(d) Determine the unit type population payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and then dividing that result by the total statewide adjusted unit type population as determined under subdivision (c).

(e) Determine the unit type population payment for each city, village, and township by multiplying the result under subdivision (d) by the adjusted unit type population for that city, village, or township.

(10) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section, a yield equalization payment shall be made to each city, village, and township with a population of less than 750,000 sufficient to provide the guaranteed tax base for a local tax effort not to exceed 0.02. The payment shall be determined as follows:

(a) The guaranteed tax base is the maximum combined state and local per capita taxable value that can be guaranteed in a state fiscal year to each city, village, and township for a local tax effort not to exceed 0.02 if an amount equal to 74.94% of 21.3% of the state sales tax at a rate of 4% is distributed to cities, villages, and townships whose per capita taxable value is below the guaranteed tax base.

(b) The full yield equalization payment to each city, village, and township is the product of the amounts determined under subparagraphs (*i*) and (*ii*):

(*i*) An amount greater than zero that is equal to the difference between the guaranteed tax base determined in subdivision (a) and the per capita taxable value of the city, village, or township.

(*ii*) The local tax effort of the city, village, or township, not to exceed 0.02, multiplied by the population of that city, village, or township.

(c) The yield equalization payment is the full yield equalization payment divided by 3.

(11) For state fiscal years after the 1997-1998 state fiscal year, distributions under this section for cities, villages, and townships with populations of less than 750,000 shall be determined as follows:

(a) For the 1998-1999 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(b) For the 1999-2000 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(c) For the 2000-2001 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(d) For the 2001-2002 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(e) For the 2002-2003 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(f) For the 2003-2004 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(g) For the 2004-2005 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the city's, village's, or

township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(h) For the 2005-2006 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(i) For the period of October 1, 2006 through September 30, 2007, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(12) Except as otherwise provided in this subsection, the total payment to any city, village, or township under this act and section 10 of article IX of the state constitution of 1963 shall not increase by more than 8% over the amount of the payment under this act and section 10 of article IX of the state constitution of 1963 in the immediately preceding state fiscal year. From the amount not distributed because of the limitation imposed by this subsection, the department shall distribute an amount to certain cities, villages, and townships such that the percentage increase in the total payment under this act and section 10 of article IX of the state constitution of 1963 from the immediately preceding state fiscal year to each of those cities, villages, and townships is equal to, but does not exceed, the percentage increase from the immediately preceding state fiscal year of any city, village, or township that does not receive a distribution under this subsection. This subsection does not apply for state fiscal years after the 2000 federal decennial census becomes official to a city, village, or township with a 10% or more increase in population from the official 1990 federal decennial census to the official 2000 federal decennial census.

(13) The percentage allocations to distributions under subsections (8) to (10) pursuant to subsection (11) shall be calculated as if, in any state fiscal year, the amount appropriated under this section for distribution to cities, villages, and townships is 74.94% of 21.3% of the sales tax at a rate of 4%. If the amount appropriated under this section to cities, villages, and townships is less than 74.94% of 21.3% of the sales tax at a rate of 4%, any reduction made necessary by this appropriation in distributions to cities, villages, and townships shall first be applied to the distribution under subsections (8) to (10) and any remaining amount shall be applied to the other distributions under this section.

(14) A township that provides for or makes available fire, police on a 24-hour basis either through contracting for or directly employing personnel, water to 50% or more of its residents, and sewer services to 50% or more of its residents and has a population of 10,000 or more or a township that has a population of 20,000 or more shall use the unit type population weight factor under subsection (9)(a) for a city with the same population as the township.

(15) For a state fiscal year in which the sales tax collections decrease from the sales tax collections for the immediately preceding state fiscal year, the department shall reduce the amount to be distributed to a city with a population of 750,000 or more under subsection (6) by an amount determined by subtracting the amount the city is eligible for under section 10 of article IX of the state constitution of 1963 for the state fiscal year from $333,900,000.00 and multiplying that result by the same percentage as the percentage decrease in sales tax collections for that state fiscal year as compared to sales tax collections for the immediately preceding state fiscal year. This subsection does not apply to the 2002-2003 state fiscal year.

(16) Notwithstanding any other provision of this section for the 1998-1999 state fiscal year, the total combined amount received by each city, village, and township under this section and section 10 of article IX of the state constitution of 1963 shall not be less than the combined amount received under this section, section 12a, and section 10 of article IX of the state constitution of 1963 in the 1997-1998 state fiscal year. The increase, if any, for each city, village, and township from the 1997-1998 state fiscal year, other than a city that receives a distribution under subsection (6), shall be reduced by a uniform percentage to the extent necessary to fund distributions under this subsection.

(17) The payments under subsections (3), (4), and (5) shall be made during each October, December, February, April, June, and August. Payments under subsections (3), (4), and (5) shall be based on collections from the sales tax at the rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30, and for the 1996-1997 and 1997-1998 state fiscal years only, the payments shall be reduced by 1/6 of the total distribution for the state fiscal year under section 12a.

(18) Payments under this section shall be made from revenues collected during the state fiscal year in which the payments are made.

(19) Distributions provided for by this act are subject to an annual appropriation by the legislature.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 30, 2002.

[No. 680]

(HB 4454)

AN ACT to amend 1987 PA 248, entitled "An act to impose a state excise tax on persons engaged in the business of providing an airport parking facility; to provide for the levy, assessment, and collection of the tax; to provide for the disposition of the collections from the tax; to create the airport parking fund; to authorize the distributions from the fund; to authorize the use of distributions from the fund as security for bonds and other obligations; to prescribe certain other matters relating to bonds and other obligations; to

prescribe the powers and duties of certain state officers; and to provide for an appropriation," by amending section 3 (MCL 207.373) and by adding section 7a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

207.373 Excise tax on airport parking facility; rate.

Sec. 3. There is levied upon and shall be collected from a person engaged in the business of providing an airport parking facility an excise tax. Through December 31, 2002, the rate of the excise tax is 30% of the amount of the charge for the transaction. Beginning January 1, 2003, the rate of the excise tax is 27% of the amount of the charge for the transaction.

207.377a Distribution; priority; "state airports" defined.

Sec. 7a. (1) On the first day of each month, the state treasurer shall make a distribution from the fund in the following order of priority:

(a) To the state aeronautics fund created in section 34 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.34, an amount that equals a total of $6,000,000.00 per state fiscal year. The funds distributed subject to this subdivision shall be used exclusively for safety and security projects at state airports, including reimbursement to the comprehensive transportation fund of amounts used to pay principal and interest on bonds issued on or before December 31, 2007 by the state transportation commission under section 18b of 1951 PA 51, MCL 247.668b, to provide the matching funds by this state for federal funds to be used for safety and security at state airports.

(b) To each city within which a regional airport facility is wholly located in an amount that equals a total of $1,500,000.00 per calendar year divided by the total number of cities within which a regional airport facility is wholly located. The distribution described in this subdivision shall be deposited in the general fund of the city.

(c) A distribution to each qualified county in an amount equal to the total amount remaining in the fund multiplied by a fraction the numerator of which is the population of that qualified county during the immediately preceeding year and the denominator of which is the total population of all qualified counties during the immediately preceding year. The distribution described in this subdivision shall be deposited in the general fund of the qualified county to be used only for indigent health care. Each fiscal year the qualified county shall provide written documentation to the state treasurer, to the state treasurer's satisfaction, that the distribution described in this subdivision was used for indigent health care. In addition, the qualified county shall also provide written documentation to the state treasurer of all other revenues that were used for indigent health care in that fiscal year. If the state treasurer determines that the qualified county did not use the distribution described in this subdivision for indigent health care in any fiscal year, the qualified county shall immediately repay those funds to the state treasurer to be deposited into the general fund of this state.

(2) The distribution provided by subsection (1) shall not be made if all taxing units are authorized by law to impose taxes and the collection is made of taxes imposed under 1953 PA 189, MCL 211.181 to 211.182, on concessions at a regional airport facility.

(3) As used in subsection (1)(a), "state airports" means all of the following airports located in this state:

(a) Adrian - Lenawee County airport.

(b) Allegan - Padgham field.

(c) Alma - Gratiot community airport.
(d) Alpena - Alpena County regional airport.
(e) Ann Arbor - Ann Arbor municipal airport.
(f) Atlanta - Atlanta municipal airport.
(g) Bad Axe - Huron County memorial airport.
(h) Baraga - new airport.
(i) Battle Creek - W.K. Kellogg airport.
(j) Bay City - James Clements airport.
(k) Bellaire - Antrim County airport.
(*l*) Benton Harbor - southwest Michigan regional airport.
(m) Big Rapids - Roben-Hood airport.
(n) Cadillac - Wexford County airport.
(o) Caro - Tuscola area/Caro municipal airport.
(p) Charlevoix - Charlevoix municipal airport.
(q) Charlotte - Fitch H. Beach airport.
(r) Cheboygan - Cheboygan County airport.
(s) Clare - Clare municipal airport.
(t) Coldwater - Branch County airport.
(u) Detroit - Detroit city airport.
(*v*) Detroit - Detroit metropolitan Wayne County airport.
(w) Detroit - Willow Run airport.
(x) Dowagiac - Dowagiac municipal airport.
(y) Drummond Island - Drummond Island airport.
(z) Escanaba - Delta County airport.
(aa) Evart - Evart municipal airport.
(bb) Flint - Bishop international airport.
(cc) Frankfort - Dow memorial airport.
(dd) Fremont - Fremont municipal airport.
(ee) Gaylord - Otsego County airport.
(ff) Gladwin - Gladwin Zettal memorial airport.
(gg) Grand Haven - Grand Haven memorial airpark.
(hh) Grand Ledge - Abrams municipal airport.
(ii) Grand Rapids - Gerald R. Ford international airport.
(jj) Grayling - Grayling army airfield.
(kk) Greenville - Greenville municipal airport.
(*ll*) Grosse Ile - Grosse Ile municipal airport.
(mm) Hancock - Houghton County memorial airport.
(nn) Harbor Springs - Harbor Springs municipal airport.
(oo) Hastings - Hastings city/Barry County airport.
(pp) Hillsdale - Hillsdale municipal airport.

(qq) Holland - tulip city airport.
(rr) Houghton Lake - Roscommon County airport.
(ss) Howell - Livingston County airport.
(tt) Ionia - Ionia County airport.
(uu) Iron County - county airport.
(vv) Iron Mountain - Ford airport.
(ww) Ironwood - Gogebic-Iron County (Wisconsin) airport.
(xx) Jackson - Jackson County-Reynolds field.
(yy) Kalamazoo - Kalamazoo/Battle Creek international airport.
(zz) Lakeview - Lakeview-Griffith field.
(aaa) Lambertville - suburban airport.
(bbb) Lansing - capital city airport.
(ccc) Lapeer - Dupont-Lapeer airport.
(ddd) Linden - Price airport.
(eee) Ludington - Mason County airport.
(fff) Mackinac Island - Mackinac Island airport.
(ggg) Manistee - Manistee County airport.
(hhh) Manistique - Schoolcraft County airport.
(iii) Marlette - Marlette Township airport.
(jjj) Marquette - Sawyer airport.
(kkk) Marshall - Brooks field.
(*lll*) Mason - Mason Jewett field.
(mmm) Menominee - Menominee-Marinette twin city airport.
(nnn) Midland - Jack Barstow airport.
(ooo) Monroe - Custer airport.
(ppp) Mt. Pleasant - Mt. Pleasant municipal airport.
(qqq) Munising - Hanley field.
(rrr) Muskegon - Muskegon County airport.
(sss) New Hudson - Oakland-southwest airport.
(ttt) Newberry - Luce County airport.
(uuu) Niles - Jerry Tyler memorial airport.
(vvv) Ontonagon - Ontonagon County airport.
(www) Oscoda - Wurtsmith airport.
(xxx) Owosso - Owosso community airport.
(yyy) Pellston - Pellston regional airport.
(zzz) Plymouth - Canton-Plymouth-Mettetal airport.
(aaaa) Pontiac - Oakland County international airport.
(bbbb) Port Huron - St. Clair County international airport.
(cccc) Rogers City - Presque Isle County/Rogers City airport.
(dddd) Romeo - Romeo state airport.

(eeee) Saginaw - Harry W. Browne airport.

(ffff) Saginaw - MBS international airport.

(gggg) St. Ignace - Mackinac County airport.

(hhhh) St. James - Beaver Island airport.

(iiii) Sandusky - Sandusky city airport.

(jjjj) Sault Ste. Marie - Chippewa County international airport.

(kkkk) South Haven - South Haven area regional airport.

(*llll*) Sparta - Sparta airport.

(mmmm) Statewide - various sites.

(nnnn) Sturgis - Kirsch municipal airport.

(oooo) Three Rivers - Three Rivers municipal/Dr. Haines airport.

(pppp) Traverse City - Cherry capital airport.

