



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 417 of the 131st G.A.

Date: January 27, 2016

Status: As Introduced

Sponsor: Reps. McColley and Koehler

Local Impact Statement Procedure Required: No

Contents: Requires the final disposition of fetal remains from abortions to be by cremation or interment

State Fiscal Highlights

- State government-owned hospitals may experience an increase in costs for cremation or interment. However, the number of abortions performed in these hospitals each year is few; thus, any costs should be minimal. These hospitals could also incur administrative costs to develop written procedures and create and maintain evidentiary documentation.
- The Ohio Department of Commerce might realize a gain in fee revenue if burial permits are needed.
- The Ohio Department of Health (ODH) may experience an increase in survey costs to ensure facilities that perform abortions are in compliance with the bill.
- ODH may experience minimal administrative costs to adopt rules.

Local Fiscal Highlights

- Local government-owned hospitals may experience an increase in costs for cremation or interment. However, the number of abortions performed in these hospitals each year is small; thus, any costs should be minimal. These hospitals could also incur administrative costs to develop written procedures and create and maintain evidentiary documentation.
- Local registrars of vital statistics, which include local health departments, could incur additional administrative costs and collect additional revenue if burial permits are needed.
- Local governments could realize an increase in court costs and fine revenue for any violations associated with the bill. However, the number of violations is anticipated to be few, if any.

Detailed Fiscal Analysis

The bill requires that the final disposition of fetal remains from an abortion be by cremation or interment. The bill grants a pregnant woman who has an abortion the right to determine whether the disposition of the fetal remains shall be by cremation or interment. To exercise this right, the woman must express the determination in writing, using a form prescribed by the Director of the Ohio Department of Health (ODH). A minor woman may exercise this right after first obtaining parental consent or after a court has issued an order authorizing the abortion without parental consent. The bill requires that a pregnant woman who is under 18 years of age, unmarried, and unemancipated must obtain parental consent to the final disposition determination she makes. The Director of Health is required to prescribe the notification form for final disposition determinations and also the parental consent form. ODH must adopt rules pertaining to the provisions of the bill. As a result, ODH may experience minimal administrative costs. Currently, ODH is responsible for conducting on-site inspections/surveys of ambulatory surgical centers for compliance with state and federal rules and regulations. If ODH needs to ensure compliance with the bill's requirements regarding fetal disposition, ODH could do so through the current survey process at minimal additional costs. However, ODH does not license or survey hospitals. According to ODH, 115 hospitals in Ohio provide obstetrics and gynecology units or maternity units. The cost to survey each of these hospitals is estimated to be approximately \$600 per hospital.

The bill prohibits an abortion facility from releasing fetal remains until it obtains a final disposition determination, and if applicable, parental consent. An abortion facility is prohibited from making arrangements for the cremation or interment of fetal remains unless the final disposition determination directs the cremation or interment or unless no final disposition determination is made and a reasonable time has elapsed after the abortion was performed or induced. Additionally, the abortion facility is required to maintain evidentiary documentation demonstrating the date and method of the disposition of all fetal remains from abortions performed or induced in the facility. The facility is also required to have written policies and procedures regarding cremation or interment of fetal remains. Government-owned hospitals¹ may experience a minimal increase in administrative costs to maintain this documentation and to develop written procedures.

The bill requires an abortion facility to pay the costs of the cremation or interment of fetal remains, unless the disposition determination indicates a method or process of cremation or interment that involves extraordinary expenses. If the pregnant woman wants a final disposition that involves some extraordinary expense, she is

¹ According to ODH's hospital registry, there are currently 15 government-owned hospitals.

required to pay for those expenses. Government-owned hospitals could experience an increase in costs to pay for cremation or interment of fetal remains. However, less than 0.4% of abortions in Ohio occurred in hospitals in 2014.² This percentage includes abortions performed in all hospitals in Ohio, both government-owned and nongovernment-owned, so the percentage of abortions performed in government-owned hospitals would be smaller. Thus, LSC assumes that any cremation and burial costs that would be incurred by government-owned hospitals should be minimal.

The bill prohibits any person from failing to comply with certain specified provisions. Whoever knowingly violates any of these is guilty of failure to dispose of fetal remains humanely, a misdemeanor of the first degree. There could be local costs, such as court costs for any possible violations. However, there might also be fine revenues collected.

Continuing law prohibits a person in charge of any premises in which interments or cremations are made from interring or cremating a body, unless it is accompanied by a burial permit.³ As a result of the bill, local registrars of vital statistics, which include local health departments, could incur additional administrative costs and collect additional revenue associated with the issuance of burial permits. A portion of any burial permit fee revenue would be deposited in the state treasury to the credit of the Ohio Department of Commerce. Government-owned hospitals could also incur additional costs to obtain such documents. However, any such costs would be negligible.

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² According to ODH's report entitled "Induced Abortions in Ohio," 84 of the total 21,186 abortions were performed in hospitals in 2014. In 2013, 89 of the total 23,216 abortions were performed in hospitals and in 2012, 112 of the total 25,473 abortions were performed in hospitals.

³ R.C. 3705.17, not in the bill.