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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

Synopsis of House Committee Amendments

(This synopsis does not address amendments that may have been adopted on the House Floor.)

Sub. S.B. 23 of the 133rd General Assembly

House Health

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Bill name change

Provides in the title that the bill enacts the Human Rights Protection and Heartbeat Act.

Provides that most of the R.C. sections amended and enacted in the bill are to be known as the “Human Rights and Heartbeat Protection Act.”

Findings by the General Assembly

Declares that the General Assembly finds the following:

- That the state of Ohio has a “valid” (as opposed to “legitimate” as provided in the As Passed by the Senate version of the bill) interest in protecting the health of the woman.
- That the state of Ohio's interests in the health of the woman and the life of an unborn human individual who may be born are always present (and not only “from the outset of the pregnancy” as provided in the As Passed by the Senate version of the bill).
- In order to make an informed choice about whether to continue her pregnancy, the pregnant woman has a “valid” (as opposed to “legitimate” as provided in the As Passed by the Senate version of the bill) interest in knowing the likelihood of the fetus surviving to full-term birth, based upon the presence of cardiac activity.

Adds all of the following to the list of findings by the General Assembly:

- At fertilization, a human being emerges as a whole, genetically distinct, living human organism and needs only the proper environment to fully develop into a human.
- Cardiac activity shows that tissues have come together to form organs and the developing central nervous system signals the heart to autonomically beat.
- When a heartbeat is visualized at seven weeks or less, 91.5% will survive the first trimester and 95% of those will deliver live-born infants.
- After the detection of a fetal heartbeat there is a 95% to 98% certainty that the new life will develop full term.

- A human being at an embryonic age and a human being at an adult age are naturally the same, with the only biological differences being due to the differences in maturity.

Consultation with experts

Requires ODH to consult with *independent health care experts* when producing materials for pregnant women on its website regarding the probable anatomical and physiological characteristics of a zygote, embryo, or fetus at various gestational increments (as opposed to *independent experts*, such as the Ohio State Medical Association and the Ohio section of the American College of Obstetricians and Gynecologists, as provided in the As Passed by the Senate version of the bill).

Judicial actions

Removes provisions permitting the Ohio Attorney General to take certain legal actions provided in the bill if the U.S. Supreme Court overrules *Roe v. Wade* and *Planned Parenthood v. Casey*, but keeps provisions allowing the Attorney General to take such actions if either of the following restores, expands, or clarifies the authority of states to prohibit or regulate abortion entirely or in part:

- The issuance of any court order or judgment;
- An amendment to the U.S. Constitution.

Allows only a county prosecutor, *with standing*, to take the actions under the bill if the Attorney General fails to do so.

Rulemaking authority regarding fetal heartbeat examinations

Requires the Director of Health to adopt rules specifying the appropriate methods of performing an examination for the purpose of determining the presence of a fetal heartbeat of an unborn human individual, rather than granting the Director the option to do so (as provided in existing law retained in the As Passed by the Senate version of the bill).

Requires the Director of Health to adopt the fetal heartbeat examination rules not later than 120 days of the effective date of S.B. 23 of the 133rd General Assembly.

Repeals the requirement of existing law that the rules “shall only require that an examination [for a fetal heartbeat] shall be performed externally.”

Removes the provision in the As Passed by the Senate version of the bill stating that nothing in the requirement to adopt fetal heartbeat examination rules “shall be construed as requiring a transvaginal ultrasound.”

Adds that the “standard medical practice” that a person uses to perform an examination to determine the presence of a fetal heartbeat of an unborn human individual must be in accordance with rules adopted under the bill.

Documentation of reason for abortion

Requires that if *a* (as opposed to “the” as provided in the As Passed by the Senate version of the bill) purported reason for the abortion is to preserve the health of the pregnant

woman, the person performing or inducing the abortion must specify as much in a written document.

Unconstitutionality defense in a wrongful death action

Specifies that a determination of unconstitutionality is a defense to a wrongful death action by a woman for the death of her unborn child only if it was a determination made *by a court of record*.

Intent of the General Assembly in creating Adoption Committee

States that the Joint Legislative Committee on Adoption Promotion and Support is created to ensure that citizens are informed of available options in this state (as opposed to the General Assembly intent that “women whose pregnancies are protected” by the bill be informed of available options for adoption, as provided in the As Passed by the Senate version of the bill).

Forfeiture assessed by the State Medical Board

Provides for forfeiture actions against violators of the bill as follows:

- Allows the State Medical Board, under the Administrative Procedure Act, adjudication requirements to assess against a person a forfeiture of not more than \$20,000 for each separate violation or failure to comply with the bill's provisions.
- Provides that an action to recover a forfeiture must be prosecuted in the name of the state, brought in the Franklin County Court of Common Pleas, and must be commenced and prosecuted by the Attorney General when directed by the State Medical Board.
- Requires that money collected by the State Medical Board or recovered in a court action must be paid to the State Treasurer for deposit into the Foster Care and Adoption Initiatives Fund created by the bill.

Foster Care and Adoption Initiatives Fund

Creates the Foster Care and Adoption Initiatives Fund custodial fund (not part of the state treasury), the purpose of which is to provide funding for foster care and adoption services and initiatives as determined by the Department of Job and Family Services. Provides that 50% of the money must be used for foster care services and initiatives and 50% for adoption services and initiatives.