(qqqq) Troy - Oakland-Troy airport.

(rrrr) West Branch - West Branch community airport.

(ssss) White Cloud - White Cloud airport.

Repeal of § 207.377.

Enacting section 1. Section 7 of the airport parking tax act, 1987 PA 248, MCL 207.377, is repealed.

Repeal of §§ 207.371 to 207.383; condition.

Enacting section 2. The airport parking tax act, 1987 PA 248, MCL 207.371 to 207.383, is repealed effective on the date that all bonds described in section 7a(1)(a) of the airport parking tax act, 1987 PA 248, MCL 207.377a, are retired or on December 31, 2007, whichever is later.

Approved December 25, 2002.
Filed with Secretary of State December 30, 2002.

[No. 681]

(HB 4092)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 8122 (MCL 600.8122), as amended by 1988 PA 135, and by adding section 9938a.

The People of the State of Michigan enact:

600.8122 Thirty-seventh district to forty-second district.

Sec. 8122. (1) The thirty-seventh district consists of the cities of Warren and Center Line, is a district of the third class, and has 4 judges.

(2) The thirty-eighth district consists of the city of Eastpointe, is a district of the third class, and has 1 judge.

(3) The thirty-ninth district consists of the cities of Roseville and Fraser, is a district of the third class, and has 3 judges.

(4) The fortieth district consists of the city of Saint Clair Shores, is a district of the third class, and has 2 judges.

(5) The forty-first-a district consists of the cities of Utica and Sterling Heights and the townships of Shelby and Macomb in the county of Macomb, is a district of the third class, and has 4 judges.

(6) The forty-first-b district consists of the city of Mt. Clemens and the townships of Clinton and Harrison in the county of Macomb, is a district of the third class, and has 3 judges.

(7) The forty-second district consists of the cities of Memphis, Richmond, and New Baltimore and the townships of Bruce, Washington, Armada, Ray, Richmond, Lenox, and Chesterfield in the county of Macomb, is a district of the second class, and is divided into the following election divisions:

(a) The first division consists of the cities of Memphis and Richmond and the townships of Bruce, Washington, Armada, Ray, and Richmond and has 1 judge.

(b) The second division consists of the city of New Baltimore and the townships of Lenox and Chesterfield and has 1 judge.

600.9938a Thirty-eighth district; function and establishment of district court.

Sec. 9938a. (1) Effective January 1, 2004, the district court shall commence to function in the thirty-eighth district and, as of that date, the municipal court within that district is abolished. The terms of the incumbent municipal judges in Eastpointe shall expire at 12 midnight on December 31, 2003. The judgeship in the thirty-eighth district of the district court, as authorized under section 8122(2), shall be filled in a special election held in November 2003, in conjunction with the November 2003 Eastpointe municipal election, in the manner provided by law. For purposes of the November 2003 special election only, the term of the candidate for district judge in the thirty-eighth district who receives the highest number of votes shall be 5 years.

(2) All causes of action transferred to the thirty-eighth district court pursuant to section 9924(1) shall be as valid and subsisting as they were in the municipal court from which they were transferred. All orders and judgments entered before January 1, 2004 in the municipal court abolished pursuant to subsection (1) are appealable in like manner and to the same courts as applicable before that date.

(3) Subsections (1) and (2) do not apply, and any district judgeship proposed for the thirty-eighth district is not authorized or filled by election, unless the city of Eastpointe, by resolution adopted by its governing body, approves the establishment of the district court in the thirty-eighth district and the district judgeship proposed for the thirty-eighth district and unless the clerk of the city of Eastpointe files a copy of the resolution with the secretary of state not earlier than the effective date of this section and not later than 4 p.m. April 12, 2003. Upon receiving a copy of the resolution, the secretary of state shall

immediately notify the state court administrator with respect to the establishment of the district court in the thirty-eighth district and the district judgeship authorized for the thirty-eighth district.

(4) By enacting this section, the legislature is not mandating that the district court function in the thirty-eighth district and is not mandating any judgeship in the district. If the city of Eastpointe, acting through its governing body, approves the establishment of the district court in the thirty-eighth district and any district judgeship proposed by law for that district, that approval constitutes an exercise of that city's option to provide a new activity or service or to increase the level of activity or service offered in the city beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the city of all expenses and capital improvements which may result from the establishment of the district court in the thirty-eighth district and any judgeship. However, the exercise of the option does not affect the state's obligation to pay a portion of any district judge's salary as provided by law, or to appropriate and disburse funds to the city or incorporated village for the necessary costs of state requirements established by a state law that becomes effective on or after December 23, 1978.

This act is ordered to take immediate effect.
Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 682]

(SB 1400)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 1005, 1011, 1019, 1021, and 1023 (MCL 600.1005, 600.1011, 600.1019, 600.1021, and 600.1023), sections 1005, 1019, and 1023 as added by 1996 PA 388, section 1011 as amended by 1998 PA 298, and section 1021 as amended by 2000 PA 56; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

600.1005 Family division of circuit court; power and authority of judge.

Sec. 1005. A circuit judge serving in the family division of circuit court retains all the power and authority of a judge of the circuit court.

600.1011 Operation of family division and coordination of agency services; agreement; establishment of family court plan.

Sec. 1011. (1) Not later than July 1, 2003, in each judicial circuit, the chief circuit judge and the chief probate judge or judges shall enter into an agreement that establishes a plan

known as the "family court plan" that details how the family division will be operated in that circuit and how the services of the agencies listed in section 1043 will be coordinated in order to promote more efficient and effective services to families and individuals. If a probate court district includes counties that are in different judicial circuits, the chief judge of each judicial circuit that includes a county in the probate court district and the chief probate judge shall enter into a family court plan for each circuit.

(2) If, in any judicial circuit, the agreement required under subsection (1) is not entered into on or before July 1, 2003, the supreme court shall develop and implement the family court plan for that judicial circuit.

(3) A family court plan required under subsection (1) shall provide that a judge's service pursuant to the family court plan be consistent with the goal of developing sufficient judicial expertise in family law to properly serve the interests of the families and children whose cases are assigned to that judge. The chief judge of the circuit court shall have the authority and flexibility to determine the duration of a judge's service pursuant to the family court plan in furtherance of this goal.

(4) A judge serving pursuant to the family court plan shall receive appropriate training as required by the supreme court.

(5) A family court plan required under subsection (1) may provide that when a judge's service pursuant to the family court plan ends, the pending cases of that judge are to be reassigned to another judge or judges serving pursuant to the family court plan or are to be resolved by that judge.

(6) A family court plan required under subsection (1) shall specifically identify any probate judge serving pursuant to the family court plan.

(7) A family court plan required under subsection (1) shall be reviewed and revised periodically, as necessary, by the chief circuit judge or judges and the chief probate judge or judges, and shall be submitted for approval by the supreme court.

600.1019 Family court judges; training.

Sec. 1019. The Michigan judicial institute shall provide appropriate training for all probate judges and circuit judges who are serving pursuant to the family court plan.

600.1021 Family division of circuit court; jurisdiction.

Sec. 1021. (1) Except as otherwise provided by law, the family division of circuit court has sole and exclusive jurisdiction over the following cases commenced on or after January 1, 1998:

(a) Cases of divorce and ancillary matters as set forth in the following statutes:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) 1909 PA 259, MCL 552.101 to 552.104.

(*iii*) 1911 PA 52, MCL 552.121 to 552.123.

(*iv*) 1913 PA 379, MCL 552.151 to 552.156.

(*v*) The friend of the court act, 1982 PA 294, MCL 552.501 to 552.535.

(*vi*) 1905 PA 299, MCL 552.391.

(*vii*) 1949 PA 42, MCL 552.401 to 552.402.

(*viii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*ix*) The support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(*x*) The interstate income withholding act, 1985 PA 216, MCL 552.671 to 552.685.

(b) Cases of adoption as provided in chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(c) Cases involving certain children incapable of adoption under 1925 PA 271, MCL 722.531 to 722.534.

(d) Cases involving a change of name as provided in chapter XI of the probate code of 1939, 1939 PA 288, MCL 711.1 to 711.3.

(e) Cases involving juveniles as provided in chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(f) Cases involving the status of minors and the emancipation of minors under 1968 PA 293, MCL 722.1 to 722.6.

(g) Cases of child custody under the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31, and child custody jurisdiction as provided in the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1101 to 722.1406.

(h) Cases involving paternity and child support under the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(i) Cases involving parental consent for abortions performed on unemancipated minors under the parental rights restoration act, 1990 PA 211, MCL 722.901 to 722.908.

(j) Cases involving child support under the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(k) Cases involving personal protection orders and foreign protection orders under sections 2950 to 2950m.

(2) The family division of circuit court has ancillary jurisdiction over the following cases commenced on or after January 1, 1998:

(a) Cases involving guardians and conservators as provided in article 5 of the estates and protected individuals code, 1998 PA 386, MCL 700.5101 to 700.5520.

(b) Cases involving treatment of, or guardianship of, mentally ill or developmentally disabled persons under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(3) A probate judge identified in section 1011 as serving pursuant to the family court plan has the same power and authority, within the county or probate court district in which he or she serves as probate judge, as that of a circuit judge over cases described in subsection (1), in addition to all the power and authority of a judge of the probate court.

600.1023 Cases involving members of same family; assignment of judge.

Sec. 1023. When 2 or more matters within the jurisdiction of the family division of circuit court involving members of the same family are pending in the same judicial circuit, those matters, whenever practicable, shall be assigned to the judge to whom the first such case was assigned.

Repeal of § 600.1013.

Enacting section 1. Section 1013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1013, is repealed.

Effective date.

Enacting section 2. This amendatory act takes effect April 1, 2003.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 683]

(HB 5761)

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 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 20145 and 21523 (MCL 333.20145 and 333.21523), section 20145 as amended by 1993 PA 88.

The People of the State of Michigan enact:

333.20145 Construction permit; certificate of need as condition of issuance; rules; information required for project not requiring certificate of need; review and approval of architectural plans and narrative; rules; waiver; fee; "capital expenditure" defined.

Sec. 20145. (1) Before contracting for and initiating a construction project involving new construction, additions, modernizations, or conversions of a health facility or agency with a capital expenditure of $1,000,000.00 or more, a person shall obtain a construction permit from the department. The department shall not issue the permit under this subsection unless the applicant holds a valid certificate of need if a certificate of need is required for the project pursuant to part 222.

(2) To protect the public health, safety, and welfare, the department may promulgate rules to require construction permits for projects other than those described in subsection (1) and the submission of plans for other construction projects to expand or change service areas and services provided.

(3) If a construction project requires a construction permit under subsection (1) or (2), but does not require a certificate of need under part 222, the department shall require the applicant to submit information considered necessary by the department to assure that the capital expenditure for the project is not a covered capital expenditure as defined in section 22203(9).

(4) If a construction project requires a construction permit under subsection (1), but does not require a certificate of need under part 222, the department shall require the applicant to submit information on a 1-page sheet, along with the application for a construction permit, consisting of all of the following:

(a) A short description of the reason for the project and the funding source.

(b) A contact person for further information, including address and phone number.

(c) The estimated resulting increase or decrease in annual operating costs.

(d) The current governing board membership of the applicant.

(e) The entity, if any, that owns the applicant.

(5) The information filed under subsection (4) shall be made publicly available by the department by the same methods used to make information about certificate of need applications publicly available.

(6) The review and approval of architectural plans and narrative shall require that the proposed construction project is designed and constructed in accord with applicable statutory and other regulatory requirements. In performing a construction permit review for a health facility or agency under this section, the department shall, at a minimum, apply the standards contained in the document entitled "Minimum Design Standards for Health Care Facilities in Michigan" published by the department and dated March 1998. The standards are incorporated by reference for purposes of this subsection. The department may promulgate rules that are more stringent than the standards if necessary to protect the public health, safety, and welfare.

(7) The department shall promulgate rules to further prescribe the scope of construction projects and other alterations subject to review under this section.

(8) The department may waive the applicability of this section to a construction project or alteration if the waiver will not affect the public health, safety, and welfare.

(9) Upon request by the person initiating a construction project, the department may review and issue a construction permit to a construction project that is not subject to subsection (1) or (2) if the department determines that the review will promote the public health, safety, and welfare.

(10) The department shall assess a fee for each review conducted under this section. The fee is .5% of the first $1,000,000.00 of capital expenditure and .85% of any amount over $1,000,000.00 of capital expenditure, up to a maximum of $30,000.00.

(11) As used in this section, "capital expenditure" means that term as defined in section 22203(2), except that it does not include the cost of equipment that is not fixed equipment.

333.21523 Strictness of rules and standards.

Sec. 21523. (1) The rules for operation and maintenance of hospitals shall not be less strict than those required for certification of hospitals under part D of title XVIII of the social security act, chapter 531, 79 Stat. 313, 42 U.S.C. 1395x to 1395yy and 1395bbb to 1395ggg.

