

**SUBSTITUTE FOR
SENATE BILL NO. 154**

A bill to prohibit certain conduct at or near a health facility and prescribe penalties; to provide remedies; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "access to health
2 facilities act".

3 Sec. 2. As used in this act:

4 (a) "Health facility" means a health facility or agency
5 licensed under article 17 of the public health code, 1978 PA 368,
6 MCL 333.20101 to 333.22260, or any other organized entity where a
7 health care provider provides reproductive health services to
8 patients. Health facility includes a pharmacy licensed under

1 article 15 of the public health code, 1978 PA 368, MCL 333.16101 to
2 333.18838. Health facility includes the building or structure in
3 which the facility is located.

4 (b) "Interfere with" means to restrict an individual's freedom
5 of movement.

6 (c) "Intimidate" means to place an individual in reasonable
7 apprehension of bodily harm to the individual's self or to another
8 individual.

9 (d) "Physical obstruction" means rendering impassable ingress
10 to or egress from a health facility or rendering passage to or from
11 a health facility unreasonably difficult or hazardous.

12 (e) "Reproductive health services" means reproductive health
13 services provided in a health facility and includes medical,
14 surgical, counseling, or referral services relating to the human
15 reproductive system, including services relating to pregnancy, the
16 termination of a pregnancy, fertility, or infertility.

17 Sec. 3. (1) Subject to subsection (2), an individual who by
18 force or threat of force, or by physical obstruction, intentionally
19 injures, intimidates, or interferes with, or attempts to injure,
20 intimidate, or interfere with, an individual because that
21 individual is or has been, or in order to intimidate an individual
22 or any other individual or any class of individuals from, obtaining
23 or providing reproductive health services, or who intentionally
24 damages or destroys the property of a health facility, or attempts
25 to do so, because a health facility provides reproductive health
26 services, is guilty of a crime punishable as provided in this
27 section.

28 (2) A parent or legal guardian of a minor is not subject to
29 any penalties under this section for the activities described under

1 subsection (1) insofar as the activities are directed exclusively
2 at the minor.

3 (3) Except as otherwise provided in this section, an
4 individual who violates subsection (1) is guilty of a misdemeanor,
5 punishable by imprisonment for not more than 1 year, a fine of not
6 more than \$10,000.00, or both.

7 (4) An individual who violates subsection (1), and who has 1
8 or more previous convictions for violating subsection (1), is
9 guilty of a felony, punishable by imprisonment for not more than 3
10 years, a fine of not more than \$25,000.00, or both.

11 (5) An individual who violates subsection (1) in a manner
12 involving exclusively a nonviolent physical obstruction is guilty
13 of a misdemeanor punishable by imprisonment for not more than 6
14 months, a fine of not more than \$10,000.00, or both.

15 (6) An individual who violates subsection (1) in a manner
16 involving exclusively a nonviolent physical obstruction and who has
17 1 or more previous convictions for violating subsection (1) in a
18 manner involving exclusively a nonviolent physical obstruction is
19 guilty of a felony, punishable by imprisonment for not more than 1
20 year and 6 months, a fine of not more than \$25,000.00, or both.

21 (7) An individual who violates subsection (1) resulting in
22 bodily injury to another individual is guilty of a felony
23 punishable by imprisonment for not more than 10 years.

24 (8) An individual who violates subsection (1) resulting in the
25 death of another individual is guilty of a felony punishable by
26 imprisonment for life or any term of years.

27 Sec. 5. (1) An individual or entity, or the individual's or
28 entity's legal representative, aggrieved by a violation of section
29 3 may bring a civil action to enjoin the violation, for

1 compensatory and punitive damages, for the costs of the action and
2 reasonable fees for attorneys and expert witnesses, and any other
3 appropriate remedy. With respect to compensatory damages, the
4 plaintiff may elect, at any time before the rendering of final
5 judgment, to recover, in lieu of actual damages, an award of
6 statutory damages in the amount of \$5,000.00, per violation.

7 (2) The department of the attorney general, a prosecuting
8 attorney, or an attorney for a local unit of government may bring a
9 civil action to enjoin a violation of section 3, for compensatory
10 damages to individuals aggrieved by the violation, for the
11 assessment of a civil fine against each respondent, and any other
12 appropriate remedy. A civil fine under this subsection must be
13 imposed as follows:

14 (a) For a violation under section 3(3), a civil fine not to
15 exceed \$10,000.00.

16 (b) For a violation under section 3(4), a civil fine not to
17 exceed \$25,000.00.

18 (c) For a violation under section 3(5), a civil fine not to
19 exceed \$10,000.00.

20 (d) For a violation under section 3(6), a civil fine not to
21 exceed \$15,000.00.

22 Sec. 7. This act does not do any of the following:

23 (a) Prohibit any expressive conduct, including picketing or
24 other demonstration, protected from legal prohibition under section
25 5 of article I of the state constitution of 1963 and the First
26 Amendment to the Constitution of the United States.

27 (b) Create new remedies for interference with activities
28 protected under section 5 of article I of the state constitution of
29 1963 and the First Amendment to the Constitution of the United

1 States occurring outside a health facility, regardless of the point
2 of view expressed, or limit any existing legal remedies for such
3 interference.

4 (c) Preempt local ordinances that may provide penalties or
5 remedies with regard to the conduct prohibited under this act.

6 (d) Interfere with the enforcement of local ordinances
7 regulating the performance of abortions or other reproductive
8 health services.

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