



# OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

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## Fiscal Note & Local Impact Statement

**Bill:** S.B. 164 of the 132nd G.A.

**Status:** As Reported by House Health

**Sponsor:** Sen. LaRose

**Local Impact Statement Procedure Required:** No

**Subject:** Down syndrome abortion prohibition

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### State & Local Fiscal Highlights

- The frequency with which a violation of the bill's prohibitions might occur is uncertain, but likely to be relatively small in number compared to the overall criminal and civil caseloads of any given court of common pleas. This suggests that the costs for any given county to prosecute, adjudicate, and sanction violations will be minimal annually, and may be offset some degree by the collection of fines, and court costs and fees. On occasion, a violator may be sentenced to a prison term, which creates a minimal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures.

### Detailed Fiscal Analysis

#### Down syndrome abortion prohibition

The bill generally prohibits a person from purposefully performing or attempting to perform or induce an abortion if the person knows the pregnant woman is seeking the abortion because of a test result indicating Down syndrome, or due to any other reason to believe the child has Down syndrome. A violation is a felony of the fourth degree.

The bill additionally: (1) provides criminal immunity for a pregnant woman on whom an abortion was performed in violation of the criminal prohibition, (2) provides that a physician who violates the criminal prohibition is liable in a civil action, and (3) requires the State Medical Board to revoke a physician's license to practice medicine for violation of the criminal prohibition.

According to data on birth defects from the Centers for Disease Control, there are about 6,000 diagnoses of Down syndrome each year in the U.S.<sup>1</sup> The current U.S. population is about 308.7 million, of which Ohio comprises 11.6 million, or 3.75%, of the

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<sup>1</sup> Parker SE, Mai CT, Canfield MA, Rickard R, Wang Y, Meyer RE, Anderson P, Mason CA, Collins JS, Kirby RS, Correa A; for the National Birth Defects Prevention Network. Updated national birth prevalence estimates for selected birth defects in the United States, 2004-2006. *Birth Defects Res A Clin Mol Teratol.* September 28, 2010.

total. If we assume the distribution of Down syndrome diagnoses would follow a similar distribution pattern across the states, then Ohio would have approximately 225 (3.75% of the 6,000 diagnoses) potential Down syndrome pregnancies each year to which the prohibition in the bill would apply.

Arguably, very few physicians, if any, would knowingly violate the bill's prohibition and essentially risk their careers by exposing themselves to the possibility of a criminal prosecution, civil action, and license revocation. The frequency with which that might occur is uncertain, but likely to be relatively small in number compared to the overall criminal and civil caseloads of any given court of common pleas. This suggests that the costs for any given county to prosecute, adjudicate, and sanction such disputes will be minimal annually, and may be offset to some degree by the collection of fines, and court costs and fees imposed by the court on a person found to have violated the bill's prohibition. On occasion, a person may be sentenced to a prison term, which creates a minimal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures. The State Medical Board typically conducts a full investigation in cases involving potential revocation of a physician's medical license. According to the Board, these investigations can be expensive, but they would absorb the cost within their existing budget appropriations.