

LEGAL BIRTH DEFINITION ACT (EXCERPT)
Act 135 of 2004

***** 333.1084 THIS SECTION IS REPEALED BY ACT 286 OF 2023 EFFECTIVE FEBRUARY 13, 2024

333.1084 Existing right, privilege, or protection.

Sec. 4. Nothing in this act shall abrogate any existing right, privilege, or protection under criminal or civil law that applies to an embryo or fetus.

History: 2004, Act 135, Eff. Mar. 30, 2005.

Constitutionality: In *Northland Family Planning Clinic v Cox*, 396 F Supp 2d 978 (2005), the federal court for the Eastern District of Michigan held that the legal definition of birth act is unconstitutional because it places an undue burden on a woman's right to an abortion, does not provide a sufficient maternal health exception, requires the physician to balance the maternal and neonatal interests in the life exception, and fails to give clear notice of the activities that are prohibited. (The case is now on appeal to 6th circuit.)

The U.S. 6th Circuit Court of Appeals, affirming the U.S. District Court's decision in *Northland Family Planning v Cox* (docket Nos. 05-2417 and 05-2418, published June 4, 2007), held that the Legal Birth Definition Act, an act initiated by citizen petition, is unconstitutional. The court held that "invalidation of the law is the only available course" since the act "imposed an undue burden on a woman's right to terminate her pregnancy by prohibiting the D and E procedure, because it failed to adequately protect the health of the woman, and because it was void for vagueness due to its confusing language."