
Detailed Fiscal Analysis

Abortions prohibited solely due to Down syndrome

The bill prohibits a person from performing, inducing, or attempting to perform or induce an abortion, if the person knows the pregnant woman is seeking the abortion solely because of a test result indicating Down syndrome in an unborn child or a prenatal diagnosis of Down syndrome in an unborn child. Whoever violates this provision under the bill is guilty of a fourth degree felony. In addition, a physician who violates this provision is also liable in a civil action for compensatory and exemplary damages and reasonable attorney's fees to any person who sustains injury, death, or loss to person or property as a result of the performance or inducement or the attempted performance or inducement of the abortion. The bill provides that the court also may award any injunctive or other equitable relief that the court considers appropriate. As a result, local courts may experience an increase in costs for any criminal prosecution or civil action taken for violations. The total costs will depend on the number of violations, but it is assumed that the number would be small. Additionally, local court fines or costs may help to offset some of these costs.

The bill requires the State Medical Board to revoke a physician's license to practice medicine in this state if the physician performs or induces, or attempts to perform or induce an abortion prohibited by the bill. The State Medical Board could experience an increase in administrative and possible investigative costs related to the bill. However, it is assumed that the number of violators would be small. Thus, any increase in costs would likely be minimal.

Severability and intervention in legal actions

The bill specifies that, if any of the bill's abovementioned provisions is held invalid, or the application of the provision to any person or circumstance is held invalid, the invalidity of that provision does not affect certain other provisions or applications of the Ohio Revised Code that can be given effect without the invalid provision or application, and to this end the provisions of these certain sections of the Ohio Revised Code are severable. The bill provides that it is the General Assembly's intent that any invalidity or potential invalidity of a provision is not to impair the immediate and continuing enforceability of any other provisions of the Ohio Revised Code specified in the bill. In addition, it is the General Assembly's intent that the abovementioned provisions are not to have the effect of repealing or limiting any other laws of this state.

The General Assembly, by joint resolution, may appoint one or more of its members who sponsored or cosponsored the bill to intervene as a matter of right in any case in which the constitutionality of the above-mentioned provisions are challenged.

Reporting requirement

The bill also requires the attending physician to indicate in the abortion report that he or she does not have knowledge that the pregnant woman was seeking the abortion solely because of a prenatal diagnosis or test result indicating Down syndrome. Public hospitals may experience a minimal increase in administrative costs related to this requirement. The bill requires the Ohio Department of Health to adopt rules regarding compliance with the abortion report requirements. This may result in a minimal increase in administrative costs for the Department.