



# Ohio Legislative Service Commission

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## Bill Analysis

Brian D. Malachowsky

### H.B. 294

131st General Assembly  
(As Introduced)

**Reps.** Patmon and Conditt, Brenner, Hood, Terhar, Roegner, Butler, Vitale, Perales, Sprague, Blessing, Becker, Antani, Retherford, Brinkman, Hagan, Koehler, Hayes, Schaffer, Maag, Hambley, Thompson, McClain, Hall, Hill

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### BILL SUMMARY

- Requires the Ohio Department of Health to ensure that the funding and materials that are received or used in certain programs are not used to do any of the following:
  - Perform elective abortions;
  - Promote elective abortions;
  - Contract with an entity that performs or promotes elective abortions;
  - Become or continue to be an affiliate of any entity that performs or promotes elective abortions.
- Applies the limitations to the following programs:
  - The Violence Against Women Act;
  - The Breast and Cervical Cancer Mortality Prevention Act;
  - The Infertility prevention project;
  - The Minority HIV/AIDS initiative;
  - Infant Mortality Reduction or Infant Vitality Initiatives.

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## CONTENT AND OPERATION

### Abortion limitations

The bill requires the Ohio Department of Health (ODH) to ensure that funding and materials that are received or used in certain programs or initiatives are not used to do any of the following:

- Perform elective abortions;
- Promote elective abortions;
- Contract with an entity that performs or promotes elective abortions;
- Become or continue to be an affiliate of any entity that performs or promotes elective abortions.<sup>1</sup>

For purposes of the bill "affiliate" means any entity that has with another entity a legal relationship created or governed by at least one written instrument that demonstrates (1) common ownership, management, or control, (2) a franchise agreement, or (3) the granting or extension of a license or other agreement that authorizes an entity to use the other entity's brand name, trademark, service mark, or other registered identification mark.<sup>2</sup>

The bill does not define "elective abortion." Undefined terms must be read in context and generally given their plain meaning. Words and phrases that have acquired a technical or particular meaning must be construed accordingly.<sup>3</sup> In medical terms, "elective" means "beneficial to the patient but not essential for survival."<sup>4</sup> "Elective abortion" has also been defined as an "induced abortion done at the request of the mother for other than therapeutic reasons."<sup>5</sup>

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<sup>1</sup> R.C. 3701.034.

<sup>2</sup> R.C. 3701.034(A)(1).

<sup>3</sup> R.C. 1.42.

<sup>4</sup> <http://www.merriam-webster.com/medlineplus/elective> (last visited October 2, 2015).

<sup>5</sup> <http://medical-dictionary.thefreedictionary.com/elective+abortion> (last visited October 2, 2015).



## Application of abortion limitations

### Federal programs

The bill's limitations apply to the following federal programs:

- The Violence Against Women Act, for grants for the purpose of education and prevention of violence against women;<sup>6</sup>
- The Breast and Cervical Cancer Mortality Prevention Act, for a program to provide breast and cervical cancer screening and diagnostic testing and all state and federal funds that are used to operate such a program;<sup>7</sup>
- The infertility prevention project, for materials received and funds used for treatment associated with the project;<sup>8</sup>
- The minority HIV/AIDS initiative, for grants and all other federal and state funds that are part of the grants under that initiative;<sup>9</sup>

### State infant mortality/vitality initiatives

The bill also requires ODH to ensure that all state funds it receives, including funding for infant mortality reduction or infant vitality initiatives, are subject to the bill's limitations.<sup>10</sup>

### Background

Under continuing Ohio law, unless required by the United States Constitution or by federal statute, regulation, or federal court decisions, state and local funds cannot be used for an abortion, except in the case of rape or incest reported to law enforcement or to preserve the woman's life.<sup>11</sup> Additionally, ODH and the Ohio Department of Job and Family Services funds for family planning services are subject to a prioritization schedule. Nonpublic entities that provide family planning services, but do *not* provide

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<sup>6</sup> R.C. 3701.034(A)(2) and (B).

<sup>7</sup> R.C. 3701.034(A)(3) and (C).

<sup>8</sup> R.C. 3701.034(A)(4) and (D).

<sup>9</sup> R.C. 3701.034(A)(5) and (E).

<sup>10</sup> R.C. 3701.034(F).

<sup>11</sup> R.C. 5101.56.



comprehensive primary and preventative care services, are at the lowest prioritization level, and may not receive funding if the appropriation has been exhausted.<sup>12</sup>

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## HISTORY

ACTION	DATE
Introduced	07-30-15

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<sup>12</sup> R.C. 3701.027, 3701.033, 5101.101, and 5101.461.

