property of a health facility because that facility provided reproductive health services.**
- **Prescribe misdemeanor and felony penalties for violating the prohibitions described above based on the frequency and severity of the violation.**
- **Allow the Department of the Attorney General, a prosecuting attorney, or an attorney for a local unit of government to bring a civil action to enjoin a violation under the Act and for compensatory damages to individuals aggrieved by such violations.**
- **Allow an individual or entity aggrieved by a violation to bring a civil action to enjoin the violation and for compensatory damages and punitive damages.**
- **Specify that the Act's penalties would not apply to a parent or legal guardian of a minor insofar as the activities were directed exclusively at the minor.**

Senate Bill 155 (S-2) would amend the sentencing guidelines of the Code of Criminal Procedure to include felony penalties proposed by Senate Bill 154 (S-2).

Senate Bill 155 is tie-barred to Senate Bill 154. Each bill would take effect 90 days after its enactment. Senate Bill 154 is described in greater detail below.

The "Access to Health Facilities Act" would criminalize the following, punishable as described further below:

- By force or threat of force, or by physical obstruction, intentionally injuring, intimidating, or interfering with, or attempting to injure, intimidate, or interfere with, an individual because that individual was or had been, or in order to intimidate an individual or any other individual or any class of individuals from, obtaining or providing reproductive health services.
- Intentionally damaging or destroying the property of a health facility, or attempting to do so, because a health facility provided reproductive health services.

"Health facility" would mean a health facility licensed under Article 17 (Facilities and Agencies) of the Public Health Code, or any other organized entity where a health care provider provides reproductive health services to patients. The term would include a pharmacy licensed under Article 15 (Occupations) of the Code and would include the building or structure in which the facility is located. "Reproductive health services" would mean reproductive health services provided in a health facility and includes medical, surgical, counseling, or referral services

relating to the human reproductive system, including services relating to pregnancy, the termination of a pregnancy, fertility, or infertility.

"Interfere with" would mean to restrict an individual's freedom or movement. "Intimidate" would mean placing an individual in reasonable apprehension of bodily harm to the individual's self or to another person. "Physical obstruction" would mean rendering impassable ingress to or egress from a health facility or rendering passage to or from a health facility unreasonably difficult or hazardous.

An individual who threatened, intimidated, or interfered with an individual obtaining or providing, or attempting to obtain or provide, reproductive health services or who intentionally damaged or destroyed the property of a health facility because that facility provided reproductive health services would be guilty as described in the following table and could incur the maximum imprisonment sentence and maximum fine. Additionally, the Department of Attorney General, a prosecuting attorney, or an attorney for a local unit of government could bring a civil action to enjoin a violation under the Act, for compensatory damages to individuals aggrieved by certain violations described below, for the assessment of a civil fine against each respondent, and any other appropriate remedy.

Offense	Penalty	Max. Imprisonment	Max. Fine	Max. Civil Fine
First violation	Misdemeanor	One year	\$10,000	\$10,000
Subsequent violation following previous conviction of such	Felony	Three years	\$25,000	\$25,000
Violation involving exclusively nonviolent physical obstruction	Misdemeanor	Six months	\$10,000	\$10,000
Subsequent violation involving exclusively nonviolent physical obstruction and at least one previous conviction of such	Felony	One year and six months	\$25,000	\$15,000
Violation resulting in bodily injury to another individual	Felony	10 years	N/A	N/A
Violation resulting in the death of another individual	Felony	Life imprisonment or any term of years	N/A	N/A

Also, the Act would allow an individual or entity, or the individual's or entity's legal representative, aggrieved by a violation under the Act to bring a civil action to enjoin the violation, for compensatory and punitive damages, for the costs of the action and reasonable fees for attorneys and expert witnesses, and any other appropriate remedy.

With respect to compensatory damages, the plaintiff could elect, at any time before the rendering of final judgment, to recover, in lieu of actual damages, an award of \$5,000 per violation for statutory damages.

The Act would specify a parent or legal guardian of a minor would not be subject to any penalties described above insofar as the activities were directed exclusively at the minor.

Finally, the Act specifies that it would not do any of the following:

- Prohibit any expressive conduct, including picketing or other demonstration, protected from legal prohibition under Section 5 of Article I of the State Constitution of 1963 and the First Amendment to the Constitution of the United States.¹
- Create new remedies for interference with activities protected under Section 5 of Article I of the State Constitution of 1963 and the First Amendment to the Constitution of the United States occurring outside a health facility, regardless of the point of view expressed, or limit any existing legal remedies for such interference.
- Preempt local ordinances that may provide penalties or remedies with regard to the conduct prohibited in the Act.
- Interfere with the enforcement of local ordinances regulating the performance of abortions or other reproductive health services.

MCL 777.13n (S.B. 155)

BRIEF RATIONALE

The Federal Freedom of Access to Clinic Entrances (FACE) Act was enacted in 1994 and generally prohibits interference with individuals seeking or providing reproductive health services, among other things.² In January 2025, four Michigan activists were Federally pardoned for convictions of physically blocking access to a reproductive health clinic.³ According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety, protections under the FACE Act are no longer effective in protecting individuals seeking reproductive health care and it has been suggested to enact State-level legislation to establish such protections.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

Senate Bill 154 (S-2)'s criminal penalties could have a negative fiscal impact on State and local government. Violations of the proposed Act would be punishable as misdemeanors and felonies of different severity. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. Misdemeanor convictions could increase county jail and local probation supervision costs, which vary by jurisdiction and are thus indeterminate. Based on 2025 data, the average cost to State government for felony probation supervision is approximately \$4,800 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$49,900. Per diem rates range from \$107 to \$328 per day (average per diem is \$137), depending on the security level of the facility. Additionally, any associated fine revenue would increase funding to public libraries.

The bill would have an indeterminate fiscal impact on State and local units of government. The fiscal impact on local courts and prosecutors' offices would depend on the volume of cases and civil actions resulting from the bills. It is likely that existing appropriations would be sufficient to meet these needs. Similarly, the cost to the Attorney General, local prosecutors, and local governments that brought a civil action to enjoin a violation under the bill would

¹ Generally, Section 5 Article 1 of the State Constitution of 1963 and the First Amendment to the Constitution of the United States guarantee the right to the freedom of speech and of the press.

² "Freedom of Access to Clinic Entrances & Places of Religious Worship", U.S. Department of Justice, <https://www.justice.gov/crt/freedom-access-clinic-entrances-places-religious-worship>, Retrieved 6-9-25.

³ "Trump Pardons 4 Convicted Activists Who Blockaded Sterling Heights Abortion Clinic", Detroit Free Press. <https://www.freep.com/story/news/local/michigan/2025/01/24/trump-pardons-michigan-pro-life-activists-sterling-heights-abortion-clinic/77918216007/>, Retrieved 6-9-25.

depend upon the number of such actions undertaken by those respective entities. It is probable that there would be a limited number of qualifying instances and that existing appropriations would be sufficient.

Senate Bill 155 (S-2) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

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