(2) The standards relating to construction, additions, modernization, or conversion of hospitals shall not be less strict than the standards contained in the document entitled "Minimum Design Standards for Health Care Facilities in Michigan" published by the department, dated March 1998.

This act is ordered to take immediate effect.
Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 684]

(SB 1434)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 250 (MCL 500.250).

The People of the State of Michigan enact:

500.250 Insurers; stock transfer; officers or directors; appointment; notice to commissioner; removal; hearings; civil immunity; review.

Sec. 250. (1) All insurers licensed to do business in this state shall notify the commissioner within 30 days of any transfer of stock that results in any 1 person holding 10% or more of the voting shares of an insurer. In addition, a domestic insurer shall notify the commissioner within 30 days of the appointment or election of any new officers or directors.

(2) If, after proceedings under section 249, the commissioner has reason to believe that an officer or director is untrustworthy or has abused his or her trust and that continuation as an officer or director is hazardous or injurious to the insurer, the policyholders, or the public, the commissioner shall hold a hearing. After the hearing and after written findings that the officer or director is untrustworthy or has abused his or her trust and that continuation as an officer or director is hazardous or injurious to the insurer, the policyholders, or the public, the commissioner may order the removal of the officer or director.

(3) If the insurer does not comply with a removal order under subsection (2) within 30 days, the commissioner may suspend or revoke the insurer's certificate of authority until the insurer complies with the order.

(4) Any action under this section taken by an insurer, its directors, or officers pursuant to an order of the commissioner under this act shall be considered to be in good faith and shall not be the basis for subjecting the insurer, its directors, or officers to civil liabilities.

(5) Any order of the commissioner issued under this section is subject to review as provided in section 244.

This act is ordered to take immediate effect.
Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 685]

(HB 5971)

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 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 16299, 17014, and 17015 (MCL 333.16299, 333.17014, and 333.17015), section 17014 as added by 1993 PA 133 and section 17015 as amended by 2000 PA 345.

The People of the State of Michigan enact:

333.16299 Violation as misdemeanor; penalties; exception.

Sec. 16299. (1) Except as otherwise provided in subsection (2), a person who violates or aids or abets another in a violation of this article, other than those matters described in sections 16294 and 16296, is guilty of a misdemeanor punishable as follows:

(a) For the first offense, by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

(b) For the second or subsequent offense, by imprisonment for not less than 90 days nor more than 6 months, or a fine of not less than $200.00 nor more than $500.00, or both.

(2) Subsection (1) does not apply to a violation of section 17015 or 17515.

333.17014 Legislative findings.

Sec. 17014. The legislature recognizes that under federal constitutional law, a state is permitted to enact persuasive measures that favor childbirth over abortion, even if those measures do not further a health interest. Sections 17015 and 17515 are nevertheless designed to provide objective, truthful information, and are not intended to be persuasive. The legislature finds that the enactment of sections 17015 and 17515 is essential for all of the following reasons:

(a) The knowledgeable exercise of a woman's decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice regarding abortion.

(b) The decision to obtain an abortion is an important and often stressful one, and it is in the state's interest that the decision be made with full knowledge of its nature and consequences.

(c) Enactment of sections 17015 and 17515 is necessary to ensure that, before an abortion, a woman is provided information regarding her available alternatives, and to ensure that a woman gives her voluntary and informed consent to an abortion.

(d) The receipt of accurate information about abortion and its alternatives is essential to the physical and psychological well-being of a woman considering an abortion.

(e) Because many abortions in this state are performed in clinics devoted solely to providing abortions, women who seek abortions at these clinics normally do not have a prior patient-physician relationship with the physician performing the abortion nor do these women continue a patient-physician relationship with the physician after the abortion. In many instances, the woman's only actual contact with the physician performing the abortion occurs simultaneously with the abortion procedure, with little opportunity to receive counsel concerning her decision. Consequently, certain safeguards are necessary to protect a woman's opportunity to select the option best suited to her particular situation.

(f) This state has an interest in protecting women and, subject to United States constitutional limitations and supreme court decisions, this state has an interest in protecting the fetus.

(g) Providing a woman with factual, medical, and biological information about the fetus she is carrying is essential to safeguard the state's interests described in subdivision (f). The dissemination of the information set forth in sections 17015 and 17515 is necessary due to the irreversible nature of the act of abortion and the often stressful circumstances under which the abortion decision is made.

(h) Because abortion services are marketed like many other commercial enterprises, and nearly all abortion providers advertise some free services, including pregnancy tests and counseling, the legislature finds that consumer protection should be extended to women contemplating an abortion decision by delaying any financial transactions until after a 24-hour waiting period. Furthermore, since the legislature and abortion providers have determined that a woman's right to give informed consent to an abortion can be protected by means other than the patient having to travel to the abortion facility during the 24-hour waiting period, the legislature finds that abortion providers do not have a legitimate claim of necessity in obtaining payments during the 24-hour waiting period.

(i) The safeguards that will best protect a woman seeking advice concerning abortion include the following:

(*i*) Private, individual counseling, including dissemination of certain information, as the woman's individual circumstances dictate, that affect her decision of whether to choose an abortion.

(*ii*) A 24-hour waiting period between a woman's receipt of that information provided to assist her in making an informed decision, and the actual performance of an abortion, if she elects to undergo an abortion. A 24-hour waiting period affords a woman, in light of the information provided by the physician or a qualified person assisting the physician, an opportunity to reflect on her decision and to seek counsel of family and friends in making her decision.

(j) The safeguards identified in subdivision (i) advance a woman's interests in the exercise of her discretion to choose or not to choose an abortion, and are justified by the objectives and interests of this state to protect the health of a pregnant woman and, subject to United States constitutional limitations and supreme court decisions, to protect the fetus.

333.17015 Informed consent; definitions; duties of physician or assistant; location; disclosure of information; website maintained and operated by department; medical emergency necessitating abortion; duties of department; physician's duty to inform patient; validity of consent or certification form; right to abortion not created; prohibition; portion of act found invalid; duties of local health department; confidentiality.

Sec. 17015. (1) Subject to subsection (10), a physician shall not perform an abortion otherwise permitted by law without the patient's informed written consent, given freely and without coercion.

(2) For purposes of this section:

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

(b) "Fetus" means an individual organism of the species homo sapiens in utero.

(c) "Local health department representative" means a person employed by, or under contract to provide services on behalf of, a local health department who meets 1 or more of the licensing requirements listed in subdivision (f).

(d) "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as

to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(e) "Medical service" means the provision of a treatment, procedure, medication, examination, diagnostic test, assessment, or counseling, including, but not limited to, a pregnancy test, ultrasound, pelvic examination, or an abortion.

(f) "Qualified person assisting the physician" means another physician or a physician's assistant licensed under this part or part 175, a fully licensed or limited licensed psychologist licensed under part 182, a professional counselor licensed under part 181, a registered professional nurse or a licensed practical nurse licensed under part 172, or a social worker registered under part 185.

(g) "Probable gestational age of the fetus" means the gestational age of the fetus at the time an abortion is planned to be performed.

(h) "Provide the patient with a physical copy" means confirming that the patient accessed the internet website described in subsection (5) and received a printed valid confirmation form from the website and including that form in the patient's medical record or giving a patient a copy of a required document by 1 or more of the following means:

(*i*) In person.

(*ii*) By registered mail, return receipt requested.

(*iii*) By parcel delivery service that requires the recipient to provide a signature in order to receive delivery of a parcel.

(*iv*) By facsimile transmission.

(3) Subject to subsection (10), a physician or a qualified person assisting the physician shall do all of the following not less than 24 hours before that physician performs an abortion upon a patient who is a pregnant woman:

(a) Confirm that, according to the best medical judgment of a physician, the patient is pregnant, and determine the probable gestational age of the fetus.

(b) Orally describe, in language designed to be understood by the patient, taking into account her age, level of maturity, and intellectual capability, each of the following:

(*i*) The probable gestational age of the fetus she is carrying.

(*ii*) Information about what to do and whom to contact should medical complications arise from the abortion.

(*iii*) Information about how to obtain pregnancy prevention information through the department of community health.

(c) Provide the patient with a physical copy of the written summary described in subsection (11)(b) that corresponds to the procedure the patient will undergo and is provided by the department of community health. If the procedure has not been recognized by the department, but is otherwise allowed under Michigan law, and the department has not provided a written summary for that procedure, the physician shall develop and provide a written summary that describes the procedure, any known risks or complications of the procedure, and risks associated with live birth and meets the requirements of subsection (11)(b)(*iii*) through (*vii*).

(d) Provide the patient with a physical copy of a medically accurate depiction, illustration, or photograph and description of a fetus supplied by the department of community health pursuant to subsection (11)(a) at the gestational age nearest the probable gestational age of the patient's fetus.

(e) Provide the patient with a physical copy of the prenatal care and parenting information pamphlet distributed by the department of community health under section 9161.

(4) The requirements of subsection (3) may be fulfilled by the physician or a qualified person assisting the physician at a location other than the health facility where the abortion is to be performed. The requirement of subsection (3)(a) that a patient's pregnancy be confirmed may be fulfilled by a local health department under subsection (18). The requirements of subsection (3) cannot be fulfilled by the patient accessing an internet website other than the internet website described in subsection (5) that is maintained through the department.

(5) The requirements of subsection (3)(c) through (e) may be fulfilled by a patient accessing the internet website maintained and operated through the department and receiving a printed, valid confirmation form from the website that the patient has reviewed the information required in subsection (3)(c) through (e) at least 24 hours before an abortion being performed on the patient. The website shall not require any information be supplied by the patient. The department shall not track, compile, or otherwise keep a record of information that would identify a patient who accesses this website. The patient shall supply the valid confirmation form to the physician or qualified person assisting the physician to be included in the patient's medical record to comply with this subsection.

(6) Subject to subsection (10), before obtaining the patient's signature on the acknowledgment and consent form, a physician personally and in the presence of the patient shall do all of the following:

(a) Provide the patient with the physician's name and inform the patient of her right to withhold or withdraw her consent to the abortion at any time before performance of the abortion.

(b) Orally describe, in language designed to be understood by the patient, taking into account her age, level of maturity, and intellectual capability, each of the following:

(*i*) The specific risk, if any, to the patient of the complications that have been associated with the procedure the patient will undergo, based on the patient's particular medical condition and history as determined by the physician.

(*ii*) The specific risk of complications, if any, to the patient if she chooses to continue the pregnancy based on the patient's particular medical condition and history as determined by a physician.

(7) To protect a patient's privacy, the information set forth in subsection (3) and subsection (6) shall not be disclosed to the patient in the presence of another patient.

(8) Before performing an abortion on a patient who is a pregnant woman, a physician or a qualified person assisting the physician shall do all of the following:

(a) Obtain the patient's signature on the acknowledgment and consent form described in subsection (11)(c) confirming that she has received the information required under subsection (3).

(b) Provide the patient with a physical copy of the signed acknowledgment and consent form described in subsection (11)(c).

(c) Retain a copy of the signed acknowledgment and consent form described in subsection (11)(c) and, if applicable, a copy of the pregnancy certification form completed under subsection (18)(b), in the patient's medical record.

(9) This subsection does not prohibit notifying the patient that payment for medical services will be required or that collection of payment in full for all medical services provided or planned may be demanded after the 24-hour period described in this sub-

section has expired. A physician or an agent of the physician shall not collect payment, in whole or in part, for a medical service provided to or planned for a patient before the expiration of 24 hours from the time the patient has done either or both of the following, except in the case of a physician or an agent of a physician receiving capitated payments or under a salary arrangement for providing those medical services:

(a) Inquired about obtaining an abortion after her pregnancy is confirmed and she has received from that physician or a qualified person assisting the physician the information required under subsection (3)(c) and (d).

(b) Scheduled an abortion to be performed by that physician.

(10) If the attending physician, utilizing his or her experience, judgment, and professional competence, determines that a medical emergency exists and necessitates performance of an abortion before the requirements of subsections (1), (3), and (6) can be met, the physician is exempt from the requirements of subsections (1), (3), and (6), may perform the abortion, and shall maintain a written record identifying with specificity the medical factors upon which the determination of the medical emergency is based.

(11) The department of community health shall do each of the following:

(a) Produce medically accurate depictions, illustrations, or photographs of the development of a human fetus that indicate by scale the actual size of the fetus at 2-week intervals from the fourth week through the twenty-eighth week of gestation. Each depiction, illustration, or photograph shall be accompanied by a printed description, in nontechnical English, Arabic, and Spanish, of the probable anatomical and physiological characteristics of the fetus at that particular state of gestational development.

(b) Subject to subdivision (g), develop, draft, and print, in nontechnical English, Arabic, and Spanish, written standardized summaries, based upon the various medical procedures used to abort pregnancies, that do each of the following:

(*i*) Describe, individually and on separate documents, those medical procedures used to perform abortions in this state that are recognized by the department.

