



H.B. 239

126th General Assembly
(As Introduced)

Reps. 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, Oelslager, T. Patton, Raga, Raussen, Reinhard, Schaffer, Seaver, Setzer, G. Smith, Taylor, Trakas, Uecker, Wagner, Wagoner, Walcher, White, Widener, Widowfield, Willamowski, Wolpert

BILL SUMMARY

- Expands the prohibition against the use of state funds for health insurance coverage of non-therapeutic abortions and extends it to certain political subdivisions.
- Prohibits the use of public funds or facilities for non-therapeutic abortions.
- Prohibits public employees acting in the scope of their employment from performing or inducing non-therapeutic abortions.
- Declares that it is the public policy of the state to prefer childbirth over abortion to the extent that is constitutionally permissible.

CONTENT AND OPERATION

Use of public funds for insurance coverage of non-therapeutic abortions

(Revised Code §124.85 (renumbered R.C. 9.04 in the bill), 9.901, 305.172, 306.481, 339.161, 351.081, 505.60, 505.601, 505.604, 1341.03, 1545.073, 1901.112, 1901.313, 1907.162, and 3709.162)

Current law provides that the funds of the state may not be expended directly or indirectly to pay the costs, premiums, or charges associated with a health insurance policy, contract, or plan that provides coverage, benefits or

services related to a non-therapeutic abortion.¹ This provision applies notwithstanding any other provision of Ohio law.²

The bill retains the prohibition against the use of state funds for insurance that covers non-therapeutic abortions,³ but modifies the definition of "non-therapeutic abortion" by making it apply to all abortions performed when the life of the mother would not be endangered by carrying the fetus to term. Under the new definition, a non-therapeutic abortion includes an abortion for pregnancy resulting from rape or incest reported to a law enforcement agency.

The bill extends the prohibition to the use of the funds of certain political subdivisions.⁴ The bill applies the prohibition to insurance coverage of county employees (R.C. 305.172), regional transit authority employees (R.C. 306.481), county hospital employees (R.C. 339.161), convention facility employees (R.C. 351.081), township employees (R.C. 505.604), park district employees (R.C. 1545.073), municipal court judges and employees (R.C. 1901.112, new 1901.313), county court judges (R.C. 1907.162), and health district employees (R.C. 3709.162).

The bill also provides that townships that reimburse officers or employees for expenses they incur in obtaining health insurance coverage⁵ must discount the

¹ *"Non-therapeutic 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 was not the result of rape or incest reported to a law enforcement agency.*

² *Current law does not preclude the state from expending funds to pay for a policy, contract, charges associated with a policy, or a plan that includes a rider under which an individual employee may obtain coverage for a non-therapeutic abortion. However, the individual covered must pay for all of the costs, premiums, or charges associated with the rider, including administrative expenses.*

³ *The bill defines "state" as the state of Ohio including the General Assembly, the Supreme Court, the offices of all elected officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state, but not including political subdivisions (renumbered R.C. 9.04).*

⁴ *The bill defines "political subdivision" for this purpose as any body corporate and politic that is responsible for governmental activities in a geographic area smaller than the state, except that "political subdivision" does not mean a municipal corporation, school district, or a charter county under Section 3 of Article X of the Ohio Constitution that is exercising the power of self-government (renumbered R.C. 9.04).*

⁵ *A township can reimburse employees and officers if they were denied coverage under the township's plan or obtain coverage independently because the township does not offer an insurance plan (R.C. 505.60 and 505.601).*

reimbursement for any premium amounts paid for or attributable to coverage for non-therapeutic abortion.

Prohibition against public employees performing or inducing abortion

(R.C. 5101.55 and 5101.551)

Under current law governing public assistance programs, the use of state or local public funds to subsidize an abortion is prohibited unless the abortion is necessary to preserve the life or physical or mental health of the pregnant woman.⁶

The bill modifies this prohibition by providing that state or local public funds may not be used to subsidize an abortion unless the abortion is necessary to preserve the life of the pregnant woman. The bill removes the exception for situations in which the physical or mental health of the pregnant woman is endangered by the pregnancy.

The bill also provides that state or local public funds may be used to subsidize an abortion if all of the following apply:

- (1) The pregnancy is the result of rape or incest;
- (2) The federal government requires funding for the abortion as a requirement for participation in a federal program;
- (3) Federal funds are provided for part of the cost of the abortion.

The bill provides that if rape or incest is alleged, the pregnant woman, her legal guardian, or the person who reported the rape or incest to the law enforcement agency must provide written certification to the entity providing the funding for the abortion that the report was filed with the law enforcement agency unless the physician performing the abortion certifies in writing that the pregnant woman was physically unable to comply with the certification requirement.⁷

The bill adds a provision specifying that no public facility⁸ may be used for the purpose of performing or inducing an abortion unless the abortion is necessary

⁶ *The fact that the abortion is being performed to save the life or health of the pregnant woman must be certified by the physician performing the abortion to the state or local agency (R.C. 5101.55).*

⁷ *The bill provides that this provision is not to be enforced if enforcement would adversely affect eligibility for federal funding.*

⁸ *The bill defines "public facility" as any institution, structure, equipment, or physical asset that is owned, leased, or controlled by the state or any agency, institution,*

to preserve the life of the pregnant woman. Similarly, no public employee⁹ within the scope of employment may perform or induce an abortion unless the abortion is necessary to preserve the life of the pregnant woman.

Public policy of the state to prefer childbirth over abortion

(R.C. 9.041)

The bill states that it is the public policy of the state of Ohio to prefer childbirth over abortion to the extent that is constitutionally permissible.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-04-05	p. 747

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instrumentality, or political subdivision of the state and includes any state university, state medical college, health district, joint hospital, or public hospital agency (R.C. 5101.551). "Political subdivision" does not include a municipal corporation or a county that has adopted a charter to the extent that it is exercising the powers of self-government.

⁹ *The bill defines "public employee" as any person employed by the state or any agency, institution, instrumentality, or political subdivision of the state and includes an employee of any state university, state medical college, health district, joint hospital, or public hospital agency (R.C. 5101.551). "Political subdivision" does not include a municipal corporation or a county that has adopted a charter to the extent that it is exercising the powers of self-government.*

