

As Introduced

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H. B. No. 182

Representative Becker

**Cosponsors: Representatives Vitale, Keller, Cross, Stoltzfus, Zeltwanger,
Manchester, Schaffer, Antani, Dean, Ginter, Wiggam, Kick, Riedel, Brinkman,
Hood, Jones, McClain, Hoops, Jordan**

A BILL

To amend sections 9.04, 1739.05, and 5101.56 and to 1
enact sections 1751.95 and 3923.591 of the 2
Revised Code to prohibit insurers from offering 3
coverage for abortion services. 4

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

Section 1. That sections 9.04, 1739.05, and 5101.56 be 5
amended and sections 1751.95 and 3923.591 of the Revised Code be 6
enacted to read as follows: 7

Sec. 9.04. (A) As used in this section: 8

(1) "Nontherapeutic abortion" means an abortion that is 9
performed or induced when the life of the mother would not be 10
endangered if the fetus were carried to term ~~or when the~~ 11
~~pregnancy of the mother was not the result of rape or incest~~ 12
~~reported to a law enforcement agency.~~ 13

(a) "Nontherapeutic abortion" includes drugs or devices 14
used to prevent the implantation of a fertilized ovum. 15

(b) "Nontherapeutic abortion" does not include either of 16

<u>the following:</u>	17
<u>(i) A procedure for an ectopic pregnancy, that is intended</u>	18
<u>to reimplant the fertilized ovum into the pregnant woman's</u>	19
<u>uterus;</u>	20
<u>(ii) A procedure, in an emergency situation, that is</u>	21
<u>medically necessary to save the pregnant woman's life.</u>	22
(2) "Policy, contract, or plan" means a policy, contract,	23
or plan of one or more insurance companies, medical care	24
corporations, health care corporations, health maintenance	25
organizations, preferred provider organizations, or other	26
entities that provides health, medical, hospital, or surgical	27
coverage, benefits, or services to elected or appointed officers	28
or employees of the state or any political subdivision thereof.	29
"Policy, contract, or plan" includes a plan that is associated	30
with a self-insurance program and a policy, contract, or plan	31
that implements a collective bargaining agreement.	32
(3) "Political subdivision" means any body corporate and	33
politic that is responsible for governmental activities in a	34
geographic area smaller than the state, except that "political	35
subdivision" does not include either of the following:	36
(a) A municipal corporation;	37
(b) A county that has adopted a charter under Section 3 of	38
Article X, Ohio Constitution, to the extent that it is	39
exercising the powers of local self-government as provided in	40
that charter and is subject to Section 3 of Article XVIII, Ohio	41
Constitution.	42
(4) "State" means the state of Ohio, including the general	43
assembly, the supreme court, the offices of all elected state	44
officers, and all departments, boards, offices, commissions,	45

agencies, colleges and universities, institutions, and other 46
instrumentalities of the state of Ohio. "State" does not include 47
political subdivisions. 48

~~(B) Subject to division (C) of this section, but~~ 49
~~notwithstanding~~ Notwithstanding other provisions of the Revised 50
Code that conflict with the prohibition specified in this 51
division, funds of the state or any political subdivision 52
thereof shall not be expended directly or indirectly to pay the 53
costs, premiums, or charges associated with a policy, contract, 54
or plan if the policy, contract, or plan provides coverage, 55
benefits, or services related to a nontherapeutic abortion. 56

~~(C) Division (B) of this section does not preclude the~~ 57
~~state or any political subdivision thereof from expending funds~~ 58
~~to pay the costs, premiums, or charges associated with a policy,~~ 59
~~contract, or plan that includes a rider or other provision~~ 60
~~offered on an individual basis under which an elected or~~ 61
~~appointed official or employee who accepts the offer of the~~ 62
~~rider or provision may obtain coverage of a nontherapeutic~~ 63
~~abortion through the policy, contract, or plan if the individual~~ 64
~~pays for all of the costs, premiums, or charges associated with~~ 65
~~the rider or provision, including all administrative expenses~~ 66
~~related to the rider or provision and any claim made for a~~ 67
~~nontherapeutic abortion.~~ 68

~~(D)~~ In addition to the laws specified in division (A) of 69
section 4117.10 of the Revised Code that prevail over 70
conflicting provisions of agreements between employee 71
organizations and public employers, ~~divisions~~ division (B) and 72
~~(C)~~ of this section shall prevail over conflicting provisions of 73
that nature. 74

Sec. 1739.05. (A) A multiple employer welfare arrangement 75

that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program may be established only if any of the following applies:

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

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

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

(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3901.491, 3902.01 to 3902.14, 3923.041, 3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.591, 3923.602, 3923.63, 3923.80, 3923.84, 3923.85, 3923.851, 3923.86, 3923.89, 3923.90, 3924.031, 3924.032, and 3924.27 of the Revised Code.

