

**SUBSTITUTE FOR
SENATE BILL NO. 1152**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2203 (MCL 600.2203), as added by 2012 PA 362,
and by adding sections 1459, 2170, 2203a, and 2980.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 1459. (1) In construing or applying a law of this state**
2 **related to legally protected health activities, a court shall**
3 **exclusively consider and apply the law of this state and not the**
4 **law of any other state.**

5 **(2) As used in this section, "legally protected health**
6 **activity" means that term as defined in section 2170.**

7 **Sec. 2170. (1) Except as provided in subsection (2), evidence**
8 **related to the involvement of a person engaging in 1 or more**

1 legally protected health activities is inadmissible as evidence
2 against the person that the person has engaged in any wrongdoing,
3 whether civil, criminal, professional, or otherwise.

4 (2) This section does not apply to an action to which all of
5 the following apply:

6 (a) The action sounds in tort or contract.

7 (b) The action presents a cause of action that is recognized,
8 in an equivalent or similar manner, under the laws of this state.

9 (c) The action was brought by the individual who received the
10 reproductive health services or by the individual's legal
11 representative.

12 (3) As used in this section:

13 (a) "Legally protected health activity" means seeking,
14 providing, receiving, or referring for reproductive health
15 services; assisting in seeking, providing, or receiving
16 reproductive health services; providing material support for
17 traveling to receive reproductive health services; or other similar
18 conduct, that is not unlawful in this state, including under any
19 theory of vicarious, joint, several, or conspiracy liability, to
20 the extent the activity is not in violation of the state
21 constitution of 1963 or other law of this state, and if the
22 provider is physically present in this state.

23 (b) "Reproductive health services" means all services, care,
24 or products of a medical, surgical, psychiatric, therapeutic,
25 diagnostic, mental health, behavioral health, preventative,
26 rehabilitative, supportive, consultative, referral, prescribing, or
27 dispensing nature relating to the human reproductive system,
28 including, but not limited to, endocrine health care, provided in
29 accordance with the state constitution of 1963 and the laws of this

1 state, whether provided in person or by means of telehealth or
 2 telehealth services, which includes, but is not limited to, all
 3 services, care, and products relating to pregnancy, assisted
 4 reproduction, contraception, miscarriage management or the
 5 termination of a pregnancy, and self-managed terminations.

6 Sec. 2203. (1) To request issuance of a subpoena under this
 7 section, a party must submit a foreign subpoena to the clerk of the
 8 circuit court in the county in which discovery is sought to be
 9 conducted in this state. A request for the issuance of a subpoena
 10 under this chapter does not constitute an appearance in the courts
 11 of this state.

12 (2) ~~When~~ **Subject to section 2203a, when** a party submits a
 13 foreign subpoena to a clerk of the circuit court in this state, the
 14 clerk, in accordance with the court's procedures, shall promptly
 15 issue a subpoena for service ~~upon~~ **on** the person to which the
 16 foreign subpoena is directed.

17 (3) A subpoena under subsection (2) ~~shall~~ **must** do both of the
 18 following:

19 (a) Incorporate the terms used in the foreign subpoena.

20 (b) Contain or be accompanied by the names, addresses, and
 21 telephone numbers of all counsel of record in the proceeding to
 22 which the subpoena relates and of any party not represented by
 23 counsel.

24 **Sec. 2203a. (1) Except as provided in subsection (2), the**
 25 **clerk of the circuit court shall not issue a subpoena under this**
 26 **chapter if the foreign proceeding to which the subpoena relates is**
 27 **regarding a legally protected health activity.**

28 (2) This section does not apply if all of the following apply
 29 to the foreign proceeding:

1 (a) The proceeding sounds in tort or contract.

2 (b) The proceeding presents a cause of action that is
3 recognized, in an equivalent or similar manner, under the laws of
4 this state.

5 (c) The proceeding was brought by the individual who received
6 the reproductive health services or by the individual's legal
7 representative, if the individual gives express consent.

8 (3) As used in this section, "legally protected health
9 activity" and "reproductive health services" mean those terms as
10 defined in section 2170.

11 Sec. 2980. (1) A person may bring a civil action in the
12 circuit court for unlawful interference with protected rights
13 against another person if the other person commences an action in
14 any court in the United States in which the allegations against the
15 person, whether civil or criminal, involve accessing, providing,
16 facilitating, or attempting to access, provide, or facilitate any
17 of the following:

18 (a) Any lawfully provided medical care, including, but not
19 limited to, reproductive or endocrine health care.

20 (b) All medical, surgical, counseling, or referral services
21 related to the human reproductive system, including, but not
22 limited to, services relating to pregnancy, contraception, or the
23 termination of a pregnancy.

24 (2) If the person that brings an action under subsection (1)
25 proves that the person exercised or attempted to exercise, or
26 facilitated or attempted to facilitate the exercise of, a right
27 protected under the state constitution of 1963 or permitted by the
28 laws of this state to obtain or provide the medical care described
29 in subsection (1), and that the exercise, attempted exercise,

1 facilitation, or attempted facilitation resulted in litigation or
2 criminal charges brought against the person in any court in the
3 United States, the court shall award the person all of the
4 following:

5 (a) Compensatory damages.

6 (b) Costs and attorney fees, including expert witness fees.

7 (c) If the court determines that the action against the person
8 was commenced or continued for the purpose of harassing,
9 intimidating, punishing, or otherwise maliciously inhibiting the
10 exercise of rights protected in this state, including, but not
11 limited to, the right to medical care described in subsection (1),
12 punitive damages.

13 (3) An action under subsection (1) must be commenced not later
14 than 6 years after the date on which the right to file the action
15 arose.

16 (4) This section does not affect or preclude the right of a
17 person to recovery under any other law.