

SENATE BILL NO. 165

March 05, 2019, Introduced by Senators VANDERWALL, LASATA, BUMSTEAD, LUCIDO, THEIS, BARRETT, MCBROOM, OUTMAN, MACDONALD, HORN, ZORN, VICTORY, BIZON, JOHNSON, DALEY, MACGREGOR, RUNESTAD, LAUWERS, STAMAS and NESBITT and referred to the Committee on Health Policy and Human Services.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 325.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 325. (1) This section may be known and cited as the**
2 **"pain-capable unborn child protection act".**

3 **(2) Before performing an abortion, a physician shall make a**
4 **determination of the probable postfertilization age of the unborn**
5 **child consistent with the accepted standard of care for making that**
6 **determination, except in the case of a medical emergency.**

1 (3) A person shall not perform or attempt to perform an
2 abortion on a pregnant individual if it is determined that the
3 unborn child has a probable postfertilization age of 20 or more
4 weeks, unless in the reasonable clinical judgment of a physician
5 the abortion is necessary to avert the pregnant individual's death.

6 (4) A person who violates this section is guilty of a felony
7 punishable by imprisonment for not more than 15 years or a fine of
8 not more than \$7,500.00, or both.

9 (5) This section does not apply to actions taken by a pregnant
10 individual.

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

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

14 (8) This act shall not be construed to repeal by implication
15 or otherwise, or impair any future enforcement of, section 14, 15,
16 322, or 323, or any other provision of law regulating or
17 restricting abortion.

18 (9) As used in this section:

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

21 (b) "Fertilization" means the fusion of a human spermatozoon
22 with a human ovum.

23 (c) "Medical emergency" means a condition that, on the basis
24 of a physician's good faith clinical judgment, so complicates the
25 medical condition of a pregnant individual as to necessitate the
26 immediate abortion of her pregnancy to avert her death or
27 necessitates immediate treatment of a physical disorder, physical
28 illness, or physical injury in a hospital or other emergency care
29 facility, not including psychological or emotional conditions. A

1 medical emergency does not include a condition that is based on a
2 claim or diagnosis that the pregnant individual will engage in
3 conduct that she intends to result in her death.

4 (d) "Probable postfertilization age" means the expected
5 postfertilization age of the unborn child at the time an abortion
6 is planned to be performed as determined by the good faith clinical
7 judgment of the attending physician.

8 (e) "Unborn child" means an individual organism of the species
9 homo sapiens from fertilization until live birth.

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