



# Ohio Legislative Service Commission

## Final Analysis

Amy L. Archer

### Sub. H.B. 294

131st General Assembly  
(As Passed by the General Assembly)

**Reps.** Patmon and Conditt, Brenner, Hood, Terhar, Roegner, Butler, Perales, Sprague, Blessing, Becker, Antani, Retherford, Brinkman, Hagan, Koehler, Hayes, Schaffer, Maag, Hambley, Thompson, McClain, Hall, Hill, Amstutz, Boose, Buchy, Burkley, Derickson, Dovilla, Ginter, Green, Grossman, Hackett, Huffman, T. Johnson, LaTourette, McColley, Pelanda, Romanchuk, R. Smith, Young, Zeltwanger, Rosenberger

**Sens.** Obhof, Jordan, Coley, Widener, Bacon, Balderson, Beagle, Burke, Eklund, Faber, Hite, Hottinger, Jones, LaRose, Lehner, Oelslager, Seitz, Uecker

**Effective date:** May 23, 2016; appropriations allocation effective February 21, 2016

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## ACT 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 nontherapeutic abortions;
  - Promote nontherapeutic abortions;
  - Contract with an entity that performs or promotes nontherapeutic abortions;
  - Become or continue to be an affiliate of any entity that performs or promotes nontherapeutic 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;

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\* This version updates the effective date.

- The Minority HIV/AIDS initiative;
  - Infant Mortality Reduction or Infant Vitality Initiatives;
  - The Personal Responsibility Education Program.
- Requires the Medicaid Director to authorize local health departments and women, infants, and children (WIC) clinics to serve as qualified providers for purposes of presumptive eligibility for pregnant women and children.
  - Requires the Medicaid Director to establish, by November 19, 2016, uniform criteria and processes governing all qualified providers for presumptive eligibility.
  - Allocates \$250,000 of an FY 2016 appropriation for the Ohio Association of Community Health Centers for safe sleep, birth spacing, and smoking cessation initiatives.

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## **CONTENT AND OPERATION**

### **Abortion limitations**

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

Referring to a continuing law definition, the act defines a "nontherapeutic abortion," as an abortion that is performed or induced when the life of the mother would not be endangered if the fetus were carried to term or when the pregnancy of the mother was not the result of rape or incest reported to a law enforcement agency.<sup>2</sup> With

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

<sup>2</sup> R.C. 3701.034(A)(7); R.C. 9.04, not in the act.



respect to those nontherapeutic abortions, the act defines "promote" to mean advocating for, assisting with, encouraging, or popularizing through advertising or publicity.<sup>3</sup>

For purposes of the act, "affiliate" means an 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>4</sup>

## **Application of abortion limitations**

### **Federal programs**

The act'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;
- 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;
- The infertility prevention project, for materials received and funds used for treatment associated with the project;
- The minority HIV/AIDS initiative, for grants and all other federal and state funds that are part of the grants under that initiative;
- The Personal Responsibility Education Program, for all funds and grants to educate adolescents on abstinence and contraception for the prevention of pregnancy and sexually transmitted infections.<sup>5</sup>

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<sup>3</sup> R.C. 3701.034(A)(8).

<sup>4</sup> R.C. 3701.034(A)(1).

<sup>5</sup> R.C. 3701.034(A)(2) to (6), (B) to (E), and (G).



## **State infant mortality/vitality initiatives**

The act 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 act's limitations.<sup>6</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>7</sup> Additionally, ODH and 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 comprehensive primary and preventative care services, are at the lowest prioritization level, and may not receive funding if the appropriation has been exhausted.<sup>8</sup>

## **Qualified Medicaid providers for presumptive eligibility**

The act requires the Medicaid Director to authorize local health departments and women, infants, and children (WIC) clinics to serve as qualified providers for purposes of presumptive eligibility for pregnant women and children. The Director must establish, by November 19, 2016, uniform criteria and processes governing all qualified providers for purposes of presumptive eligibility in rules adopted under continuing law.<sup>9</sup>

## **Funding for safe sleep, birth spacing, and smoking cessation**

The act allocates \$250,000 of an FY 2016 ODH appropriation for the Ohio Association of Community Health Centers to assist federally qualified health centers and federally qualified health center look-alikes with best practices in safe sleep, birth spacing, and smoking cessation initiatives that are focused on process and system improvements. The Association must collect learning from the participating centers and share learning with all centers through trainings or other appropriate means.<sup>10</sup>

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<sup>6</sup> R.C. 3701.034(F).

<sup>7</sup> R.C. 5101.56, not in the act.

<sup>8</sup> R.C. 3701.027, 3701.033, 5101.101, and 5101.461, not in the act.

<sup>9</sup> Section 2.

<sup>10</sup> Sections 3 and 4.



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## HISTORY

| ACTION                                       | DATE     |
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| Introduced                                   | 07-30-15 |
| Reported, H. Community & Family Advancement  | 11-17-15 |
| Passed House (62-33)                         | 11-17-15 |
| Reported, S. Gov't Oversight & Reform        | 01-27-16 |
| Passed Senate (22-8)                         | 01-27-16 |
| House concurred in Senate amendments (62-32) | 02-10-16 |

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