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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 123
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 123's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Sens. Roegner and O'Brien

Local Impact Statement Procedure Required: No

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Highlights

- If provisions of the bill become effective, and there are subsequent violations, there could be costs for certain local and state government entities. Details of these potential costs are outlined below in the "**Detailed Analysis.**"

Detailed Analysis

Mechanism for enactment

The bill enacts several abortion-related provisions in the Revised Code. However, these provisions apply only upon the occurrence of one of the following conditions precedent:

- The U.S. Supreme Court issues an opinion that wholly or partially upholds a state's authority to prohibit abortion;
- An amendment to the U. S. Constitution is adopted to wholly or partially authorize a state to prohibit abortion.

Once either condition precedent occurs, the bill's provisions supersede all conflicting Revised Code provisions, and no state funds may be disbursed to support their violation. Additionally, the bill prohibits the enforcement of any contract executed after the new provisions become applicable, if the enforcement would require or support their violation.

The remainder of this fiscal analysis outlines the potential cost points if these new provisions go into effect at a later date as a result of one of the above conditions precedent being met.

Criminal provisions

If enacted, the bill will establish certain criminal penalties regarding abortions. The bill creates the three abortion-related offenses summarized in the table below. For each of those offenses, the table notes the degree of the offense, the amount of the fine, and the length of the potential prison term under the bill. Refer to the LSC bill analysis for the circumstances and additional details that determine each offense.

As a result of any violations, additional felony criminal cases may be generated for county criminal justice systems to process, potentially increasing the costs to investigate, prosecute, defend (if indigent), adjudicate, and sanction violators. Under current law, in the case of fourth degree felonies, there is a presumption generally in favor of a community control rather than the imposition of a prison term. To the extent that additional offenders are convicted of these offenses and sentenced to prison, the Department of Rehabilitation and Correction may experience an increase in marginal costs. Those marginal costs currently range between \$3,000 and \$4,000 per year. However, the court could impose court costs and fines to be paid by violators to help offset some of these costs. In the case of a felony, the state collects a \$60 court cost from the offender divided as follows: \$30 to the Indigent Defense Support Fund (Fund 5DY0) and \$30 to the Victims of Crime/Reparations Fund (Fund 4020). Such costs for a misdemeanor total \$29, of which Fund 5DY0 receives \$20 and Fund 4020 receives \$9.

Sentences and Fines for Bill's New Criminal Offenses			
Offense	Degree Level	Fines	Term of Incarceration
Promoting abortion	First degree misdemeanor	Up to \$1,000	Not more than 180-day jail term, nonresidential sanction (e.g., community service up to 500 hours)
Criminal abortion	Fourth degree felony*	Up to \$2,500	6, 12, 18, or 24 months prison term
Abortion manslaughter	First degree felony*	Up to \$10,000	Minimum of 4, 6, or 7 years and a maximum of 25 years

*The fines and terms of incarceration for these specific offenses are unique to the bill, notwithstanding existing sentencing guidelines in the revised code.

Wrongful death cause of action

If enacted, the bill would create a wrongful death cause of action for a woman on whom an abortion was performed in violation of the provisions from criminal abortion, promoting abortion, or abortion manslaughter. It is possible that additional civil cases may be generated for county municipal or common pleas courts. However, the courts could impose court costs to help offset some of these additional expenses.

State Medical Board

If enacted, the bill will require the State Medical Board to revoke a physician's license to practice medicine if the physician is guilty of any violations under the bill. The Board might realize

a minimal increase in costs for any investigations or disciplinary action taken as a result of the bill's provisions.