(*ii*) Identify the physical complications that have been associated with each procedure described in subparagraph (*i*) and with live birth, as determined by the department. In identifying these complications, the department shall consider the annual statistical report required under section 2835(6), and shall consider studies concerning complications that have been published in a peer review medical journal, with particular attention paid to the design of the study, and shall consult with the federal centers for disease control, the American college of obstetricians and gynecologists, the Michigan state medical society, or any other source that the department determines appropriate for the purpose.

(*iii*) State that as the result of an abortion, some women may experience depression, feelings of guilt, sleep disturbance, loss of interest in work or sex, or anger, and that if these symptoms occur and are intense or persistent, professional help is recommended.

(*iv*) State that not all of the complications listed in subparagraph (*ii*) may pertain to that particular patient and refer the patient to her physician for more personalized information.

(*v*) Identify services available through public agencies to assist the patient during her pregnancy and after the birth of her child, should she choose to give birth and maintain custody of her child.

(*vi*) Identify services available through public agencies to assist the patient in placing her child in an adoptive or foster home, should she choose to give birth but not maintain custody of her child.

(*vii*) Identify services available through public agencies to assist the patient and provide counseling should she experience subsequent adverse psychological effects from the abortion.

(c) Develop, draft, and print, in nontechnical English, Arabic, and Spanish, an acknowledgment and consent form that includes only the following language above a signature line for the patient:

"I, _____, hereby authorize Dr. _____ ("the physician") and any assistant designated by the physician to perform upon me the following operation(s) or procedure(s):

_____

(Name of operation(s) or procedure(s))

_____

I understand that I am approximately _____ weeks pregnant. I consent to an abortion procedure to terminate my pregnancy. I understand that I have the right to withdraw my consent to the abortion procedure at any time prior to performance of that procedure. I acknowledge that at least 24 hours before the scheduled abortion I have received a physical copy of each of the following:

(a) A medically accurate depiction, illustration, or photograph of a fetus at the probable gestational age of the fetus I am carrying.

(b) A written description of the medical procedure that will be used to perform the abortion.

(c) A prenatal care and parenting information pamphlet. If any of the above listed documents were transmitted by facsimile, I certify that the documents were clear and legible. I acknowledge that the physician who will perform the abortion has orally described all of the following to me:

(*i*) The specific risk to me, if any, of the complications that have been associated with the procedure I am scheduled to undergo.

(*ii*) The specific risk to me, if any, of the complications if I choose to continue the pregnancy.

I acknowledge that I have received all of the following information:

(d) Information about what to do and whom to contact in the event that complications arise from the abortion.

(e) Information pertaining to available pregnancy related services.

I have been given an opportunity to ask questions about the operation(s) or procedure(s). I certify that I have not been required to make any payments for an abortion or any medical service before the expiration of 24 hours after I received the written materials listed in paragraphs (a), (b), and (c) above, or 24 hours after the time and date listed on the confirmation form if paragraphs (a), (b), and (c) were viewed from the state of Michigan internet website.".

(d) Make available to physicians through the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery, and any person upon request the copies of medically accurate depictions, illustrations, or photographs described in subdivision (a), the standardized written summaries described in subdivision (b), the acknowledgment and consent form described in subdivision (c), the prenatal care and parenting information pamphlet described in section 9161, and the pregnancy certification form described in subdivision (f).

(e) The department shall not develop written summaries for abortion procedures under subdivision (b) that utilize medication that has not been approved by the United States food and drug administration for use in performing an abortion.

(f) Develop, draft, and print a certification form to be signed by a local health department representative at the time and place a patient has a pregnancy confirmed, as requested by the patient, verifying the date and time the pregnancy is confirmed.

(g) Develop and maintain an internet website that allows a patient considering an abortion to review the information required in subsection (3)(c) through (e). After the patient reviews the required information, the department shall assure that a confirmation form can be printed by the patient from the internet website that will verify the time and date the information was reviewed. A confirmation form printed under this subdivision becomes invalid 14 days after the date and time printed on the confirmation form.

(12) A physician's duty to inform the patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would possess.

(13) A written consent form meeting the requirements set forth in this section and signed by the patient is presumed valid. The presumption created by this subsection may be rebutted by evidence that establishes, by a preponderance of the evidence, that consent was obtained through fraud, negligence, deception, misrepresentation, coercion, or duress.

(14) A completed certification form described in subsection (11)(f) that is signed by a local health department representative is presumed valid. The presumption created by this subsection may be rebutted by evidence that establishes, by a preponderance of the evidence, that the physician who relied upon the certification had actual knowledge that the certificate contained a false or misleading statement or signature.

(15) This section does not create a right to abortion.

(16) Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

(17) If any portion of this act or the application of this act to any person or circumstances is found invalid by a court, that invalidity does not affect the remaining portions or applications of the act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable.

(18) Upon a patient's request, each local health department shall:

(a) Provide a pregnancy test for that patient to confirm the pregnancy as required under subsection (3)(a) and determine the probable gestational stage of the fetus. The local health department need not comply with this subdivision if the requirements of subsection (3)(a) have already been met.

(b) If a pregnancy is confirmed, ensure that the patient is provided with a completed pregnancy certification form described in subsection (11)(f) at the time the information is provided.

(19) The identity and address of a patient who is provided information or who consents to an abortion pursuant to this section is confidential and is subject to disclosure only with the consent of the patient or by judicial process.

(20) A local health department with a file containing the identity and address of a patient described in subsection (19) who has been assisted by the local health department under this section shall do both of the following:

(a) Only release the identity and address of the patient to a physician or qualified person assisting the physician in order to verify the receipt of the information required under this section.

(b) Destroy the information containing the identity and address of the patient within 30 days after assisting the patient under this section.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 686]

(SB 1418)

AN ACT to amend 1993 PA 23, entitled "An act to provide for the organization and regulation of limited liability companies; to prescribe their duties, rights, powers, immunities, and liabilities; to prescribe the powers and duties of certain state departments and agencies; and to provide for penalties and remedies," by amending sections 102, 103, 104, 105, 106, 202, 203, 204, 207, 210, 214, 301, 303, 304, 307, 403, 405, 406, 501, 502, 503, 504, 506, 515, 603, 705a, 801, 804, 909, 1005, and 1101 (MCL 450.4102, 450.4103, 450.4104, 450.4105, 450.4106, 450.4202, 450.4203, 450.4204, 450.4207, 450.4210, 450.4214, 450.4301, 450.4303, 450.4304, 450.4307, 450.4403, 450.4405, 450.4406, 450.4501, 450.4502, 450.4503, 450.4504, 450.4506, 450.4515, 450.4603, 450.4705a, 450.4801, 450.4804, 450.4909, 450.5005, and 450.5101), section 102 as amended by 2000 PA 336 and sections 103, 202, 203, 204, 207, 301, 303, 304, 307, 403, 405, 501, 502, 503, 506, 603, 801, 909, and 1101 as amended and sections 214, 515, and 705a as added by 1997 PA 52, and by adding sections 207a and 215.

The People of the State of Michigan enact:

450.4102 Definitions.

Sec. 102. (1) Unless the context requires otherwise, the definitions in this section control the interpretation of this act.

(2) As used in this act:

(a) "Administrator" means the director of the department or his or her designated representative.

(b) "Articles of organization" means the original documents filed to organize a limited liability company, as amended or restated by certificates of correction, amendment, or merger, by restated articles, or by other instruments filed or issued under any statute.

(c) "Constituent" means a party to a plan of merger, including the survivor.

(d) "Contribution" means anything of value that a person contributes to the limited liability company as a prerequisite for, or in connection with, membership, including cash, property, services performed, or a promissory note or other binding obligation to contribute cash or property, or to perform services.

(e) "Corporation" or "domestic corporation" means any of the following:

(*i*) A corporation formed under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(*ii*) A corporation existing on January 1, 1973 and formed under another statute of this state for a purpose for which a corporation may be formed under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(*iii*) A corporation formed under the professional service corporation act, 1962 PA 192, MCL 450.221 to 450.235.

(f) "Department" means the department of consumer and industry services.

(g) "Distribution" means a direct or indirect transfer of money or other property or the incurrence of indebtedness by a limited liability company to or for the benefit of its members or assignees of its members in respect of the members' membership interests.

(h) "Electronic transmission" or "electronically transmitted" means any form of communication that meets all of the following:

(*i*) It does not directly involve the physical transmission of paper.

(*ii*) It creates a record that may be retained and retrieved by the recipient.

(*iii*) It may be directly reproduced in paper form by the recipient through an automated process.

(i) "Foreign limited liability company" means a limited liability company formed under laws other than the laws of this state.

(j) "Foreign limited partnership" means a limited partnership formed under laws other than the laws of this state.

(k) "Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated membership organization formed under this act.

(*l*) "Limited partnership" or "domestic limited partnership" means a limited partnership formed under the Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(m) "Majority in interest" means a majority of votes as allocated by an operating agreement, or by the statute in the absence of an allocation by operating agreement, and held by members entitled to vote on a matter submitted for a vote by members.

(n) "Manager" or "managers" means a person or persons designated to manage the limited liability company pursuant to a provision in the articles of organization stating that the business is to be managed by or under the authority of managers.

(o) "Member" means a person who has been admitted to a limited liability company as provided in section 501, or, in the case of a foreign limited liability company, a person who is a member of the foreign limited liability company in accordance with the laws under which the foreign limited liability company is organized.

(p) "Membership interest" or "interest" means a member's rights in the limited liability company, including, but not limited to, any right to receive distributions of the limited liability company's assets and any right to vote or participate in management.

(q) "Operating agreement" means a written agreement by the member of a limited liability company that has 1 member, or between all of the members of a limited liability company having more than 1 member, pertaining to the affairs of the limited liability company and the conduct of its business. The term includes any provision in the articles of organization pertaining to the affairs of the limited liability company and the conduct of its business.

(r) "Person" means an individual, partnership, limited liability company, trust, custodian, estate, association, corporation, governmental entity, or any other legal entity.

(s) "Services in a learned profession" means services rendered by a dentist, an osteopathic physician, a physician, a surgeon, a doctor of divinity or other clergy, or an attorney-at-law.

(t) "Surviving company", "surviving entity", or "survivor" means the constituent that survives a merger, as identified in the certificate of merger.

(u) "Vote" means an affirmative vote, approval, or consent.

450.4103 Documents; signatures; requirements.

Sec. 103. (1) One or more persons organizing a limited liability company shall sign the original articles of organization as organizers. The articles shall state the names of the organizers beneath or opposite their signatures.

(2) Any document other than original articles of organization required or permitted to be filed under this act that this act requires be executed on behalf of the domestic limited liability company shall be signed by a manager of the company if management is vested in 1 or more managers, by at least 1 member if management remains in the members, or by an authorized agent of the company. A document required to be executed on behalf of a foreign limited liability company shall be signed by a person with authority to do so under the laws of the jurisdiction of its organization. The document shall state the name of the person signing the document and the capacity in which he or she signs beneath or opposite his or her signature.

(3) A person executing a document under this section may sign the document by an attorney in fact. Powers of attorney relating to the signing of a document by an attorney in fact need not be sworn to, verified, acknowledged, or filed with the administrator. A document signed by a person by an attorney in fact shall state the capacity of the person signing the document by the attorney in fact.

450.4104 Documents; filing; delivery; indorsement; preparing and returning true copy; inspection by public; copies admissible in evidence; effective time; form.

Sec. 104. (1) A document required or permitted to be filed under this act shall be filed by delivering the document to the administrator together with the fees and accompanying documents required by law. The administrator may establish procedures for accepting delivery by means of facsimile or other electronic transmission.

(2) If the document substantially conforms to the requirements of this act, the administrator shall indorse upon it the word "filed" with his or her official title and the date of receipt and of filing, and shall file and index the document or a photostatic, micrographic, photographic, optical disc media, or other reproduced copy in his or her office. If so requested at the time of the delivery of the document to his or her office, the administrator shall include the hour of filing in his or her indorsement.

(3) The administrator shall prepare and return a true copy of the document, or at his or her discretion the original, to the person who submitted it for filing showing the filing date.

(4) The records and files of the administrator relating to domestic and foreign limited liability companies shall be open to reasonable inspection by the public. The records or files may be maintained either in their original form or in a photostatic, micrographic, photographic, optical disc media, or other reproduced form.

(5) The administrator may make copies of all documents filed under this act or any predecessor act by a photostatic, micrographic, photographic, optical disc media, or other process, and may destroy the originals of the documents so copied. A photostatic, micrographic, photographic, optical disc media, or other reproduced copy certified by the administrator, which may be sent by facsimile or other electronic transmission, shall be considered an original for all purposes and is admissible in evidence in like manner as an original.

(6) The document is effective at the time it is indorsed unless a subsequent effective time is set forth in the document that is not later than 90 days after the date of delivery.

