

INITIATION OF LEGISLATION

If the petition circulator does not comply with all of the requirements of the Michigan election law for petition circulators, any signature obtained by that petition circulator on that petition is invalid and will not be counted.

An initiative petition to enact the Fetal Heartbeat Protection Act, which would require testing to determine whether a fetal heartbeat is detectable before an abortion; prohibit a person from performing an abortion after a fetal heartbeat is detected, unless a medical emergency involving a life-threatening condition exists or a condition that poses a serious risk of substantial and irreversible impairment of a major bodily function; allow a woman who obtained an abortion in violation of the Act to sue for damages; and prescribe criminal penalties for an individual who knowingly performs an abortion in violation of the proposed initiated law.

FOR THE FULL TEXT OF THE PROPOSED LEGISLATION, SEE THE REVERSE SIDE OF THIS PETITION

We, the undersigned qualified and registered electors, residents in the county of _____, state of Michigan, respectively petition for initiation of legislation.

WARNING - a person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	CITY OR TOWNSHIP	ZIP CODE	DATE OF SIGNING		
						Month	Day	Year
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								

NOTE: The Board of State Canvassers approved this petition as to form on June 19, 2019, with the understanding that the highlighted text on the signature side and reverse side ("a fetal heartbeat") would be replaced with the phrase "cardiac activity".

SAMPLE PETITION - DO NOT CIRCULATE

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the city or township indicated preceding the signature, and the elector was qualified to sign the petition.

If the circulator is not a resident of Michigan, the circulator shall make a cross or check mark in the box provided, otherwise each signature on this petition sheet is invalid and the signatures will not be counted by a filing official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the Secretary of State or a designated agent of the Secretary of State has the same effect as if personally served on the circulator.

WARNING - a circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

Paid for with regulated funds by Michigan Heartbeat Coalition, P.O. Box 136, Belmont, MI 49306

CIRCULATOR - Do not sign or date certificate until after circulating petition.

_____/_____/_____
 (SIGNATURE OF CIRCULATOR) (DATE)

 (PRINTED NAME OF CIRCULATOR)

 (COMPLETE RESIDENCE ADDRESS (STREET AND NUMBER OR RURAL ROUTE) DO NOT ENTER A POST OFFICE BOX)

 CITY OR TOWNSHIP, STATE, ZIP CODE

 (COUNTY OF REGISTRATION, IF REGISTERED TO VOTE, OF A CIRCULATOR WHO IS NOT A RESIDENT OF MICHIGAN)

INITIATION OF LEGISLATION

An initiative petition to enact the Fetal Heartbeat Protection Act, which would require testing to determine whether a fetal heartbeat is detectable before an abortion; prohibit a person from performing an abortion after a fetal heartbeat is detected, unless a medical emergency involving a life-threatening condition exists or a condition that poses a serious risk of substantial and irreversible impairment of a major bodily function; allow a woman who obtained an abortion in violation of the Act to sue for damages; and prescribe criminal penalties for an individual who knowingly performs an abortion in violation of the proposed initiated law.

An initiation of legislation to require testing for a fetal heartbeat before the performance of an abortion; to place certain requirements and restrictions on the performance of an abortion if a fetal heartbeat is detected; to provide for the powers and duties of certain state and local governmental officers and entities; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. (1) This act shall be known and may be cited as the "fetal heartbeat protection act".
(2) The intent of this act is to protect unborn living human beings with beating hearts from being victims of abortion and for other purposes.

