



# Ohio Legislative Service Commission

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## Bill Analysis

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### **H.B. 408**

131st General Assembly  
(As Introduced)

**Reps.** Howse and Lepore-Hagan, Bishoff, Celebrezze, Fedor, G. Johnson, K. Smith, Slesnick, Sheehy

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### **BILL SUMMARY**

- Creates a civil cause of action for harassment or intimidation of a health care facility employee.
  - Allows a plaintiff in an action for harassment or intimidation of a health care facility employee to proceed under a pseudonym and creates a presumption that the plaintiff is entitled to an order protecting from disclosure certain personal information about the plaintiff.
  - Creates the criminal offense of impeding access to reproductive health care.
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### **CONTENT AND OPERATION**

The bill creates a civil cause of action to protect certain health care workers from intimidation or harassment and the criminal offense of impeding access to reproductive health care.

#### **Civil action**

##### **Elements of cause of action**

The bill creates a civil cause of action for harassment or intimidation of an employee of a "health care facility" (a hospital, clinic, ambulatory surgical treatment center, other center, medical school, office of a physician, infirmary, dispensary, medical training institution, or other institution or location in or at which medical care, treatment, or diagnosis is provided to a person).

"Harassment" means a knowing and willful course of conduct that is directed at one or more employees of a health care facility and that meets the following criteria:

- The conduct would cause a reasonable person to be seriously alarmed, annoyed, or harassed;
- The conduct does in fact seriously alarm, annoy, or harass the employee or employees;
- The conduct serves no legitimate purpose.

"Intimidation" means a serious act or course of conduct directed at one or more employees of a health care facility that causes fear or apprehension in the employee or employees and serves no legitimate purpose.<sup>1</sup>

### **Remedies**

A plaintiff in a civil action brought under the bill may seek the following types of relief:<sup>2</sup>

- Damages for injury, death, or loss to persons or property, including mental and physical pain and suffering, that result from the harassment or intimidation or, in lieu of damages, \$5,000;
- An injunction;
- A declaratory action regarding threatened future actions.

In addition, the court must award reasonable attorney's fees and costs to the plaintiff if the plaintiff prevails in the action.<sup>3</sup>

### **Protection of plaintiff**

#### **Use of pseudonym**

The bill authorizes a plaintiff to proceed under a pseudonym. A plaintiff who wants to proceed pseudonymously must provide the court with an affidavit asserting that harm could arise to the plaintiff or the plaintiff's family or home if the plaintiff's identity is not concealed. The plaintiff is entitled to a presumption that identification of

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<sup>1</sup> R.C. 2307.48(A) and 2919.16(C) (incorporated by reference).

<sup>2</sup> R.C. 2307.48(B) and (C).

<sup>3</sup> R.C. 2307.48(D).

the plaintiff poses a risk of retaliatory physical or mental harm to the plaintiff and to innocent nonparties.<sup>4</sup>

If a plaintiff proceeds under a pseudonym, the only ones entitled to know the true identifying information about the plaintiff are the judge, the parties and their attorneys, and anyone specifically authorized to know by a written order of the court. The court must order that any person entitled to know the true identifying information of the plaintiff may not divulge that information to anyone without a written order of the court. The court must hold in contempt a person who violates the order.<sup>5</sup>

### **Protection order**

The bill creates a presumption that the plaintiff is entitled to a protective order from the court prohibiting discovery regarding the following facts and any other associated facts that the plaintiff alleges will endanger the plaintiff or the plaintiff's family:<sup>6</sup>

- The plaintiff's residential address, phone number, and email address;
- Any information about the plaintiff's children, including their names, ages, where they attend school, their phone numbers, and email addresses.

If a defendant believes that protected information is relevant to the defense's claims, the defendant may move for discovery of that information under court seal. The court may allow the information to be discovered only if the information is relevant to the defense's claims, and only under seal with all irrelevant information redacted by the plaintiff before it is provided to the court.<sup>7</sup>

### **Criminal action**

The bill creates the offense of impeding access to reproductive health care. The bill defines "reproductive health care facility" to mean a health care facility (see "**Elements of cause of action,**" under "**Civil Penalties,**" above) at which licensed,

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<sup>4</sup> R.C. 2307.481(A).

<sup>5</sup> R.C. 2307.481(B).

<sup>6</sup> R.C. 2307.482(A).

<sup>7</sup> R.C. 2307.482(B).



certified, or otherwise legally authorized persons provide health care services or health care counseling relating to the human reproductive system.<sup>8</sup>

The bill prohibits a person from knowingly doing any of the following:<sup>9</sup>

- Physically obstructing or blocking another person from entering into or exiting from the premises of a reproductive health care facility by physically striking, shoving, restraining, grabbing, or otherwise subjecting the person to unwanted physical contact, or attempting or threatening to do the same;
- Obstructing or blocking the premises of a reproductive health care facility, so as to impede access to or from the facility, or attempting to do the same;
- Following and harassing another person within 15 feet of the premises of a reproductive health care facility;
- Engaging in a course of conduct or repeatedly committing acts within 15 feet of the premises of a reproductive health care facility when that behavior places another person in reasonable fear of physical harm, or attempting to do the same;
- Physically damaging a reproductive health care facility so as to interfere with its operation, or attempting to do the same.

Impeding access to reproductive health care is a first degree misdemeanor on a first offense and a fourth degree felony on each subsequent offense.<sup>10</sup>

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## HISTORY

ACTION	DATE
Introduced	12-07-15

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<sup>8</sup> R.C. 2919.20(A).

<sup>9</sup> R.C. 2919.20(B).

<sup>10</sup> R.C. 2919.20(C).

