

As Introduced

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H. B. No. 351

Representative Becker

Cosponsors: Representatives Hood, Adams, J., Young, Buchy

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A B I L L

To amend sections 9.04, 1739.05, and 5101.56 and to
enact sections 1751.68 and 3923.591 of the Revised
Code to prohibit insurers from offering coverage
for abortion services.

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

Section 1. That sections 9.04, 1739.05, and 5101.56 be
amended and sections 1751.68 and 3923.591 be enacted to read as
follows:

Sec. 9.04. (A) As used in this section:

(1) "Nontherapeutic abortion" means 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~~ patient has not been diagnosed with an
ectopic pregnancy.

(2) "Policy, contract, or plan" means a policy, contract, or
plan of one or more insurance companies, medical care
corporations, health care corporations, health maintenance
organizations, preferred provider organizations, or other entities
that provides health, medical, hospital, or surgical coverage,

benefits, or services to elected or appointed officers or 20
employees of the state or any political subdivision thereof. 21
"Policy, contract, or plan" includes a plan that is associated 22
with a self-insurance program and a policy, contract, or plan that 23
implements a collective bargaining agreement. 24

(3) "Political subdivision" means any body corporate and 25
politic that is responsible for governmental activities in a 26
geographic area smaller than the state, except that "political 27
subdivision" does not include either of the following: 28

(a) A municipal corporation; 29

(b) A county that has adopted a charter under Section 3 of 30
Article X, Ohio Constitution, to the extent that it is exercising 31
the powers of local self-government as provided in that charter 32
and is subject to Section 3 of Article XVIII, Ohio Constitution. 33

(4) "State" means the state of Ohio, including the general 34
assembly, the supreme court, the offices of all elected state 35
officers, and all departments, boards, offices, commissions, 36
agencies, colleges and universities, institutions, and other 37
instrumentalities of the state of Ohio. "State" does not include 38
political subdivisions. 39

(B) Subject to division (C) of this section, but 40
notwithstanding other provisions of the Revised Code that conflict 41
with the prohibition specified in this division, funds of the 42
state or any political subdivision thereof shall not be expended 43
directly or indirectly to pay the costs, premiums, or charges 44
associated with a policy, contract, or plan if the policy, 45
contract, or plan provides coverage, benefits, or services related 46
to a nontherapeutic abortion. 47

~~(C) Division (B) of this section does not preclude the state 48
or any political subdivision thereof from expending funds to pay 49
the costs, premiums, or charges associated with a policy, 50~~

~~contract, or plan that includes a rider or other provision offered~~ 51
~~on an individual basis under which an elected or appointed~~ 52
~~official or employee who accepts the offer of the rider or~~ 53
~~provision may obtain coverage of a nontherapeutic abortion through~~ 54
~~the policy, contract, or plan if the individual pays for all of~~ 55
~~the costs, premiums, or charges associated with the rider or~~ 56
~~provision, including all administrative expenses related to the~~ 57
~~rider or provision and any claim made for a nontherapeutic~~ 58
~~abortion.~~ 59

~~(D)~~ In addition to the laws specified in division (A) of 60
section 4117.10 of the Revised Code that prevail over conflicting 61
provisions of agreements between employee organizations and public 62
employers, ~~divisions~~ division (B) ~~and (C)~~ of this section shall 63
prevail over conflicting provisions of that nature. 64

Sec. 1739.05. (A) A multiple employer welfare arrangement 65
that is created pursuant to sections 1739.01 to 1739.22 of the 66
Revised Code and that operates a group self-insurance program may 67
be established only if any of the following applies: 68

(1) The arrangement has and maintains a minimum enrollment of 69
three hundred employees of two or more employers. 70

(2) The arrangement has and maintains a minimum enrollment of 71
three hundred self-employed individuals. 72

(3) The arrangement has and maintains a minimum enrollment of 73
three hundred employees or self-employed individuals in any 74
combination of divisions (A)(1) and (2) of this section. 75

(B) A multiple employer welfare arrangement that is created 76
pursuant to sections 1739.01 to 1739.22 of the Revised Code and 77
that operates a group self-insurance program shall comply with all 78
laws applicable to self-funded programs in this state, including 79
sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 80

to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 81
3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.591, 82
3923.63, 3923.80, 3924.031, 3924.032, and 3924.27 of the Revised 83
Code. 84

(C) A multiple employer welfare arrangement created pursuant 85
to sections 1739.01 to 1739.22 of the Revised Code shall solicit 86
enrollments only through agents or solicitors licensed pursuant to 87
Chapter 3905. of the Revised Code to sell or solicit sickness and 88
accident insurance. 89

(D) A multiple employer welfare arrangement created pursuant 90
to sections 1739.01 to 1739.22 of the Revised Code shall provide 91
benefits only to individuals who are members, employees of 92
members, or the dependents of members or employees, or are 93
eligible for continuation of coverage under section 1751.53 or 94
3923.38 of the Revised Code or under Title X of the "Consolidated 95
Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 96
U.S.C.A. 1161, as amended. 97

Sec. 1751.68. (A) A health insuring corporation shall not 98
provide coverage for abortion services under any policy, contract, 99
or agreement that is issued, delivered, or renewed in this state. 100

