

# Legislative Analysis



## REPEAL OF CERTAIN ABORTION-RELATED LAWS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4006 as introduced**  
**Sponsor: Rep. Laurie Pohutsky**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4031 as introduced**  
**Sponsor: Rep. Felicia Brabec**

**House Bill 4032 as introduced**  
**Sponsor: Rep. Stephanie A. Young**

**Committee: Judiciary**  
**Complete to 2-28-23**

### SUMMARY:

**House Bill 4006** would repeal section 14 of the Michigan Penal Code, which provides that a person who willfully administers to a pregnant individual any medicine, drug, or substance, or uses an instrument or any other means, with the intent to cause a miscarriage (except when necessary to protect the life of the pregnant individual) is guilty of a felony. If the pregnant individual dies as a result, it is considered manslaughter. This provision was rendered unconstitutional by the amendment to the state constitution approved by Michigan voters on November 8, 2022, as Ballot Proposal 3. That amendment took effect December 24, 2022. (See **Background**, below.)

MCL 750.14 (repealed)

**House Bill 4031** would amend the Corrections Code. The code bars individuals convicted and sentenced for committing any of several listed criminal offenses from eligibility for special parole or for parole before they have served their minimum sentence (less an allowance for any disciplinary credits). A violation of section 14 of the Michigan Penal Code is included in this list of crimes. The bill would amend the reference to section 14 to reflect the repeal of that section as proposed by HB 4006.

MCL 791.233b

**House Bill 4032** would amend the sentencing guidelines in the Code of Criminal Procedure to eliminate the guidelines for a violation of section 14 of the Michigan Penal Code to conform with the proposed repeal of that section by HB 4006. Currently, a violation of the prohibition regarding abortion has a maximum term of imprisonment of four years, and abortion causing the death of the pregnant woman has a maximum term of imprisonment of 15 years. Both offenses are Class C felonies against a person.

MCL 777.16a

### **Tie-bars**

House Bills 4031 and 4032 are each tie-barred to HB 4006, which means that those bills cannot take effect unless HB 4006 is also enacted into law.

## BACKGROUND:

Section 14 of the Michigan Penal Code was enacted in 1931 and provides that a person who willfully administers to a pregnant individual any medicine, drug, or substance, or uses an instrument or any other means, with the intent to cause a miscarriage (except when necessary to protect the life of the pregnant individual) is guilty of a felony. If the pregnant individual dies as a result, it is considered manslaughter.

After the 1973 U.S. Supreme Court decision in *Roe v Wade*, section 14 was declared unconstitutional by the Michigan Supreme Court as it relates to an abortion performed in the first trimester of a pregnancy “as authorized by the pregnant woman’s attending physician in exercise of his medical judgment.”<sup>1</sup>

*Roe* was overturned in June 2022, when the U.S. Supreme Court held that “the constitution does not confer a right to abortion” and returned the issue to the states to decide.<sup>2</sup>

In November 2022, Michigan voters approved Ballot Proposal 3, which added section 28 to Article 1 of the state constitution. Among other things, section 28 provides that “[e]very individual has a fundamental right to reproductive freedom,” which includes “the right to make and effectuate decisions about all matters relating to pregnancy.”

Section 28 also allows the state to regulate the provision of abortion care after fetal viability, which it defines as “the point in pregnancy when, in the professional judgment of an attending health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus’s sustained survival outside the uterus without the application of extraordinary medical measures.”

## FISCAL IMPACT:

The bills would have no fiscal impact on state or local government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

<sup>1</sup> *People v Brickner*, 389 Mich 524 (1973).

<sup>2</sup> *Dobbs v Jackson Women’s Health Organization*, No. 19-1392, 597 U.S. \_\_\_\_ (2022).