Sec. 2. As used in this act:

- (a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.
- (b) "Conception" means fertilization.
- (c) "Contraceptive" means a drug, device, or chemical that prevents conception.
- (d) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.
- (e) "Fetus" means human offspring developing during pregnancy from the moment of conception, including the embryonic stage of development.
- (f) "Gestational age" means the age of an unborn living human being as calculated from the first day of the last menstrual period of the pregnant woman carrying the unborn living human being.
- (g) "Gestational sac" means the structure that comprises the extraembryonic membranes that envelop the fetus and that is typically visible by ultrasound after the fourth week of pregnancy.
- (h) "Intrauterine pregnancy" means a pregnancy in which the fetus is attached to the placenta within the uterus of the pregnant woman.
- (i) "Medical emergency" means a condition that, in a physician's good-faith medical judgment and based on the facts known to the physician at the time, so endangers the life of the pregnant woman or poses a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman as to necessitate the immediate performance or inducement of an abortion.
- (j) "Physician" means that term as defined in sections 17001 and 17501 of the public health code, 1978 PA 368, MCL 333.17001 and 333.17501.
- (k) "Pregnancy" means the human female reproductive condition that begins with conception, when the woman is carrying the developing human offspring, and that is calculated from the first day of the last menstrual period of the woman.
- (l) "Standard medical practice" means the degree of skill, care, and diligence that an obstetrician of ordinary learning, judgment, and skill would employ in like circumstances, including employing the appropriate means of detecting a fetal heartbeat depending on the estimated gestational age of the unborn living human being and the condition of the woman and her pregnancy.
- (m) "Unborn living human being" means an individual of the species *Homo sapiens* in utero.

Sec. 3. (1) Subject to subsection (2), before performing an abortion on a pregnant woman, a person shall determine whether a fetal heartbeat is detectable in the unborn living human being the pregnant woman is carrying. The person shall record in the pregnant woman's medical record the estimated gestational age of the unborn living human being, the method used to test for a fetal heartbeat, the date and time of the test, and the result of the test.
(2) The person shall make the determination described in subsection (1) in accordance with the person's good-faith understanding of standard medical practice.

Sec. 4. (1) Except as otherwise provided in this section, a person shall not knowingly perform an abortion on a pregnant woman without first determining under section 3 whether the unborn living human being the pregnant woman is carrying has a detectable fetal heartbeat.
(2) It is not a violation of subsection (1) if any of the following apply:

- (a) The person performing the abortion is a physician who believes that a medical emergency exists that prevents compliance with subsection (1). A physician who performs an abortion under this subdivision shall note both of the following in the pregnant woman's medical record and shall maintain a copy of the notations in the physician's own records for at least 7 years after the notations are made:

- (i) The physician's belief that a medical emergency necessitating the abortion existed.
- (ii) The medical condition of the pregnant woman that prevented compliance with subsection (1).

- (b) The person performing the abortion tested for the presence of a fetal heartbeat under section 3 and the test did not reveal a fetal heartbeat.

(3) Except as otherwise provided in subsection (4), a person who violates this section is guilty of a felony and shall be punished by imprisonment for not less than 2 years or more than 4 years.

(4) A person who violates this section is guilty of a felony and shall be punished by imprisonment for not less than 6 years or more than 15 years if the violation causes the death of the pregnant woman.

(5) A pregnant woman on whom an abortion is performed in violation of this section is not guilty of any of the following:

- (a) Violating this section.
- (b) Attempting to violate this section.
- (c) Conspiring to commit a violation of this section.

Sec. 5. (1) Except in the case of a medical emergency that prevents compliance with this section, a person who detects a fetal heartbeat under section 3 in an unborn living human being that a pregnant woman is carrying shall not perform an abortion on the pregnant woman without first complying with all of the following not less than 24 hours before the person performs the abortion:

- (a) Inform the pregnant woman in writing that the unborn living human being the pregnant woman is carrying has a fetal heartbeat.
- (b) Inform the pregnant woman, to the best of the person's knowledge, of the statistical probability of bringing the unborn living human being possessing a detectable fetal heartbeat to term based on gestational age.
- (c) Obtain the signature of the pregnant woman on a form acknowledging that she has received information from the person that the unborn living human being she is carrying has a fetal heartbeat and that she is aware of the statistical probability of bringing the unborn living human being that she is carrying to term.

