



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 474 (Substitute S-3 as reported)
Senate Bill 475 (Substitute S-1 as reported)
Senate Bill 476 (Substitute S-1 as reported)
Senate Bill 477 (Substitute S-1 as reported)
Senate Bill 593 (as reported without amendment)
Sponsor: Senator Sarah Anthony (S.B. 474)
 Senator Stephanie Chang (S.B. 475)
 Senator Erika Geiss (S.B. 476 & S.B. 593)
 Senator Mary Cavanagh (S.B. 477)
Committee: Housing and Human Services

CONTENT

Senate Bill 474 (S-3) would amend the Public Health Code to do the following:

- Replace the definition of "elective abortion" with the definition of "abortion" within provisions related to the disposal of fetal remains, among other provisions.
- Delete a prohibition against the Department of Health and Human Services (DHHS) awarding ultrasound equipment grant money if the equipment were to be used in assisting an elective abortion.
- Delete various rule promulgation requirements for rules related to abortions.

Additionally, the bill would repeal Sections 2835, 2836, 2837, 17014, 17015, 17015a, 17017, 17515, 17517, and 22224.

(Section 17014 of the Code provides Legislative findings related to the enactment of Sections 17015 and 17515. Section 17015 prohibits a physician from performing an abortion otherwise permitted without the patient's informed written consent. Section 17015a generally requires a physician to orally screen a patient for coercion to abort a pregnancy. Section 17017 previously prohibited a physician from prescribing an abortion without personally performing a physical examination on the patient. Sections 17515 and 17517 require a physician to comply with the provisions described above before performing an abortion.

Section 2835 of the Code requires a physician who performs an abortion to report such to the DHHS and prescribes the information that the report must include, such as the age of the individual at the time of the abortion, the individual's race, and the individual's general residence; however, the report cannot contain identifying information of the individual. Section 2836 of the Code generally requires all remains resulting from abortions to be disposed of by interment or cremation and allows the disposal to occur without the supervision of a funeral director. Section 2837 of the Code requires a written report to the DHHS for each patient who comes into a physician's care and who suffers a physical complication or death resulting from an abortion. Section 22224 of the Code specifies that a health facility required to be licensed as a freestanding surgical outpatient facility due to performance of abortions at the facility does not need to obtain a certificate of need to be granted a license.)

Senate Bill 475 (S-1) would amend the Code of Criminal Procedure to delete sentencing guidelines for violations of disclosing confidential information regarding abortion and performing an abortion resulting in death.

Senate Bill 476 (S-1) would amend the Born Alive Infant Protection Act to modify the definition of "abortion".

Senate Bill 477 (S-1) would amend the Pregnant and Parenting Student Services Act to delete a prohibition against a pregnant and parenting student services office at an institution of higher education from providing referrals for abortion services.

Senate Bill 593 would create a new Act to do the following:

- Codify Section 28 of Article I of the State Constitution of 1963.
- Prohibit a governmental entity from violating Section 28 of Article I of the State Constitution of 1963.
- Specify that an individual or entity could bring a civil action for injunctive relief, damages, or any other appropriate remedy for a violation of Section 28 or Article I of the State Constitution of 1963.
- Repeal Section 323 of the Michigan Penal Code, which specifies that any person who administers to a woman pregnant with a quick child any medicine, drugs, or instrument with the intention to terminate the pregnancy could be charged with manslaughter.
- Repeal the Legal Birth Definition Act which defines legal birth and legal personhood.
- Repeal Public Act 360 of 2002, which prioritizes the allocation of funding through grants or contracts for educational and other programs and services pertaining to family planning and reproductive health services.
- Repeal the Abortion Insurance Opt-Out Act, which requires the purchase of coverage for elective abortion in a health care plan to be an optional rider only with an additional premium and requires notice to employees for whom elective abortion coverage is purchased by their employer.

Senate Bill 475 is tie-barred to Senate Bill 474.

MCL 333.2690 et al. (S.B. 474)
762.10d et al (S.B. 475)
333.1071 (S.B. 476)
390.1595 (S.B. 477)

BRIEF RATIONALE

The passage of Proposal 22-3, which enshrined the individual right to reproductive freedom in the Michigan Constitution, invalidated State laws that conflicted with the Proposal's amendments. According to testimony before the Senate Committee on Housing and Human Services, there are still barriers to reproductive healthcare that exist, and it has been suggested that various State laws be amended or repealed to agree with the Proposal's provisions.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

Senate Bills 474 (S-3) through 477 (S-1) would not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs (LARA). The Department conducts investigations and may hold hearings in relation to licensee violations such as those proposed to be eliminated under Senate Bill 474. As a result of the changes, LARA could experience a

reduction in the number of cases that require investigation or disciplinary action; however, this reduction would be unlikely to have a significant impact on LARA's costs or staffing levels.

Senate Bill 474 (S-1) could result in a positive fiscal impact on the DHHS, although the impact would likely be minimal. The bill would repeal MCL 333.22224, which created the certificate of need exception for freestanding surgical outpatient facilities that provide 120 or more abortions per year and prohibits the DHHS from counting abortion procedures towards the minimum number of procedures required to obtain a certificate of need. Repealing the exception could increase the number of freestanding surgical outpatient facilities that meet the minimum number of procedures. An increase in applications would result in an increase in certificate of need fee revenue for the State. The Fiscal Year 2023-2024 DHHS budget includes \$3.1 million of certificate of need fee revenue. Additionally, the DHHS could see a minor positive fiscal impact because of the bill from reduced information sharing and reporting requirements which would reduce the administrative burden on the DHHS.

Senate Bill 593 would have no fiscal impact on the DHHS but could have a negative fiscal impact on local units of government. The Allocation of Funds to Family Planning Services Act requires the DHHS to give priority for the allocation of funds for family planning or reproductive health services to entities that perform or allow the performance of elective abortions, refer a pregnant woman for an elective abortion, or maintain a policy that includes elective abortion as a part of the continuum of family planning or reproductive health services. This prioritization has generally made it harder for non-State entities that provide elective abortions or abortion services to be awarded grants over local health departments. By repealing this Act, local health departments would no longer be given priority and the bill could potentially result in a reduction in awarded grant funding to local health departments.

The bill would have a minor fiscal impact on the Department of Attorney General, which could see an increase in litigation to pursue actions under Section 28, Article I of the State Constitution of 1963. Likewise, civil filing fee revenue could result in minor increases for the Justice System Fund, which supports a multitude of Departments within State government. Any fiscal impact is expected to be minor. While the bill does affirmatively state that a person, or the Attorney General (AG), can pursue a civil action for a violation of Section 28, Article I of the State Constitution of 1963, this was already true, regardless of the language of the bill. Any person, entity, or the AG can pursue a civil action for a violation of constitutional rights. As the bill would not add or change this status, any fiscal impact is expected to be minor.

The repeal of certain fines and felonies could have a positive fiscal impact on the State and local governments. The elimination of certain felony arrests and convictions under the proposed bill could decrease resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities; however, it is unknown how many people would no longer be prosecuted with the repeal of sections as required under the bill. The potential savings would include the average cost to State government for felony probation supervision at approximately \$4,200 per probationer per year. Additional savings could be realized from no longer having to house a violator at an average annual cost of \$45,700. Savings from the per diem rates, ranging from \$98 to \$192 per day, depending on the security level of the facility, also could be realized. The repealed sections also could decrease fine revenue which would decrease funding to public libraries.

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Fiscal Analyst: Ellyn Ackerman
Joe Carrasco, Jr.; Elizabeth Raczowski
Cory Savino, PhD; Josh Sefton
Michael Siracuse

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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.