

# SENATE BILL No. 705

September 17, 2003, Introduced by Senators McMANUS, CROPSEY, BIRKHOLZ, JELINEK, HARDIMAN, BROWN, VAN WOERKOM, STAMAS, CASSIS, HAMMERSTROM, KUIPERS, BISHOP, GARCIA, SANBORN, GOSCHKA, BARCIA, PATTERSON, ALLEN and OLSHOVE and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2922a (MCL 600.2922a), as amended by 2002 PA 164.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2922a. (1) A person who commits a wrongful or  
2 negligent act against a pregnant individual is liable for damages  
3 if the act results in a miscarriage or stillbirth by that  
4 individual, or physical injury to or the death of the embryo or  
5 fetus.

6       (2) One or more of the following persons may bring an action  
7 and recover damages under this section:

8       (a) The pregnant individual.

9       (b) Any individual who has a right under the law of this  
10 state to derivative damages for an injury to the pregnant

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1 individual.

2 (c) If the embryo or fetus dies, a parent, grandparent,  
3 brother, or sister or, if none of those individuals survive, an  
4 individual to whom the deceased embryo's or fetus's estate would  
5 have passed under the laws of intestate succession had the embryo  
6 or fetus been born alive.

7 (d) If the embryo or fetus is injured but survives, the  
8 embryo's or fetus's legal representative, parent, grandparent,  
9 brother, or sister.

10 (3) An abortion performed contrary to section 17015 or 17515  
11 of the public health code, 1978 PA 368, MCL 333.17015 and  
12 333.17515, or the parental rights restoration act, 1990 PA 211,  
13 MCL 722.901 to 722.908, is a wrongful or negligent act under this  
14 section.

15 (4) ~~(2)~~ This section does not apply to any of the  
16 following:

17 (a) An act committed by the pregnant individual.

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

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

26 (5) ~~(3)~~ This section does not prohibit a civil action under  
27 any other applicable law.

1           (6) ~~(4)~~ As used in this section: ~~—, "physician~~

2           (a) "Abortion" and "medical emergency" mean those terms as  
3 defined in section 17015 of the public health code, 1978 PA 368,  
4 MCL 333.17015.

5           (b) "Physician or other licensed health professional" means a  
6 person licensed under article 15 of the public health code, 1978  
7 PA 368, MCL 333.16101 to 333.18838.