

Legislative Analysis



ABORTION REPORTING AND PRIVACY

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<http://www.house.mi.gov/hfa>

House Bill 5201 as introduced
Sponsor: Rep. Brad Paquette

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

House Bill 5202 as introduced
Sponsor: Rep. Jennifer Wortz

House Bill 5203 as introduced
Sponsor: Rep. Rachelle Smit

Committee: Health Policy
Complete to 11-11-25

SUMMARY:

House Bill 5201 would amend the Public Health Code to create new abortion reporting requirements. The bill would require health care professionals who perform abortions to report each procedure to the Department of Health and Human Services (DHHS) within seven days using a form prescribed and provided by the department. The report could only include certain details listed in the law and could not contain any information that identifies the patient.

The required report would have to include all of the following:

- The patient's age and marital status at the time of the abortion.
- The patient's race and (if applicable) Hispanic ethnicity.
- The patient's city or township, county, and state of residence at the time of the abortion.
- The name, address, and type of facility where the abortion was performed.
- The number of previous pregnancies carried to term and the number previously terminated by abortion.
- The period of gestation of the pregnancy (in weeks).
- The method used to perform the abortion.
- Whether the fetus showed evidence of life after separation.
- The date of the procedure.
- The method and source of payment for the procedure.
- The medical specialty of the health care professional.
- Whether the abortion was prescribed through telemedicine.
- Whether the abortion was performed due to a medical emergency.
- If the patient is a minor, whether the abortion was performed with a parental consent waiver under section 4 of the Parental Rights Restoration Act.¹
- Any ***physical complication*** or death resulting from the abortion that was observed or reported to the health care professional.
- Any of the following reasons for obtaining the abortion:
 - The pregnancy was the result of a rape.
 - The pregnancy was the result of incest.

¹ MCL 722.904: <https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-722-904>

- Economic reasons.
- A child is not wanted at this time.
- Mental or emotional health is at risk.
- Physical health is at risk.
- Relationship problems.
- A diagnosis of one or more fetal anomalies.
- Family size is complete.
- The signature and state license number of the health care professional.

Physical complication would mean a physical condition that occurs during or after an abortion that requires medical attention under generally accepted practice standards, such as infection, hemorrhage, cervical laceration, uterine perforation, seizure, shock, retained fetal tissue, or loss of consciousness.

The report could not include the patient's name, Social Security number, driver's license number, or any other identifying information. The bill would also prohibit state agencies from cross-matching databases, or maintaining statistical information, if it could reveal the identity of someone seeking or obtaining an abortion. DHHS would be required to destroy individual reports after keeping them for five years.

The reports could be used only for medical and public health purposes and could not be added to the state's official vital statistical records. DHHS and its employees would be prohibited from sharing any report or data that could identify a patient, provider, or facility. Reports could be shared with the Department of Licensing and Regulatory Affairs (LARA) for regulatory purposes only, and LARA would be subject to the same confidentiality rules.

A person who discloses confidential identifying information in violation of the bill would be guilty of a felony punishable by up to three years in prison, a fine of up to \$5,000, or both.

Each year, DHHS would have to publish an aggregated statistical report summarizing the information submitted in each individual form required by the bill, including all of the following:

- Abortions by gestational-age intervals (in four-week periods from five through 28 weeks).
- Abortions performed on individuals aged 17 and under.
- Physical complications reported under the bill or under House Bill 5202.

The bill cannot take effect unless House Bill 5202 is also enacted.

Proposed MCL 333.2835

House Bill 5202 would amend the Public Health Code to require health care professionals to file a written report with DHHS for each patient who experiences a physical complication or death that results from an abortion. The report would have to be submitted whenever a physical complication (defined as described above) or death is determined to be a primary, secondary, or tertiary result of the abortion procedure.

DHHS would have to summarize the information from these reports and include it in the annual abortion statistical report required under House Bill 5201.

The department would have to retain each individual report for five years after receiving it and then destroy the report and all copies of it.

DHHS would also have to develop a standardized reporting form for health care professionals to use. The form could not include the patient's name, address, or any information that could reasonably be expected to identify the patient. It would have to include instructions on how to complete and submit the form and specify the time frame for submission of a report under House Bill 5201. The department would have to distribute the form to all urgent care facilities and emergency departments in Michigan and make it available to the public on its website.

The bill cannot take effect unless House Bill 5201 is also enacted.

Proposed MCL 333.2837

House Bill 5203 would amend the Code of Criminal Procedure to update Michigan's sentencing guidelines to reflect the new felony that would be created by House Bill 5201. Specifically, disclosing confidential information related to an abortion would be a Class G felony against the public trust, with a maximum term of imprisonment of three years.

The bill cannot take effect unless House Bill 5201 is also enacted.

Proposed MCL 777.13k

FISCAL IMPACT:

House Bills 5101 and 5202 would increase state expenditures for the Department of Health and Human Services by an indeterminate amount and would have no fiscal impact on local units of government. The fiscal impact of the bills would be dependent on the administrative cost of creating a standardized reporting form for abortion providers, collection of report data, and the distribution of the information in the annual abortion statistical report created under the proposed section 2835 of the Public Health Code.

In addition, a person who discloses confidential identifying information in violation of House Bill 5101 would be guilty of a felony punishable by imprisonment for up to three years or a fine of up to \$5,000, or both. New felony convictions would result in increased costs related to state prisons and state parole and felony probation supervision. In fiscal year 2024, the average cost of prison incarceration in a state facility was roughly \$46,200 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,500 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. Because there is no practical way to determine the number of violations that would occur, an estimate of the amount of costs related to state prisons, penal fine revenue collections, or costs to local courts cannot be made.

House Bill 5203 is a companion bill to House Bill 5201 and would amend the sentencing guidelines chapter of the Code of Criminal Procedure to include the new felony of disclosing confidential information as it relates to an abortion as a Class G felony against the public trust punishable by a statutory maximum of three years. The bill would not have a direct fiscal impact on the state or on local units of 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.