(7) The administrator may require that a document required or permitted to be filed under this act be on a form prescribed by the administrator.

450.4105 Failure to promptly file document; notice of refusal to file; judicial review.

Sec. 105. (1) If the administrator fails promptly to file a document submitted for filing under this act, the administrator, within 10 days after receipt from the person submitting the document for filing of a written request for the filing of the document, shall give to that person written notice of the refusal to file that states the reasons for the failure to file the document. If the document was originally submitted by electronic transmission, the administrator may give the written notice by electronic transmission.

(2) A person may seek judicial review of the administrator's decision under sections 103, 104, and 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.303, 24.304, and 24.305.

(3) If the administrator refuses or revokes the authorization of a foreign limited liability company to transact business in this state pursuant to this act, the foreign limited liability company may seek judicial review under sections 103, 104, and 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.303, 24.304, and 24.305.

450.4106 Documents; inaccurate record or defective execution; certificate of correction; filing; signature; contents; effective date of corrected document.

Sec. 106. (1) If a document relating to a domestic or foreign limited liability company filed with the administrator under this act was at the time of filing an inaccurate record of the action referred to in the document, or was defectively or erroneously executed, or was electronically transmitted and the electronic transmission was defective, the document may be corrected by filing with the administrator a certificate of correction on behalf of the company.

(2) The certificate shall be signed as provided by this act in the same manner as required for the document being corrected.

(3) The certificate shall set forth the name of the company, the date the document to be corrected was filed by the administrator, the provision in the document as it should have originally appeared, and if the execution was defective, the proper execution.

(4) The corrected document is effective in its corrected form as of its original filing date except as to a person who relied upon the inaccurate portion of the document and was as a result of the inaccurate portion of the document adversely affected by the correction.

450.4202 Limited liability company; formation; filing as evidence that all conditions performed; exception; duration.

Sec. 202. (1) One or more persons, who may or may not become members, may be the organizers of a limited liability company by filing executed articles of organization.

(2) The existence of the limited liability company begins on the effective date of the articles of organization as provided in section 104. Filing is conclusive evidence that all conditions precedent required to be performed under this act are fulfilled and that the company is formed under this act, except in an action or special proceeding by the attorney general. The maximum duration of the limited liability company is perpetual unless otherwise provided in the articles of organization.

450.4203 Articles of organization; contents.

Sec. 203. (1) The articles of organization shall contain all of the following:

(a) The name of the limited liability company.

(b) The purposes for which the limited liability company is formed. It is sufficient to state substantially, alone or with specifically enumerated purposes, that the limited liability company may engage in any activity for which limited liability companies may be formed under this act.

(c) The street address, and the mailing address if different from the street address, of the limited liability company's initial registered office and the name of its initial resident agent at that address.

(d) If the business of the limited liability company is to be managed by managers, a statement that the business is to be managed by or under the authority of managers.

(e) The maximum duration of the limited liability company, if other than perpetual.

(2) The articles of organization may contain any provision not inconsistent with this act or another statute of this state, including any provision that is required or permitted to be in an operating agreement under this act.

(3) The articles of organization need not set out the powers of the limited liability company as described in section 210.

450.4204 Limited liability company; name; requirements; rights.

Sec. 204. (1) The name of a domestic limited liability company shall contain the words "limited liability company" or the abbreviation "L.L.C." or "L.C.", with or without periods or other punctuation.

(2) The name of a domestic or foreign limited liability company formed under or subject to this act shall conform to all of the following:

(a) Shall not contain a word or phrase, or abbreviation or derivative of a word or phrase, that indicates or implies that the company is formed for a purpose other than the purpose or purposes permitted by its articles of organization.

(b) Shall not contain the word "corporation" or "incorporated" or the abbreviation "corp." or "inc.".

(c) Shall distinguish the name upon the records in the office of the administrator from all of the following:

(*i*) The name of a domestic limited liability company, or a foreign limited liability company authorized to transact business in this state, that is in good standing.

(*ii*) The name of a corporation subject to the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or a nonprofit corporation subject to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(*iii*) A name reserved, registered, or assumed under this act, under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(*iv*) The name of a domestic or foreign limited partnership as filed or registered, reserved, or assumed under the Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(d) Shall not contain a word or phrase, an abbreviation, or derivative of a word or phrase, the use of which is prohibited or restricted by any other statute of this state.

(3) If a foreign limited liability company is unable to obtain a certificate of authority to transact business in this state because its name does not comply with subsection (1) or (2), the foreign limited liability company may apply for authority to transact business in this state by adding to its name in the application a word, abbreviation, or other distinctive and distinguishing element, or alternatively, adopting for use in this state an assumed

name otherwise available for use. If in the judgment of the administrator that name would comply with subsections (1) and (2), those subsections shall not bar the issuance to the foreign limited liability company of a certificate of authority to transact business in this state. The certificate of authority to transact business in this state issued to the foreign limited liability company shall be issued in the name applied for and the foreign limited liability company shall use that name in all its dealings with the administrator and in the transaction of business in this state.

(4) The fact that a limited liability company name complies with this section does not create substantive rights to the use of the name.

450.4207 Maintaining registered office and resident agent; service of process, notice, or demand; appointment of agent; annual statement; service of process by mail.

Sec. 207. (1) Each domestic limited liability company and foreign limited liability company authorized to transact business in this state shall have and continuously maintain in this state both of the following:

(a) A registered office that may, but need not be, the same as its place of business.

(b) A resident agent. The resident agent may be either an individual resident in this state whose business office or residence is identical with the registered office or any of the following having a business office identical with the registered office:

(*i*) A domestic corporation.

(*ii*) A foreign corporation authorized to transact business in this state.

(*iii*) A domestic limited liability company.

(*iv*) A foreign limited liability company authorized to transact business in this state.

(2) The resident agent appointed by a limited liability company is an agent of the company upon whom any process, notice, or demand required or permitted by law to be served upon the company may be served.

(3) A domestic limited liability company or foreign limited liability company authorized to transact business in this state shall file with the administrator an annual statement executed as provided in section 103 containing the name of its resident agent and the address of its registered office in this state. The statement shall be filed not later than February 15 of each year, except that a limited liability company formed after September 30 or a foreign limited liability company authorized to transact business in this state after September 30 need not file a statement on the February 15 immediately succeeding its formation or authorization.

(4) If a limited liability company fails to appoint or maintain an agent for service of process, or the agent for service of process cannot be found or served through the exercise of reasonable diligence, service of process may be made by delivering or mailing by registered mail to the administrator a summons and copy of the complaint.

450.4207a Certificate of good standing.

Sec. 207a. (1) Except as provided in this section, and section 909 for a professional limited liability company, from the effective date of the articles of organization as provided in section 104 until dissolution for a domestic limited liability company, or from the effective date of the certificate of authority to transact business in this state until withdrawal from this state for a foreign limited liability company, a limited liability company is entitled to issuance by the administrator, upon request, of a certificate of good standing. A certificate of good standing issued to a domestic limited liability company shall state

that it has been validly organized as a domestic limited liability company, that it is validly in existence under the laws of this state, and that it has satisfied its annual filing obligations. A certificate of good standing issued to a foreign limited liability company shall state that it has been validly authorized to transact business in this state, that it holds a valid certificate of authority to transact business in this state, and that it has satisfied its annual filing obligations.

(2) If a domestic limited liability company or a foreign limited liability company authorized to transact business in this state fails to file an annual statement required by section 207 for 2 consecutive years, the administrator shall notify the company of the consequences of the failure to file under subsection (3).

(3) If a limited liability company does not file all annual statements it has failed to file, and the applicable fees, within 60 days after the administrator's notice under subsection (2) is sent, the limited liability company is not in good standing. A limited liability company that is not in good standing is not entitled to issuance by the administrator of a certificate of good standing described in subsection (1), the name of the company is available for use by another entity filing with the administrator, and the administrator shall not accept for filing any document submitted by the limited liability company other than a certificate of restoration of good standing provided for in subsection (4). A limited liability company that is not in good standing remains in existence and may continue to transact business in this state.

(4) A domestic limited liability company or a foreign limited liability company authorized to transact business in this state that is not in good standing under subsection (3) may file a certificate of restoration of good standing, accompanied by the annual statements and fees for all of the years for which they were not filed and paid, and the fee for filing the certificate of restoration of good standing. The certificate shall include all of the following:

(a) The name of the limited liability company at the time it ceased to be in good standing. If that name is not available when the certificate of restoration of good standing is filed, the limited liability company shall select a new name that complies with section 204. The new name shall be the name of the domestic limited liability company or the name used in this state by the foreign limited liability company from the date of filing of the certificate.

(b) The name of the limited liability company's current resident agent and the address of the current registered office in this state.

(c) A statement that the certificate is accompanied by the annual statements and applicable fees for all of the years for which statements were not filed and fees were not paid.

450.4210 Limited liability company; power

Sec. 210. Subject to the limitations provided in this act, any other statute of this state, or its articles of organization, a limited liability company has all powers necessary or convenient to effect any purpose for which the company is formed, including all powers granted to corporations in the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

450.4214 Conflict between articles of organization and operating agreement.

Sec. 214. If there is a conflict between the articles of organization and an operating agreement of a limited liability company, the articles of organization shall control.

450.4215 Operating agreement unenforceable.

Sec. 215. An operating agreement of a limited liability company that has 1 member is not unenforceable because only 1 person is a party to the operating agreement.

450.4301 Members; contribution.

Sec. 301. (1) A contribution of a member to a limited liability company may consist of any tangible or intangible property or benefit to the company, including cash, property, services performed, promissory notes, contracts for services to be performed, or other binding obligation to contribute cash or property or to perform services.

(2) A contribution of an obligation to contribute cash or property or to perform services may be in exchange for a present membership interest or for a future membership interest, including a future profits interest, as provided in an operating agreement.

450.4303 Distribution of assets; allocation; manner; basis.

Sec. 303. (1) Distributions of cash or other assets of a limited liability company shall be allocated among the members and among classes of members in the manner provided in an operating agreement. If an operating agreement does not provide for an allocation, distributions shall be allocated as follows:

(a) Prior to July 1, 1997, on the basis of the value, as stated in the records the limited liability company is required to keep under section 213 or as determined by any other reasonable method, of the contributions made by each member to the extent that the contributions have been received by the limited liability company and have not been returned.

(b) On and after July 1, 1997, except as otherwise provided in subsection (2), in equal shares to all members. A membership interest held by 2 or more persons, whether as fiduciaries, members of a partnership, tenants in common, joint tenants, tenants by the entirety, or otherwise, is considered as held by 1 member for an allocation under this subdivision.

(2) If a limited liability company in existence before July 1, 1997 allocated distributions on the basis of subsection (1)(a), the limited liability company shall continue to allocate distributions pursuant to subsection (1)(a) until the allocation is changed by an operating agreement.

450.4304 Distributions; conditions for receiving.

Sec. 304. Except as otherwise provided in this act, a member is entitled to receive distributions from a limited liability company before the withdrawal of the member from the limited liability company and before the dissolution and winding up of the limited liability company to the extent and at the times or upon the happening of the events specified in an operating agreement.

450.4307 Distributions prohibited under certain situations; exceptions; effect of distribution under subsection (1); remedies available; future payments to withdrawing members; effect of subsection (1) on third party; asserting legal or equitable rights.

Sec. 307. (1) Except as otherwise provided in subsection (5), a distribution shall not be made if, after giving the distribution effect, 1 or more of the following situations would occur:

(a) The limited liability company would not be able to pay its debts as they become due in the usual course of business.

(b) The limited liability company's total assets would be less than the sum of its total liabilities plus, unless an operating agreement provides otherwise, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other members upon dissolution that are superior to the rights of the member or members receiving the distribution.

(2) The limited liability company may base a determination that a distribution is not prohibited under subsection (1) on financial statements prepared on the basis of accounting practices and principles that are reasonable under the circumstances, on a fair valuation, or on another method that is reasonable under the circumstances.

(3) The effect of a distribution under subsection (1) is measured at the following times:

(a) Except as provided in subsection (5), in the case of a distribution to a withdrawing member, as of the earlier of the date money or other property is transferred or debt incurred by the limited liability company, or the date the member ceases to be a member.

(b) In the case of any other distribution of indebtedness, as of the date the indebtedness is authorized if distribution occurs within 120 days after the date of authorization, or the date the indebtedness is distributed if it occurs more than 120 days after the date of authorization.

(c) In all other cases, as of the date the distribution is authorized if the payment occurs within 120 days after the date of authorization, or the date the payment is made if it occurs more than 120 days after the date of authorization.

(4) At the time a member becomes entitled to receive a distribution, the member has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution. A company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the company's indebtedness to its general, unsecured creditors except as otherwise agreed.

(5) If the limited liability company distributes an obligation to make future payments to a withdrawing member, and distribution of the obligation would otherwise be prohibited under subsection (1) at the time it is made, the company may issue the obligation and the following apply:

(a) The portion of the obligation that could have been distributed without violating subsection (1) is indebtedness to the withdrawing member under subsection (4).