(B) Nothing in this section shall be interpreted as 101
prohibiting coverage, or enabling an insurer to deny coverage, for 102
the treatment of any post-abortion complication. 103

(C) As used in this section, "abortion services" includes 104
drugs or devices used to prevent the implantation of a fertilized 105
ovum. "Abortion services" does not include treatment or services 106
related to an ectopic pregnancy, commonly referred to as a "tubal 107
pregnancy." 108

Sec. 3923.591. (A) A sickness and accident insurer and a 109
public employee benefit plan shall not provide coverage for 110

abortion services under any policy of individual or group sickness 111
and accident insurance or under any public employee benefit plan. 112

(B) Nothing in this section shall be interpreted as 113
prohibiting coverage, or enabling an insurer to deny coverage, for 114
the treatment of any post-abortion complication. 115

(C) As used in this section, "abortion services" includes 116
drugs or devices used to prevent the implantation of a fertilized 117
ovum. "Abortion services" does not include treatment or services 118
related to an ectopic pregnancy, commonly referred to as a "tubal 119
pregnancy." 120

Sec. 5101.56. (A) As used in this section, "physician" means 121
a person who holds a valid certificate to practice medicine and 122
surgery or osteopathic medicine and surgery issued under Chapter 123
4731. of the Revised Code. 124

(B) Unless required by the United States Constitution or by 125
federal statute, regulation, or decisions of federal courts, state 126
or local funds may not be used for payment or reimbursement for 127
abortion services unless the certification required by division 128
(C) of this section is made and ~~one of the following circumstances~~ 129
~~exists:~~ 130

~~(1) The the woman suffers from a physical disorder, physical~~ 131
~~injury, or physical illness, including a life endangering physical~~ 132
~~condition caused by or arising from the pregnancy, that would, as~~ 133
~~certified by a physician, place the woman in danger of death~~ 134
~~unless an abortion is performed.~~ 135

~~(2) The pregnancy was the result of an act of rape and the~~ 136
~~patient, the patient's legal guardian, or the person who made the~~ 137
~~report to the law enforcement agency, certifies in writing that~~ 138
~~prior to the performance of the abortion a report was filed with a~~ 139
~~law enforcement agency having the requisite jurisdiction, unless~~ 140

~~the patient was physically unable to comply with the reporting
requirement and that fact is certified by the physician performing
the abortion.~~

~~(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 is diagnosed
with an ectopic pregnancy, commonly referred to as a "tubal
pregnancy."~~

(C)(1) Before payment of or reimbursement for an abortion can
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 patient in question
has been diagnosed with an ectopic pregnancy. 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.

(2) The certification shall be as follows:

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

~~(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; 172

~~(b) The pregnancy was the result of an act of rape and the 173
patient, the patient's legal guardian, or the person who made the 174
report to the law enforcement agency certified in writing that 175
prior to the performance of the abortion a report was filed with a 176
law enforcement agency having the requisite jurisdiction; 177~~

~~(c) The pregnancy was the result of an act of incest and the 178
patient, the patient's legal guardian, or the person who made the 179
report certified in writing that prior to the performance of the 180
abortion a report was filed with either a law enforcement agency 181
having the requisite jurisdiction or, in the case of a minor, with 182
a county children services agency established under Chapter 5153. 183
of the Revised Code; 184~~

~~(d) The pregnancy was the result of an act of rape and in my 185
professional opinion the recipient was physically unable to comply 186
with the reporting requirement; or 187~~

~~(e) The pregnancy was a result of an act of incest and in my 188
professional opinion the recipient was physically unable to comply 189
with the reporting requirement the patient in question was 190
diagnosed with an ectopic pregnancy. 191~~

(D) Payment or reimbursement for abortion services shall not 192
be made with state or local funds for associated services such as 193
anesthesia, laboratory tests, or hospital services if the abortion 194
service itself cannot be paid or reimbursed with state or local 195
funds. All abortion services for which a physician is seeking 196
reimbursement or payment for the purposes of this division shall 197
be submitted on a hard-copy billing invoice. 198

(E) Documentation that supports the certification made by a 199
physician shall be maintained by the physician in the recipient's 200
medical record. ~~When the physician certifies that circumstances 201
described in division (C)(2)(b) or (c) of this section are the 202~~

~~ease, a copy of the statement signed by the patient, the patient's~~ 203
~~legal guardian, or the person who made the report shall be~~ 204
~~maintained in the patient's medical record.~~ 205

~~(F) Nothing in this section denies State or local funds shall~~ 206
~~not be used for reimbursement for drugs or devices to prevent~~ 207
~~implantation of the fertilized ovum, or for medical procedures for~~ 208
~~the termination of an ectopic pregnancy..~~ 209

(G) This section does not apply to treatments for incomplete, 210
missed, or septic abortions. 211

~~(G)~~(H) If enforcement of this section will adversely affect 212
eligibility of the state or a political subdivision of the state 213
for participation in a federal program, this section shall be 214
enforced to the extent permissible without preventing 215
participation in that federal program. 216

Section 2. That existing sections 9.04, 1739.05, and 5101.56 217
of the Revised Code are hereby repealed. 218

Section 3. This act applies to policies, contracts, 219
agreements, and plans that are issued, delivered, modified, or 220
renewed on or after the effective date of this act. 221