

**As Passed by the House**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. H. B. No. 239**

**Representatives Schneider, Reidelbach, Brinkman, Faber, Seitz, Kearns, Flowers, Hood, Aslanides, Blessing, Bulp, Buehrer, Coley, Collier, Combs, Daniels, DeGeeter, Distel, Dolan, Domenick, Driehaus, Fessler, Garrison, Gibbs, Gilb, Hagan, Hoops, Kilbane, Latta, Law, Martin, McGregor, J., Oelslager, Patton, T., Raga, Raussen, Reinhard, Schaffer, Seaver, Setzer, Smith, G., Taylor, Trakas, Uecker, Wagner, Wagoner, Walcher, White, J., Widener, Widowfield, Willamowski, Wolpert, Calvert, Cassell, Core, White, D., Schlichter**

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**A B I L L**

To amend section 5101.55 and to enact sections 9.041, 1  
3701.511, 3702.33, and 5101.56 of the Revised Code 2  
to declare that it is the public policy of the 3  
state to prefer childbirth over abortion, to 4  
permit any person to petition a court of common 5  
pleas for an order enjoining the operation of a 6  
health care facility without a license, to modify 7  
the laws governing public funding of abortions, 8  
and to prohibit the use of funds appropriated for 9  
genetic services to be used for abortion-related 10  
purposes. 11

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 5101.55 be amended and sections 12  
9.041, 3701.511, 3702.33, and 5101.56 of the Revised Code be 13  
enacted to read as follows: 14

Sec. 9.041. It is the public policy of the state of Ohio to 15  
prefer childbirth over abortion to the extent that is 16  
constitutionally permissible. 17

Sec. 3701.511. None of the funds appropriated to administer 18  
the programs authorized by sections 3701.501 and 3701.502 of the 19  
Revised Code shall be used to counsel or refer for abortion, 20  
except in the case of a medical emergency. 21

Sec. 3702.33. Any person who believes a health care facility 22  
is operating without a license in violation of division (E) of 23  
section 3702.30 of the Revised Code may petition the court of 24  
common pleas of the county in which the facility is located for an 25  
order enjoining the facility from continuing to operate without a 26  
license. The court shall grant the order on a showing that the 27  
facility named in the petition is violating division (E) of 28  
section 3702.30 of the Revised Code. 29

Sec. 5101.55. (A) No person shall be ordered by a public 30  
agency or any person to submit to an abortion. 31

(B) The refusal of any person to submit to an abortion or to 32  
give consent therefor shall not result in the loss of public 33  
assistance benefits or any other rights or privileges. 34

(C) State or local public funds shall not be used to 35  
subsidize an abortion, ~~unless the abortion is necessary to~~ 36  
~~preserve the life or physical or mental health of the pregnant~~ 37  
~~woman and this fact is certified in writing by the performing~~ 38  
~~physician to the state or local agency providing the funds~~ except 39  
as provided in section 5101.56 of the Revised Code. 40

Sec. 5101.56. (A) As used in this section, "physician" means 41  
a person who holds a valid certificate to practice medicine and 42

surgery or osteopathic medicine and surgery issued under Chapter  
4731. of the Revised Code.

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(B) Unless required by the United States Constitution or by  
federal statute, regulation, or decisions of federal courts, state  
or local funds may not be used for payment or reimbursement for  
abortion services unless the certification required by division  
(C) of this section is made and one of the following circumstances  
exists:

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(1) The woman suffers from a physical disorder, physical  
injury, or physical illness, including a life-endangering physical  
condition caused by or arising from the pregnancy, that would, as  
certified by a physician, place the woman in danger of death  
unless an abortion is performed.

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(2) The pregnancy was the result of an act of rape and the  
patient, the patient's legal guardian, or the person who made the  
report to the law enforcement agency, certifies in writing that  
prior to the performance of the abortion a report was filed with a  
law enforcement agency having the requisite jurisdiction, unless  
the patient was physically unable to comply with the reporting  
requirement and that fact is certified by the physician performing  
the abortion.

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(3) The pregnancy was the result of an act of incest and the  
patient, the patient's legal guardian, or the person who made the  
report certifies in writing that prior to the performance of the  
abortion a report was filed with either a law enforcement agency  
having the requisite jurisdiction, or, in the case of a minor,  
with a county children services agency established under Chapter  
5153. of the Revised Code, unless the patient was physically  
unable to comply with the reporting requirement and that fact is  
certified by the physician performing the abortion.

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(C)(1) Before payment of or reimbursement for an abortion can

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be made with state or local funds, the physician performing the  
abortion shall certify that one of the three circumstances in  
division (B) of this section has occurred. The certification shall  
be made on a form created by the Ohio department of job and family  
services known as the "Abortion Certification Form." The  
physician's signature shall be in the physician's own handwriting.  
The certification shall list the name and address of the patient.  
The certification form shall be attached to the billing invoice.

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(2) The certification shall be as follows:

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I certify that, on the basis of my professional judgment,  
this service was necessary because:

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(a) The woman suffers from a physical disorder, physical  
injury, or physical illness, including a life-endangering physical  
condition caused by or arising from the pregnancy itself, that  
would place the woman in danger of death unless an abortion was  
performed;

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(b) The pregnancy was the result of an act of rape and the  
patient, the patient's legal guardian, or the person who made the  
report to the law enforcement agency certified in writing that  
prior to the performance of the abortion a report was filed with a  
law enforcement agency having the requisite jurisdiction;

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(c) The pregnancy was the result of an act of incest and the  
patient, the patient's legal guardian, or the person who made the  
report certified in writing that prior to the performance of the  
abortion a report was filed with either a law enforcement agency  
having the requisite jurisdiction or, in the case of a minor, with  
a county children services agency established under Chapter 5153.  
of the Revised Code;

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(d) The pregnancy was the result of an act of rape and in my  
professional opinion the recipient was physically unable to comply  
with the reporting requirement; or

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(e) The pregnancy was a result of an act of incest and in my professional opinion the recipient was physically unable to comply with the reporting requirement. 105  
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(D) Payment or reimbursement for abortion services shall not be made with state or local funds for associated services such as anesthesia, laboratory tests, or hospital services if the abortion service itself cannot be paid or reimbursed with state or local funds. All abortion services for which a physician is seeking reimbursement or payment for the purposes of this division shall be submitted on a hard-copy billing invoice. 108  
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(E) Documentation that supports the certification made by a physician shall be maintained by the physician in the recipient's medical record. When the physician certifies that circumstances described in division (C)(2)(b) or (c) of this section are the case, a copy of the statement signed by the patient, the patient's legal guardian, or the person who made the report shall be maintained in the patient's medical record. 115  
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(F) Nothing in this section denies reimbursement for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures for the termination of an ectopic pregnancy. This section does not apply to treatments for incomplete, missed, or septic abortions. 122  
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(G) If enforcement of this section will adversely affect eligibility of the state or a political subdivision of the state for participation in a federal program, this section shall be enforced to the extent permissible without preventing participation in that federal program. 127  
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**Section 2.** That existing section 5101.55 of the Revised Code is hereby repealed. 132  
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