(b) All of the following apply to the portion of the obligation that exceeds the amount of the obligation that is indebtedness to the withdrawing member under subdivision (a):

(*i*) At any time prior to the due date of the obligation, payments of principal and interest may be made as a distribution to the extent that a distribution may then be made under this section.

(*ii*) At any time on or after the due date, the obligation to pay principal and interest is considered distributed and treated as indebtedness described in subsection (4) to the extent that a distribution may then be made under this section.

(c) Unless otherwise provided in an agreement with the withdrawing member, the obligation is considered a liability or debt for purposes of determining whether distributions other than payments on the obligation may be made under this section, except for purposes of determining whether distributions may be made to members having preferential rights superior to the rights of the withdrawing member.

(6) The enforceability of a guaranty or other undertaking by a third party relating to a distribution is not affected by the prohibition of the distribution under subsection (1).

(7) If a claim is made to recover a distribution made contrary to subsection (1) or if a violation of subsection (1) is raised as a defense to a claim based upon a distribution, this section does not prevent the person receiving the distribution from asserting a right of rescission or other legal or equitable rights.

450.4403 Managers; selection; vote; removal; notice.

Sec. 403. (1) A vote of a majority in interest of the members entitled to vote in accordance with section 502(1) is required to select managers to fill initial positions or vacancies.

(2) The members may remove 1 or more managers with or without cause unless an operating agreement provides that managers may be removed only for cause.

(3) The members may remove a manager for cause only at a meeting called expressly for that purpose, and that manager shall have reasonable advance notice of the allegations against him or her and an opportunity to be heard at the meeting.

450.4405 Managers; voting requirements.

Sec. 405. (1) Except as otherwise provided in the articles of organization or an operating agreement, voting by managers shall be as provided in this section.

(2) If management of a limited liability company is delegated to managers under section 402 and the limited liability company has more than 1 manager, each manager has 1 vote and the vote of a majority of all managers is required to decide or resolve any difference on any matter connected with carrying on the business of the limited liability company that is within the scope of the managers' authority.

(3) If management of a limited liability company remains in the members, section 502 applies to voting by the members.

450.4406 Manager as agent.

Sec. 406. A manager is an agent of the limited liability company for the purpose of its business, and the act of a manager, including the execution in the limited liability company name of any instrument, that apparently carries on in the usual way the business of the limited liability company of which he or she is a manager binds the limited liability company, unless both of the following apply:

(a) The manager does not have the authority to act for the limited liability company in that particular matter.

(b) The person with whom the manager is dealing has actual knowledge that the manager lacks authority to act or the articles of organization or this act establishes that the manager lacks authority to act.

450.4501 Members; admission; liability for acts, debts, or obligations.

Sec. 501. (1) A person may be admitted as a member of a limited liability company in 1 or more of the following ways:

(a) In connection with the formation of the limited liability company, by signing the initial operating agreement.

(b) After the formation of the limited liability company, in 1 or more of the following ways:

(*i*) In the case of a person acquiring a membership interest directly from the limited liability company, by complying with the provisions of an operating agreement prescribing the requirements for admission or, in the absence of provisions prescribing the require-

ments for admission in an operating agreement, upon the unanimous vote of the members entitled to vote.

(*ii*) In the case of an assignee of a membership interest, as provided in section 506.

(2) A limited liability company may admit a person as a member who does not make a contribution or incur an obligation to make a contribution to the limited liability company.

(3) Unless otherwise provided by law or in an operating agreement, a person who is a member or manager, or both, of a limited liability company is not liable for the acts, debts, or obligations of the limited liability company.

450.4502 Members; voting rights.

Sec. 502. (1) An operating agreement may establish and allocate the voting rights of members and may provide that certain members or groups of members have only limited or no voting rights. If an operating agreement does not address voting rights, votes are allocated as follows:

(a) Prior to July 1, 1997, the members of a limited liability company shall vote in proportion to their shares of distributions of the company, as determined in accordance with section 303.

(b) On and after July 1, 1997, except as otherwise provided in subsection (2), each member of a limited liability company has 1 vote. For purposes of this subdivision, a membership interest held by 2 or more persons, whether as fiduciaries, members of a partnership, tenants in common, joint tenants, tenants by the entirety, or otherwise, is treated as held by 1 member.

(2) If a limited liability company in existence before July 1, 1997 allocated votes on the basis of subsection (1)(a), the company shall continue to allocate votes pursuant to subsection (1)(a) until the allocation is changed by an operating agreement.

(3) If a membership interest that has voting rights is held by 2 or more persons, whether as fiduciaries, members of a partnership, tenants in common, joint tenants, tenants by the entirety, or otherwise, the voting of the interest shall be in accordance with the instrument or order appointing them or creating the relationship if a copy of that instrument or order is furnished to the limited liability company. If an instrument or order is not furnished to the limited liability company, 1 of the following applies to the voting of that membership interest:

(a) If an operating agreement applies to the voting of the membership interest, the vote shall be in accordance with that operating agreement.

(b) If an operating agreement does not apply to the voting of the membership interest and only 1 of the persons who hold the membership interest votes, that person's vote determines the voting of the membership interest.

(c) If an operating agreement does not apply to the voting of the membership interest and 2 or more of the persons who hold the membership interest vote, the vote of a majority determines the voting of the membership interest, and if there is no majority, the voting of the membership interest is divided among those voting.

(4) Only members of a limited liability company, and not its managers, may authorize the following actions:

(a) The dissolution of the limited liability company pursuant to section 801(c).

(b) Merger of the limited liability company pursuant to sections 701 through 706.

(c) An amendment to the articles of organization.

(5) Unless authorized in advance by an operating agreement, a transaction with the limited liability company or a transaction connected with the conduct or winding up of the limited liability company in which a manager of the limited liability company has a direct or indirect interest or a manager's personal use of property of the limited liability company may be authorized or ratified only by a vote of the disinterested members entitled to vote. The manager shall disclose all material facts regarding the transaction and the manager's interest in the transaction or all material facts about the manager's personal use of the limited liability company's property before the members vote on that transaction or use.

(6) Unless otherwise provided in an operating agreement, the sale, exchange, lease, or other transfer of all or substantially all of the assets of a limited liability company, other than in the ordinary course of business, may be authorized only by a vote of the members entitled to vote.

(7) The articles of organization or an operating agreement may provide for additional voting rights of members of the limited liability company.

(8) Unless the vote of a greater percentage of the voting interest of members is required by this act, the articles of organization, or an operating agreement, a vote of a majority in interest of the members entitled to vote is required to approve any matter submitted for a vote by the members.

450.4503 Members; obtaining certain financial statements and tax returns; inspecting and copying records; obtaining other information; formal accounting of company's affairs.

Sec. 503. (1) Upon written request of a member, a limited liability company shall send a copy of its most recent annual financial statement and its most recent federal, state, and local income tax returns and reports to the member by mail or electronic transmission. Upon reasonable request, a member may obtain true and full information regarding the current state of the limited liability company's financial condition.

(2) Upon reasonable written request and during ordinary business hours, a member or his or her designated representative may inspect and copy, at the member's expense, any of the records required to be maintained under section 213, at the location where the records are kept.

(3) Upon reasonable written request, a member may obtain other information regarding the limited liability company's affairs or may inspect, personally or through a representative and during ordinary business hours, other books and records of the limited liability company, as is just and reasonable.

(4) A member may have a formal accounting of the limited liability company's affairs as provided in an operating agreement or whenever circumstances render it just and reasonable.

450.4504 Membership interest as personal property.

Sec. 504. (1) A membership interest is personal property and may be held in any manner in which personal property may be held. A husband and wife may hold a membership interest in joint tenancy in the same manner and subject to the same restrictions, consequences, and conditions that apply to the ownership of real estate held jointly by a husband and wife under the laws of this state, with full right of ownership by survivorship in case of the death of either.

(2) A member has no interest in specific limited liability company property.

450.4506 Assignee of membership interest; conditions for membership; rights and powers; liability for obligations of assignor.

Sec. 506. (1) Unless otherwise provided in an operating agreement, an assignee of a membership interest in a limited liability company having more than 1 member may become a member only upon a unanimous vote of the members entitled to vote. An assignee of a membership interest in a limited liability company having 1 member may become a member in accordance with the terms of the agreement between the member and the assignee.

(2) An assignee who becomes a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the articles of organization, an operating agreement, and this act. An assignee who becomes a member also is liable for any obligations of his or her assignor to make contributions and to return distributions under sections 302 and 308(3). An assignee is not obligated for liabilities unknown to the assignee when he or she became a member unless the liabilities are shown on the financial records of the limited liability company.

450.4515 Action in circuit court; grounds; order or grant of relief; "willfully unfair and oppressive conduct" defined.

Sec. 515. (1) A member of a limited liability company may bring an action in the circuit court of the county in which the limited liability company's principal place of business or registered office is located to establish that acts of the managers or members in control of the limited liability company are illegal or fraudulent or constitute willfully unfair and oppressive conduct toward the limited liability company or the member. If the member establishes grounds for relief, the circuit court may issue an order or grant relief as it considers appropriate, including, but not limited to, an order providing for any of the following:

(a) The dissolution and liquidation of the assets and business of the limited liability company.

(b) The cancellation or alteration of a provision in the articles of organization or in an operating agreement.

(c) The direction, alteration, or prohibition of an act of the limited liability company, or of members, managers, or other persons party to the action.

(d) The purchase at fair value of the member's interest in the limited liability company, either by the company or by the managers or other members responsible for the wrongful acts.

(e) An award of damages to the limited liability company or to the member. An action seeking an award of damages must be commenced within 3 years after the cause of action under this section has accrued or within 2 years after the member discovers or reasonably should have discovered the cause of action under this section, whichever occurs first.

(2) As used in this section, "willfully unfair and oppressive conduct" means a continuing course of conduct or a significant action or series of actions that substantially interferes with the interests of the member as a member. The term does not include conduct or actions that are permitted by the articles of organization, an operating agreement, another agreement to which the member is a party, or a consistently applied written company policy or procedure.

450.4603 Articles of organization; certificate of amendment; filing; contents.

Sec. 603. The articles of organization are amended by filing a certificate of amendment signed as provided in section 103 that contains all of the following:

(a) The name of the limited liability company.

(b) The date of filing of its original articles of organization.

(c) The entire article or articles being amended, or the section or sections being amended if the article being amended is divided into identified sections.

(d) A statement that the amendment or amendments were approved by the unanimous vote of all of the members entitled to vote or by a majority in interest if an operating agreement authorizes amendment of the articles of organization by majority vote.

450.4705a Definitions; merger of domestic limited liability companies with business organizations.

Sec. 705a. (1) As used in this section:

(a) "Business organization" means a domestic or foreign corporation, limited partnership, general partnership, or any other type of domestic or foreign business enterprise, incorporated or unincorporated, except a domestic limited liability company.

(b) "Entity" means a business organization or a domestic limited liability company.

(c) "Obligated person" means a general partner of a limited partnership, a partner of a general partnership, or a participant in or an owner of an interest in any other type of business enterprise who, under applicable law, is generally liable for the obligations of the business enterprise.

(2) If all of the business organizations in a merger with 1 or more domestic limited liability companies are foreign limited liability companies, the merger shall comply with section 705 and not this section.

(3) Except as otherwise provided in subsection (2), 1 or more domestic limited liability companies may merge with 1 or more business organizations if all of the following requirements are satisfied:

(a) The merger is permitted under the law of the jurisdiction in which each constituent business organization is organized and each constituent business organization complies with that law in effecting the merger.

(b) Each foreign constituent business organization transacting business in this state complies with the applicable laws of this state.

(c) Each domestic limited liability company complies with this section.

(4) If 1 or more domestic limited liability companies propose to merge with 1 or more business organizations, each domestic limited liability company shall prepare a plan of merger that contains all of the following:

(a) The name of each constituent entity, the name of the surviving entity, the street address of the surviving entity's principal place of business, and the type of organization of the surviving entity.

(b) The terms and conditions of the proposed merger, including the manner and basis of converting the shares, partnership interests, membership interests, or other ownership interests of each constituent entity into ownership interests or obligations of the surviving entity, or into cash or other consideration, which may include ownership interests or obligations of an entity not a party to the merger, or into a combination thereof.

(c) If the surviving entity is to be a domestic limited liability company, a statement of the amendments to the articles of organization of the surviving company if the articles are changed by the merger, a restatement of the articles of organization, or a statement that the articles of organization of the surviving domestic limited liability company are unchanged.

(d) Any other provision that the domestic limited liability company considers necessary or desirable.

(5) A constituent domestic limited liability company shall submit a plan of merger to the members for approval. A unanimous vote by the members entitled to vote in the constituent domestic limited liability company is required to approve a plan of merger unless an operating agreement of the constituent domestic limited liability company provides otherwise.

