

Act No. 238
Public Acts of 1998
Approved by the Governor
July 2, 1998
Filed with the Secretary of State
July 3, 1998
EFFECTIVE DATE: January 1, 1999

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Van Regenmorter, Dingell, Hoffman, Shugars, Miller, Emmons, North, McManus, Bouchard, Gougeon, Bennett, Bullard, Steil, Stille, Schuette, Stallings, Hart, Schwarz and Geake

ENROLLED SENATE BILL No. 21

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding sections 90a, 90b, 90c, 90d, 90e, and 90f.

The People of the State of Michigan enact:

Sec. 90a. (1) If a person intentionally commits conduct proscribed under sections 81 to 89 against a pregnant individual, the person is guilty of a felony punishable by imprisonment for life or any term of years if all of the following apply:

(a) The person intended to cause a miscarriage or stillbirth by that individual or great bodily harm to the embryo or fetus, or acted in wanton or willful disregard of the likelihood that the natural tendency of the person's conduct is to cause a miscarriage or stillbirth or great bodily harm to the embryo or fetus.

(b) The person's conduct resulted in a miscarriage or stillbirth by the individual.

Sec. 90b. A person who intentionally commits conduct proscribed under sections 81 to 89 against a pregnant individual is guilty of a crime as follows:

(a) If the conduct results in a miscarriage or stillbirth by that individual, a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$7,500.00, or both.

(b) If the conduct results in great bodily harm to the embryo or fetus, a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

(c) If the conduct results in serious or aggravated physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(d) If the conduct results in physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

Sec. 90c. A person who commits a grossly negligent act against a pregnant individual is guilty of a crime as follows:

(a) If the act results in a miscarriage or stillbirth by that individual, a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$7,500.00, or both.

(b) If the act results in great bodily harm to the embryo or fetus, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500.00, or both.

(c) If the act results in serious or aggravated physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$500.00, or both.

(d) If the act results in physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

Sec. 90d. A person who engages in conduct proscribed under section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, that involves an accident with a pregnant individual is guilty of a felony punishable as follows:

(a) If the person's conduct causes a miscarriage or stillbirth by that individual, imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both.

(b) If the person's conduct causes great bodily harm or serious or aggravated injury to the embryo or fetus, imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both.

Sec. 90e. If a person operates a motor vehicle in a careless or reckless manner, but not willfully or wantonly, that is the proximate cause of an accident involving a pregnant individual and the accident results in a miscarriage or stillbirth by that individual, the person is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

Sec. 90f. (1) Sections 90a to 90e do not apply to any of the following:

(a) An act committed by the pregnant individual.

(b) A medical procedure performed by a physician or other licensed medical professional within the scope of his or her practice and with the pregnant individual's consent or the consent of an individual who may lawfully provide consent on her behalf or without consent as necessitated by a medical emergency.

(c) The lawful dispensation, administration, or prescription of medication.

(2) This section does not prohibit a prosecution under any other applicable law.

(3) As used in this section, "physician or other licensed medical professional" means a person licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

Enacting section 1. This amendatory act takes effect January 1, 1999.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Mary B. Ballew

Clerk of the House of Representatives.

Approved _____

Governor.