(2) The requirements described in subsection (1) are in addition to any other informed consent requirement that is required by law to perform an abortion.

(3) Except as otherwise provided in subsection (4), a person who violates this section is guilty of a felony punishable by imprisonment for not more than 2 years.

(4) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 6 years if the violation causes the death of the pregnant woman.

Sec. 6. (1) Except as otherwise provided in this section, a person shall not knowingly perform an abortion on a pregnant woman who is carrying an unborn living human being whose fetal heartbeat has been detected under section 3.

(2) It is not a violation of subsection (1) if any of the following apply:

- (a) The person performing the abortion is a physician who performs a medical procedure that, in the physician's reasonable medical judgment, is designed or intended to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. A physician who performs a medical procedure described in this subdivision shall declare in writing that the medical procedure is necessary, to the best of the physician's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. In the document, the physician shall specify the pregnant woman's medical condition that the medical procedure is asserted to address and the medical rationale for the physician's conclusion that the medical procedure is necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. The physician shall place the document in the pregnant woman's medical record and shall maintain a copy of the document in the physician's own records for at least 7 years after the date the document is created.

(3) Except as otherwise provided in subsection (4), a person who violates this section is guilty of a felony and shall be punished by imprisonment for not less than 2 years or more than 4 years.

(4) A person who violates this section is guilty of a felony and shall be punished by imprisonment for not less than 6 years or more than 15 years if the violation causes the death of the pregnant woman.

(5) A pregnant woman on whom an abortion is performed in violation of this section is not guilty of any of the following:

- (a) Violating this section.
- (b) Attempting to violate this section.
- (c) Conspiring to commit a violation of this section.

Sec. 7. (1) A person who performs an abortion on a pregnant woman in violation of section 4 or 6, fails to provide a pregnant woman with the information required under section 5, or fails to obtain the signature of a pregnant woman as required by section 5, is liable to the pregnant woman in a civil action for all of the following:

- (a) At the pregnant woman's election at any time before final judgment, damages in the amount of \$10,000.00 or the amount determined by the trier of fact.
- (b) Reasonable attorney fees.
- (c) Court costs.

(2) An action brought under this section is subject to the same defenses and requirements of proof as an action for wrongful death under section 2922 of the revised Judicature act of 1961, 1961 PA 236, MCL 600.2922, except for any requirement of a live birth.

Sec. 8. (1) This act only applies to intrauterine pregnancies.

(2) This act does not prohibit the sale, use, prescription, or administration of a drug, device, or chemical for contraceptive purposes.

(3) Nothing in this act shall be construed as authorizing any abortion that is illegal under any other provision of state law.

(4) Nothing in this act shall be construed to repeal or amend, explicitly or by implication, any provision of law prohibiting or regulating abortion, including, but not limited to, section 14, 15, 322, or 323 of the Michigan penal code, 1931 PA 328, MCL 750.14, 750.15, 750.322, and 750.323.

(5) This act does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law arising out of the same transaction as the violation of this act in addition to being charged with, convicted of, or sentenced for the violation of this act.

(6) This act only applies to abortions that intentionally, knowingly, or recklessly cause the death of an unborn living human being.

(7) If any court issues an order or judgment that restores, expands, or clarifies the authority of this state to prohibit or regulate abortion or an amendment to the United States Constitution is adopted that restores, expands, or clarifies the authority of this state to prohibit or regulate abortion, the attorney general may apply to the appropriate state or federal court for 1 or more of the following:

- (a) A declaration that a section in this act is constitutional.
- (b) A judgment or order lifting an injunction against the enforcement of a section of this act.

(8) If the attorney general fails to apply for the relief described in subsection (7) within 30 days after an event described in that subsection occurs, a county prosecutor may apply to the appropriate state or federal court for the relief described in that subsection.

Enacting section 1. This act takes effect 90 days after the date it is enacted into law.