(6) If an operating agreement of a constituent domestic limited liability company provides for approval by less than unanimous vote of members entitled to vote and the merger is approved, a member who voted against the merger may withdraw from the domestic limited liability company and receive, within a reasonable time, the fair value of the member's interest in the domestic limited liability company, based upon the member's share of distributions as determined under section 303.

(7) If a plan of merger is approved, a certificate of merger shall be executed as provided in section 103 and filed on behalf of each constituent domestic limited liability company. The certificate of merger shall contain all of the following:

(a) The information required under subsection (4)(a) and the statement required under subsection (4)(c).

(b) A statement that the plan of merger was approved by the members of each constituent domestic limited liability company in accordance with subsection (5).

(c) A statement of any assumed names of merging entities transferred to the surviving entity in accordance with section 206(6), specifying each transferred assumed name and the name of the entity from which it is transferred. If the surviving entity is a domestic limited liability company or a foreign limited liability company authorized to transact business in this state, the certificate may include a statement of 1 or more names or assumed names of merging entities that are to be treated as new certificates of assumed names of the surviving company under section 206(7).

(d) The effective date of the merger if later than the date the certificate of merger is filed.

(8) A certificate of merger is effective in accordance with section 104.

(9) When a merger is effective under this section, all of the following apply:

(a) Every other constituent entity merges into the surviving entity and the separate existence of every entity except the surviving entity ceases.

(b) The title to all property, real, personal, and mixed, and rights owned by each constituent entity are vested in the surviving entity without reversion or impairment.

(c) A surviving company may use the name and the assumed names of any merging entity if a filing required under section 206(6) or (7) or other applicable statute is made.

(d) The surviving entity has all of the liabilities of each constituent entity. This section does not affect liability, if any, of a person who was an obligated person with respect to a merging entity for acts or omissions that occurred before the merger.

(e) A proceeding pending against any constituent entity may be continued as if the merger did not occur or the surviving entity may be substituted in the proceeding for the entity whose existence ceased.

(f) The articles of organization of a surviving domestic limited liability company are amended to the extent provided in the plan of merger.

(g) The ownership interests of each constituent entity that are to be converted into ownership interests or obligations of the surviving entity or into cash or other property are converted.

(10) If the surviving entity is a foreign business organization, it is subject to the laws of this state pertaining to the transaction of business in this state by a foreign business organization if it transacts business in this state. The surviving entity is liable for, and is subject to service of process in a proceeding in this state for the enforcement of, any obligation of a constituent domestic limited liability company, including an obligation to a member of the constituent domestic limited liability company who has dissented from the merger and withdrawn in accordance with subsection (6).

450.4801 Dissolution and winding up; conditions.

Sec. 801. A limited liability company is dissolved and its affairs shall be wound up when the first of the following occurs:

(a) Automatically at the time specified in the articles of organization.

(b) Upon the happening of an event specified in the articles of organization or in an operating agreement, including a vote of members.

(c) Upon the unanimous vote of all members entitled to vote.

(d) Automatically upon the entry of a decree of judicial dissolution.

450.4804 Certificate of dissolution; filing; contents.

Sec. 804. Upon the dissolution and commencement of winding up of the limited liability company under section 801(b) or (c), a certificate of dissolution shall be signed as provided in section 103 and filed with the administrator. The certificate shall set forth all of the following:

(a) The name of the limited liability company.

(b) The reason for the dissolution.

(c) The effective date of the dissolution if later than the date of filing of the certificate of dissolution.

450.4909 Annual report; filing fee; penalty for late filing.

Sec. 909. (1) In addition to the annual statement required in section 207(3), a professional limited liability company shall file with the administrator an annual report, together with a $50.00 filing fee, listing the names and addresses of all members and managers and certifying that each member and manager is a licensed person in 1 or more of the professional services rendered by the company. The report shall also certify that any member or manager not licensed or otherwise legally authorized to render professional services in this state does not render professional services in this state.

(2) The professional limited liability company shall file the annual report not later than February 15 of each year, and a penalty of $50.00 shall be added to the fee if the annual report is not filed or the fee is not paid by February 15, except that if a professional limited liability company is formed after September 30, it need not file an annual report on the February 15 immediately succeeding its formation.

(3) If a professional limited liability company fails to file an annual report required by this section for 2 consecutive years, the administrator shall notify the company of the consequences of the failure to file under subsection (4).

(4) If a professional limited liability company does not file all annual reports it has failed to file, the applicable fees, and the penalty described in subsection (2) within 60 days after the administrator's notice under subsection (3) is sent, the professional limited liability company is not in good standing. A professional limited liability company that is not in good standing is not entitled to issuance by the administrator of a certificate of good

standing described in section 207a, the name of the company is available for use by another entity filing with the administrator, and the administrator shall not accept for filing any document submitted by the professional limited liability company other than a certificate of restoration of good standing provided for in subsection (5). A professional limited liability company that is not in good standing remains in existence and may continue to transact business in this state.

(5) A professional limited liability company that is not in good standing under subsection (4) may file a certificate of restoration of good standing, accompanied by the annual reports and fees for all of the years for which they were not filed and paid, the penalty described in subsection (2), and the fee for filing the certificate of restoration of good standing. The certificate shall include all of the following:

(a) The name of the professional limited liability company at the time it ceased to be in good standing. If that name is not available when the certificate of restoration of good standing is filed, the professional limited liability company shall select a new name that complies with this act. The new name shall be the name of the professional limited liability company from the date of filing of the certificate.

(b) The name of the professional limited liability company's current resident agent and the address of the current registered office in this state.

(c) A statement that the certificate is accompanied by the annual reports and applicable fees for all of the years for which reports were not filed and fees were not paid and the penalty described in subsection (2).

(6) A professional limited liability company that fails to file annual statements under section 207 as well as annual reports under this section must comply with section 207a and this section to maintain or restore its good standing.

450.5005 Inaccurate application; correcting statement; certificate; exception; survivor of merger; certificate attesting to merger; annual statement.

Sec. 1005. (1) If any statement in the application for certificate of authority of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited liability company shall promptly file with the administrator a certificate, signed as provided in section 103, correcting the statement, except that a change in the resident agent or registered office may be made under section 209.

(2) If a foreign limited liability company authorized to transact business in this state is the survivor of a merger permitted by the laws of the jurisdiction of its organization, the foreign limited liability company shall file, not later than 30 days after the merger becomes effective, a certificate issued by the proper officer of the jurisdiction of its organization attesting to the occurrence of the merger. If the merger has changed the name of the foreign limited liability company or has otherwise affected the information set forth in the application, the foreign company shall also comply with subsection (1).

(3) A foreign limited liability company authorized to transact business in this state shall file an annual statement as required by section 207(3), and section 207a applies to the good standing of the company and to failures to file.

450.5101 Filing fees; use; charges for certifying or copying files or records; dishonored checks; payment by credit card.

Sec. 1101. (1) The fees to be paid to the administrator when the documents described in this subsection are delivered to him or her for filing are as follows:

(a) Certificate of correction, $25.00.

(b) Articles of organization, $50.00.

(c) Amendment to the articles of organization, $25.00.

(d) Restated articles of organization, $50.00.

(e) Application for reservation of name, $25.00.

(f) Certificate of assumed name or a certificate of termination of assumed name, $25.00.

(g) Annual statement of resident agent and registered office, $15.00.

(h) Certificate of restoration of good standing, $50.00.

(i) Notice of resignation of resident agent, or statement of change of registered office or resident agent, $5.00.

(j) Certificate of merger as provided in article 7, $100.00.

(k) Certificate of abandonment, $10.00.

(*l*) Certificate of conversion, $25.00.

(m) Certificate of dissolution, $10.00.

(n) Application of a foreign limited liability company for a certificate of authority to transact business in this state, $50.00.

(o) Certificate correcting statement contained in an application for a certificate of authority to transact business in this state, $25.00.

(p) Certificate attesting to the occurrence of a merger of a foreign limited liability company, as provided in section 1005, $10.00.

(q) Application for withdrawal and issuance of a certificate of withdrawal of a foreign limited liability company, $10.00.

(2) In addition to a fee required to file a document, the administrator may charge a fee of $50.00 if the document is filed by facsimile or other electronic transmission or the administrator is requested to transmit a document by facsimile or other electronic transmission.

(3) The fees prescribed in subsections (1) and (2), no part of which shall be refunded, when collected shall be paid into the treasury of the state and credited to the administrator to be used solely by the department in carrying out those duties required by law.

(4) A minimum charge of $1.00 for each certificate and 50 cents per folio shall be paid to the administrator for certifying a part of a file or record pertaining to a domestic or foreign limited liability company if a fee is not set forth in subsection (1). The administrator may furnish copies of documents, reports, and papers required or permitted by law to be filed with the administrator, and shall charge for those copies pursuant to a schedule of fees that the administrator shall adopt with the approval of the state administrative board. The administrator shall retain the revenue collected under this subsection to be used by the department to defray the costs of its copying and certifying services.

(5) If a domestic or foreign limited liability company pays fees or penalties by check and the check is dishonored, the fee is considered unpaid and the filing of all related documents will be rescinded.

(6) The administrator may accept a credit card, instead of cash or check, as payment of a fee under this act. The administrator shall determine which credit cards may be accepted for payment.

This act is ordered to take immediate effect.

Approved December 29, 2002.

Filed with Secretary of State December 30, 2002.

[No. 687]

(HB 5994)

AN ACT to assert the state's interest in protecting all individuals; and to prescribe responsibilities and procedures in regard to a newborn whose live birth results from an abortion.

The People of the State of Michigan enact:

333.1071 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "born alive infant protection act".

(2) As used in this act:

(a) "Abortion" means that term as defined in section 17015 of the public health code, 1978 PA 368, MCL 333.17015.

(b) "Live birth" means the complete expulsion or extraction of a product of conception from its mother, regardless of the duration of the pregnancy, that after expulsion or extraction, whether or not the umbilical cord has been cut or the placenta is attached, shows any evidence of life, including, but not limited to, 1 or more of the following:

(*i*) Breathing.

(*ii*) A heartbeat.

(*iii*) Umbilical cord pulsation.

(*iv*) Definite movement of voluntary muscles.

333.1072 Legislative findings.

Sec. 2. The legislature finds all of the following:

(a) The state has a paramount interest in protecting all individuals.

(b) If an abortion results in the live birth of a newborn, the newborn is a legal person for all purposes under the law.

(c) A woman's right to terminate pregnancy ends when the pregnancy is terminated. It is not an infringement on a woman's right to terminate her pregnancy for the state to assert its interest in protecting a newborn whose live birth occurs as the result of an abortion.

333.1073 Abortion resulting in live birth; surrender of newborn to emergency service provider; medical care; report; confidentiality of newborn's mother and father; transmission of information to newborn's mother.

Sec. 3. (1) If an abortion results in a live birth and, after being informed of the newborn's live birth, the newborn's mother expresses a desire not to assume custody and responsibility for the newborn, by refusing to authorize all necessary life sustaining medical treatment for the newborn or releasing the newborn for adoption, the newborn shall be considered a newborn who has been surrendered to an emergency service provider under the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20. The procedures of the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, shall be followed in regard to the custody and care of the newborn.

(2) If an abortion performed in a hospital setting results in a live birth, the physician attending the abortion shall provide immediate medical care to the newborn, inform the

mother of the live birth, and request transfer of the newborn to a resident, on-duty, or emergency room physician who shall provide medical care to the newborn. If an abortion performed in other than a hospital setting results in a live birth, a physician attending the abortion shall provide immediate medical care to the newborn and call 9-1-1 for an emergency transfer of the newborn to a hospital that shall provide medical care to the newborn.

(3) A live birth described in this act shall be reported as required in section 2822 of the public health code, 1978 PA 368, MCL 333.2822.

(4) If a newborn is considered a newborn who has been surrendered to an emergency service provider under the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, as provided in subsection (1), the identity of the newborn's mother and father becomes confidential and shall not be revealed, either orally or in writing.

(5) The attending physician who transfers care of a live newborn under this section to another physician or a 9-1-1 emergency responder shall transmit to the mother of the newborn any information provided to the attending physician by the emergency service provider who received custody of the newborn under the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, as provided in section 3 of the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 688]

(HB 5995)

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties," by amending section 3 of chapter XII (MCL 712.3), as added by 2000 PA 232.

The People of the State of Michigan enact:

CHAPTER XII

712.3 Conduct of emergency service provider.

Sec. 3. (1) If a parent surrenders a child who may be a newborn to an emergency service provider, the emergency service provider shall comply with the requirements of

this section under the assumption that the child is a newborn. The emergency service provider shall, without a court order, immediately accept the newborn, taking the newborn into temporary protective custody. The emergency service provider shall make a reasonable effort to do all of the following:

(a) Take action necessary to protect the physical health and safety of the newborn.

