



Senate Fiscal Agency  
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House Bill 4006 (Substitute H-1 as passed by the House)  
House Bill 4032 (as passed by the House)  
Sponsor: Representative Laurie Pohutsky (H.B. 4006)  
Representative Stephanie Young (H.B. 4032)  
House Committee: Judiciary  
Senate Committee: Committee of the Whole

Date Completed: 3-8-23

## **CONTENT**

**House Bill 4006 would repeal Sections 14 of the Michigan Penal Code, which prescribes a felony for administering to a pregnant woman any medicine, drug, or substance, or employing any instrument or other means, with intent to procure a miscarriage, unless it is necessary to protect the life of the mother, and Section 15, which prescribes a misdemeanor penalty for a person who advertises, publishes, or sells any pills, powder, drugs or combination of drugs, designed expressly for the use of females for the purpose of procuring an abortion.**

**House Bill 4032 would delete from sentencing guidelines in the Code of Criminal Procedure the felonies prescribed under Section 14 of the Penal Code.**

### **House Bill 4006 (H-1)**

Under Section 14 of the Penal Code, a person who willfully administers to any pregnant woman any medicine, drug, substance, or thing whatever, or employs any instrument or other means, with intent to procure a miscarriage, unless it is necessary to preserve the life of the woman, is guilty of a felony. If this transaction causes the death of a pregnant woman, the offense is manslaughter.

Additionally, the bill would repeal Section 15 of the Code, which states any person who advertises, publishes, or sells any pills, powder, drugs or combination of drugs, designed expressly for the use of females for the purpose of procuring an abortion is guilty of a misdemeanor unless the drug or medicine was sold upon the written prescription of a practicing physician, and the dealer or druggist registered certain information pertaining to the purchaser, medicine, and physician in his or her records.

The bill would repeal Sections 14 and 15.

### **House Bill 4032**

Currently, under the Code of Criminal Procedure, administering an abortion is a Class G felony against a person with a statutory maximum sentence of four years' imprisonment. Administering an abortion resulting in the death of the female is a Class C felony against a person with a statutory maximum sentence of 15 years' imprisonment.

The bill would delete these sentencing guidelines.

MCL 750.14 & 750.15 (H.B. 4006) (repealed)  
777.16a (H.B. 4032)

## **BACKGROUND**

In 1973, the United States Supreme Court issued its decision in *Roe v. Wade*, in which the Court struck down a Texas law making abortion illegal except when necessary to save the mother's life.<sup>1</sup> Following this decision, the abortion ban under Section 14 of the Michigan Penal Code went dormant. In June 2022, the US Supreme Court issued its opinion in *Dobbs v. Jackson Women's Health Organization*, which overruled *Roe* on the grounds that the US Constitution makes no reference to abortion, and the right is not implicitly protected by any constitutional provision, including the Fourteenth Amendment.<sup>2</sup> Following the *Dobbs* decision, Michigan's abortion ban went back into effect; however, a lawsuit was filed seeking to block the enforcement of the law and that lawsuit resulted in a court of claims judge ruling that the abortion ban was unconstitutional.

During the 2022 election cycle, a group called Reproductive Freedom for All circulated petitions and collected enough signatures for a proposed constitutional amendment to be placed on the 2022 November general election ballot. The amendment establishes an individual right to reproductive freedom, including the right to make and carry out all decisions about pregnancy, such as prenatal care, childbirth, postpartum care, contraception, sterilization, abortion, miscarriage management, and infertility; allows the State to prohibit abortion after fetal viability unless needed to protect a patient's life or physical or mental health; prohibits State discrimination in enforcement of the right; prohibits the prosecution of an individual, or a person helping a pregnant individual, for exercising rights established by the amendment; and invalidates State laws that conflict with the proposed amendment.<sup>3</sup> Proposal 22-3 passed with 56.66% of electors in favor of the proposal.<sup>4</sup>

## **PREVIOUS LEGISLATION**

*(Please note: The information in this summary provides a cursory overview of previous legislation and its progress. It does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)*

House Bill 4006 combines the content from Senate Bill 39 and Senate Bill 93 of the 2023-2024 Legislative Session. House Bill 4032 is a reintroduction of Senate Bill 37 from the same session. Collectively, those Senate Bills were reported from the Senate Committee on Health Policy.

Legislative Analyst: Eleni Lionas

## **FISCAL IMPACT**

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

Fiscal Analyst: Joe Carrasco, Jr.

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<sup>1</sup> 410 US 113 (1973)

<sup>2</sup> 597 US \_\_\_\_.

<sup>3</sup> "November 2022 Ballot Proposal 22-3", Senate Fiscal Agency.

<sup>4</sup> "2022 Michigan Election Results", The Office of Secretary of State Jocelyn Benson. Available at: [https://mielections.us/election/results/2022GEN\\_CENR.html](https://mielections.us/election/results/2022GEN_CENR.html). Retrieved on 2-28-2023.

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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.