



Senate Fiscal Agency
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Senate Bills 229 and 230 (as introduced 3-19-19)
Sponsor: Senator Tom Barrett (S.B. 229)
Senator Kimberly LaSata (S.B. 230)
Committee: Judiciary and Public Safety

Date Completed: 4-24-19

CONTENT

Senate Bill 229 would rename the Partial-Birth Abortion Ban Act to the "Partial-Birth Abortion and Dismemberment Abortion Ban Act", define "dismemberment abortion", and apply the Act's provisions to a dismemberment abortion.

Senate Bill 230 would amend the sentencing guidelines in the Code of Criminal Procedure to include the phrase "or dismemberment abortion" in the description of the felony Senate Bill 229 would modify.

Senate Bill 230 is tie-barred to Senate Bill 229. Each bill would take effect January 1, 2021. The bill also includes enacting language pertaining to the severability and enforceability of its provisions. Senate Bill 229 is discussed in more detail below.

Under the Act, except as otherwise provided to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, a physician, an individual acting under the delegatory authority of a physician, or any other individual who is not a physician or not otherwise legally authorized to perform an abortion who knowingly performs a partial-birth abortion and kills a human fetus is guilty of a felony punishable by up to two years' imprisonment or a maximum fine of \$50,000, or both.

The Act allows the spouse of a mother at the time of the partial-birth abortion or either parent of the mother if she had not attained the age of 18 at the time of the abortion to file a civil action against the physician or individual described above for a violation of the Act unless the pregnancy is a result of the plaintiff's criminal conduct or he or she consented to the partial-birth abortion. A plaintiff who prevails in a civil action may recover actual damages, including damages for emotional distress, and treble damages for the cost of the partial-birth abortion.

A woman who obtains or seeks to obtain a partial-birth abortion is not a conspirator to commit a violation of the Act.

Under the bill, these provisions also would apply to a dismemberment abortion. "Dismemberment abortion" would mean an abortion in which the physician, an individual acting under the delegatory authority of the physician, or any other individual performing the abortion deliberately and intentionally uses any instrument, device, or object to dismember a living fetus by disarticulating limbs or decapitating the head from the fetal torso and removing the dismembered fetal body parts regardless of whether the fetal body parts are removed by the same instrument, device, or object or by suction or other means. The term does not

include an abortion that uses suction to dismember and remove the body of a fetus from the uterus.

MCL 750.90h (S.B. 229)
777.16d (S.B. 230)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Senate Bill 229

The bill could have a negative fiscal impact on the State and local government. More felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to the State is approximately \$3,764 per prisoner per year. Any associated increase in fine revenue would increase funding to public libraries.

Senate Bill 230

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

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.