(b) Inform the parent that by surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(c) Inform the parent that the parent has 28 days to petition the court to regain custody of the newborn.

(d) Provide the parent with written material approved by or produced by the family independence agency that includes, but is not limited to, all of the following statements:

(*i*) By surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(*ii*) The parent has 28 days after surrendering the newborn to petition the court to regain custody of the newborn.

(*iii*) After the 28-day period to petition for custody elapses, there will be a hearing to terminate parental rights.

(*iv*) There will be public notice of this hearing, and the notice will not contain the parent's name.

(*v*) The parent will not receive personal notice of this hearing.

(*vi*) Information the parent provides to an emergency service provider will not be made public.

(*vii*) A parent can contact the safe delivery line established under section 20 of this chapter for more information.

(2) After providing a parent with the information described in subsection (1), an emergency service provider shall make a reasonable attempt to do all of the following:

(a) Encourage the parent to provide any relevant family or medical information.

(b) Provide the parent with the pamphlet produced under section 20 of this chapter and inform the parent that he or she can receive counseling or medical attention.

(c) Inform the parent that information that he or she provides will not be made public.

(d) Ask the parent to identify himself or herself.

(e) Inform the parent that in order to place the newborn for adoption the state is required to make a reasonable attempt to identify the other parent, and then ask the parent to identify the other parent.

(f) Inform the parent that the child placing agency that takes temporary protective custody of the newborn can provide confidential services to the parent.

(g) Inform the parent that the parent may sign a release for the newborn which may be used at the parental rights termination hearing.

(3) A newborn whose birth is described in the born alive infant protection act and who is in a hospital setting or transferred to a hospital under section 3(1) of the born alive infant protection act is a newborn surrendered as provided in this act. An emergency service provider who has received a newborn pursuant to the born alive infant protection act shall do all of the following:

(a) Comply with the requirements of subsections (1) and (2) to obtain information from or supply information to the surrendering parent by requesting the information from or supplying the information to the attending physician who delivered the newborn.

(b) Make no attempt to directly contact the parent or parents of the newborn.

(c) Provide humane comfort care if the newborn is determined to have no chance of survival due to gestational immaturity in light of available neonatal medical treatment or other condition incompatible with life.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5994 of the 91st Legislature is enacted into law.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 5994, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 687, Eff. March 31, 2003.

[No. 689]

(HB 5996)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 135 (MCL 750.135), as amended by 2000 PA 233.

The People of the State of Michigan enact:

750.135 Children; exposing with intent to injure or abandon; surrender of child to emergency service provider; applicability of subsection (1); definitions.

Sec. 135. (1) Except as provided in subsection (3), a father or mother of a child under the age of 6 years, or another individual, who exposes the child in any street, field, house, or other place, with intent to injure or wholly to abandon the child, is guilty of a felony, punishable by imprisonment for not more than 10 years.

(2) Except for a situation involving actual or suspected child abuse or child neglect, it is an affirmative defense to a prosecution under subsection (1) that the child was not more than 72 hours old and was surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20. A criminal investigation shall not be initiated solely on the basis of a newborn being surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20.

(3) Subsection (1) does not apply to a mother of a newborn who is surrendered under the born alive infant protection act. Subsection (1) applies to an attending physician who delivers a live newborn as a result of an attempted abortion and fails to comply with the requirements of the born alive infant protection act.

(4) As used in this section:

(a) "Emergency service provider" means a uniformed employee or contractor of a fire department, hospital, or police station when that individual is inside the premises and on duty.

(b) "Fire department" means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(c) "Hospital" means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(d) "Police station" means a police station as that term is defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5994 of the 91st Legislature is enacted into law.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 5994, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 687, Eff. March 31, 2003.

[No. 690]

(HB 5997)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 8 (MCL 722.628), as amended by 2000 PA 234.

The People of the State of Michigan enact:

722.628 Referring report or commencing investigation; informing parent or legal guardian of investigation; duties of department; assistance of and cooperation with law enforcement officials; procedures; proceedings by prosecuting attorney; cooperation of school or other institution; information as to disposition of report; exception to reporting requirement.

Sec. 8. (1) Within 24 hours after receiving a report made under this act, the department shall refer the report to the prosecuting attorney if the report meets the requirements of section 3(6) or shall commence an investigation of the child suspected of being abused or neglected. Within 24 hours after receiving a report whether from the reporting person or from the department under section 3(6), the local law enforcement agency shall refer the report to the department if the report meets the requirements of section 3(7) or shall commence an investigation of the child suspected of being abused or neglected. If the child suspected of being abused is not in the physical custody of the

parent or legal guardian and informing the parent or legal guardian would not endanger the child's health or welfare, the agency or the department shall inform the child's parent or legal guardian of the investigation as soon as the agency or the department discovers the identity of the child's parent or legal guardian.

(2) In the course of its investigation, the department shall determine if the child is abused or neglected. The department shall cooperate with law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in relation to preventing, identifying, and treating child abuse and neglect; shall provide, enlist, and coordinate the necessary services, directly or through the purchase of services from other agencies and professions; and shall take necessary action to prevent further abuses, to safeguard and enhance the child's welfare, and to preserve family life where possible.

(3) In conducting its investigation, the department shall seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that 1 or more of the following conditions exist:

(a) Abuse or neglect is the suspected cause of a child's death.

(b) The child is the victim of suspected sexual abuse or sexual exploitation.

(c) Abuse or neglect resulting in severe physical injury to the child requires medical treatment or hospitalization. For purposes of this subdivision and section 17, "severe physical injury" means brain damage, skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprains, internal injuries, poisoning, burns, scalds, severe cuts, or any other physical injury that seriously impairs the health or physical well-being of a child.

(d) Law enforcement intervention is necessary for the protection of the child, a department employee, or another person involved in the investigation.

(e) The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.

(4) Law enforcement officials shall cooperate with the department in conducting investigations under subsections (1) and (3) and shall comply with sections 5 and 7. The department and law enforcement officials shall conduct investigations in compliance with the protocols adopted and implemented as required by subsection (6).

(5) Involvement of law enforcement officials under this section does not relieve or prevent the department from proceeding with its investigation or treatment if there is reasonable cause to suspect that the child abuse or neglect was committed by a person responsible for the child's health or welfare.

(6) In each county, the prosecuting attorney and the department shall develop and establish procedures for involving law enforcement officials as provided in this section. In each county, the prosecuting attorney and the department shall adopt and implement standard child abuse and neglect investigation and interview protocols using as a model the protocols developed by the governor's task force on children's justice as published in FIA Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or an updated version of those publications.

(7) If there is reasonable cause to suspect that a child in the care of or under the control of a public or private agency, institution, or facility is an abused or neglected child, the agency, institution, or facility shall be investigated by an agency administratively independent of the agency, institution, or facility being investigated. If the investigation produces evidence of a violation of section 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to 750.520g, the investigating agency shall transmit a copy of the results of the investigation to the prosecuting attorney of the county in which the agency, institution, or facility is located.

(8) A school or other institution shall cooperate with the department during an investigation of a report of child abuse or neglect. Cooperation includes allowing access to the child without parental consent if access is determined by the department to be necessary to complete the investigation or to prevent abuse or neglect of the child. However, the department shall notify the person responsible for the child's health or welfare about the department's contact with the child at the time or as soon afterward as the person can be reached. The department may delay the notice if the notice would compromise the safety of the child or child's siblings or the integrity of the investigation, but only for the time 1 of those conditions exists.

(9) If the department has contact with a child in a school, all of the following apply:

(a) Before contact with the child, the department investigator shall review with the designated school staff person the department's responsibilities under this act and the investigation procedure.

(b) After contact with the child, the department investigator shall meet with the designated school staff person and the child about the response the department will take as a result of contact with the child. The department may also meet with the designated school staff person without the child present and share additional information the investigator determines may be shared subject to the confidentiality provisions of this act.

(c) Lack of cooperation by the school does not relieve or prevent the department from proceeding with its responsibilities under this act.

(10) A child shall not be subjected to a search at a school that requires the child to remove his or her clothing to expose his buttocks or genitalia or her breasts, buttocks, or genitalia unless the department has obtained an order from a court of competent jurisdiction permitting such a search. If the access occurs within a hospital, the investigation shall be conducted so as not to interfere with the medical treatment of the child or other patients.

(11) The department shall enter each report made under this act that is the subject of a field investigation into the CPSI system. The department shall maintain a report entered on the CPSI system as required by this subsection until the child about whom the investigation is made is 18 years old or until 10 years after the investigation is commenced, whichever is later, or, if the case is classified as a central registry case, until the department receives reliable information that the perpetrator of the abuse or neglect is dead. Unless made public as specified information released under section 7d, a report that is maintained on the CPSI system is confidential and is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) After completing a field investigation and based on its results, the department shall determine in which single category, prescribed by section 8d, to classify the allegation of child abuse or neglect.

(13) Except as provided in subsection (14), upon completion of the investigation by the local law enforcement agency or the department, the law enforcement agency or department may inform the person who made the report as to the disposition of the report.

(14) If the person who made the report is mandated to report under section 3, upon completion of the investigation by the department, the department shall inform the person in writing as to the disposition of the case and shall include in the information at least all of the following:

(a) What determination the department made under subsection (12) and the rationale for that decision.

(b) Whether legal action was commenced and, if so, the nature of that action.

(c) Notification that the information being conveyed is confidential.

(15) Information sent under subsection (14) shall not include personally identifying information for a person named in a report or record made under this act.

(16) Unless section 5 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the department, the surrender of a newborn in compliance with chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is not reasonable cause to suspect child abuse or neglect and, therefore, is not subject to the section 3 reporting requirement. This subsection does not apply to circumstances that arise on or after the date that chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed. This subsection applies to a newborn whose birth is described in the born alive infant protection act and who is considered to be a newborn surrendered under the safe delivery of newborns law as provided in section 3 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

Conditional effective date.

Enacting section 1. This amendatory act shall not take effect unless House Bill No. 5994 of the 91st Legislature is enacted into law.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 5994, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 687, Eff. Mar. 31, 2003.

[No. 691]

(HB 5998)

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 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 2822, 2843, 2882, and 5431 (MCL 333.2822, 333.2843, 333.2882, and 333.5431), section 2882 as amended by 2002 PA 544 and section 5431 as amended by 2000 PA 33.

The People of the State of Michigan enact:

333.2822 Persons required to report live birth occurring in state; "abortion" defined.

Sec. 2822. (1) The following individuals shall report a live birth that occurs in this state:

(a) If a live birth occurs in an institution or enroute to an institution, the individual in charge of the institution or his or her designated representative shall obtain the personal data, prepare the certificate of birth, secure the signatures required by the certificate of birth, and file the certificate of birth with the local registrar or as otherwise directed by the state registrar within 5 days after the birth. The physician or other individual in attendance shall provide the medical information required by the certificate of birth and certify to the facts of birth not later than 72 hours after the birth. If the physician or other individual does not certify to the facts of birth within 72 hours, the individual in charge of the institution or his or her authorized representative shall complete and certify the facts of birth.

(b) If a live birth occurs outside an institution, the record shall be prepared, certified, and filed with the local registrar by 1 of the following individuals in the following order of priority:

(*i*) The physician in attendance at or immediately after the live birth.

(*ii*) Any other individual in attendance at or immediately after the live birth.

(*iii*) The father, the mother, or, in the absence of the father and the inability of the mother, the individual in charge of the premises where the live birth occurs.

(c) If a live birth occurs during an attempted abortion and the mother of the newborn has expressed a desire not to assume custody and responsibility for the newborn by refusing to authorize necessary life-sustaining medical treatment, the live birth shall be reported as follows:

(*i*) If the attempted abortion took place in an institution, the live birth shall be reported in the same manner as provided in subdivision (a), except that the parents shall be listed as "unknown" and the newborn shall be listed as "Baby Doe".

(*ii*) If the attempted abortion took place outside an institution, the live birth shall be reported in the same manner as provided in subdivision (b), except that the parents shall be listed as "unknown" and the newborn shall be listed as "Baby Doe".

(2) As used in this section, "abortion" means that term as defined in section 17015.

333.2843 Report of death by funeral director; "dead body" defined; personal data; medical certification; neglecting or refusing to sign death certificate as misdemeanor; penalty; filing of death record.

Sec. 2843. (1) A funeral director who first assumes custody of a dead body, either personally or through his or her authorized agent, shall report the death. For purposes of this subsection, "dead body" includes, but is not limited to, the body of an infant who survived an attempted abortion as described in the born alive infant protection act and who later died. The funeral director or the authorized agent shall obtain the necessary personal data from the next of kin or the best qualified individual or source available and shall obtain medical certification as follows:

(a) If the death occurred outside an institution, the medical certification portion of the death record shall be completed and certified not later than 48 hours after death by the attending physician; or in the absence of the attending physician, by a physician acting as the attending physician's authorized representative; or in the absence of an authorized