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

(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members, employees of members, or the dependents of members or employees,

or are eligible for continuation of coverage under section 105
1751.53 or 3923.38 of the Revised Code or under Title X of the 106
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 107
Stat. 227, 29 U.S.C.A. 1161, as amended. 108

(E) A multiple employer welfare arrangement created 109
pursuant to sections 1739.01 to 1739.22 of the Revised Code is 110
subject to, and shall comply with, sections 3903.81 to 3903.93 111
of the Revised Code in the same manner as other life or health 112
insurers, as defined in section 3903.81 of the Revised Code. 113

Sec. 1751.95. (A) A health insuring corporation shall not 114
provide coverage for a nontherapeutic abortion under any policy, 115
contract, or agreement that is issued, delivered, or renewed in 116
this state. 117

(B) Nothing in this section shall be interpreted as 118
prohibiting coverage, or enabling an insurer to deny coverage, 119
for the treatment of any postabortion complication. 120

(C) As used in this section, "nontherapeutic abortion" has 121
the same meaning as in section 9.04 of the Revised Code. 122

Sec. 3923.591. (A) A sickness and accident insurer and a 123
public employee benefit plan shall not provide coverage for a 124
nontherapeutic abortion under any policy of individual or group 125
sickness and accident insurance or under any public employee 126
benefit plan. 127

(B) Nothing in this section shall be interpreted as 128
prohibiting coverage, or enabling an insurer to deny coverage, 129
for the treatment of any postabortion complication. 130

(C) As used in this section, "nontherapeutic abortion" has 131
the same meaning as in section 9.04 of the Revised Code. 132

Sec. 5101.56. (A) As used in this section, "physician" :	133
<u>(1) "Nontherapeutic abortion" has the same meaning as in section 9.04 of the Revised Code.</u>	134
<u>(2) "Physician" means a person who holds a valid certificate to practice medicine and surgery or osteopathic medicine and surgery issued under Chapter 4731. of the Revised Code.</u>	136
(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 <u>an abortion services</u> unless the certification required by division (C) of this section is made and one of the following circumstances exists:	140
(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.	146
(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.	151
(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	159

~~performance of the abortion a report was filed with either a law- 162
enforcement agency having the requisite jurisdiction, or, in the 163
case of a minor, with a county children services agency- 164
established under Chapter 5153. of the Revised Code, unless the 165
patient was physically unable to comply with the reporting- 166
requirement and that fact is certified by the physician- 167
performing the abortion was not a nontherapeutic abortion. 168~~

(C) (1) Before payment of or reimbursement for an abortion 169
can be made with state or local funds, the physician performing 170
the abortion shall certify that ~~one of the three circumstances- 171
in division (B) of this section has occurred~~ abortion was not a 172
nontherapeutic abortion. The certification shall be made on a 173
form created by the Ohio department of job and family services 174
known as the "Abortion Certification Form." The physician's 175
signature shall be in the physician's own handwriting. The 176
certification shall list the name and address of the patient. 177
The certification form shall be attached to the billing invoice. 178

(2) The certification shall be as follows: 179

I certify that, on the basis of my professional judgment, 180
this service was necessary because: 181

~~(a) The the woman suffers from a physical disorder, 182
physical injury, or physical illness, including a life- 183
endangering physical condition caused by or arising from the 184
pregnancy itself, that would place the woman in danger of death 185
unless an abortion was performed. 186~~

~~(b) The pregnancy was the result of an act of rape and the 187
patient, the patient's legal guardian, or the person who made 188
the report to the law enforcement agency certified in writing 189
that prior to the performance of the abortion a report was filed- 190~~

~~with a law enforcement agency having the requisite jurisdiction;~~ 191

~~(c) The pregnancy was the result of an act of incest and 192
the patient, the patient's legal guardian, or the person who 193
made the report certified in writing that prior to the 194
performance of the abortion a report was filed with either a law 195
enforcement agency having the requisite jurisdiction or, in the 196
case of a minor, with a county children services agency 197
established under Chapter 5153. of the Revised Code;~~ 198

~~(d) The pregnancy was the result of an act of rape and in 199
my professional opinion the recipient was physically unable to 200
comply with the reporting requirement; or 201~~

~~(e) The pregnancy was a result of an act of incest and in 202
my professional opinion the recipient was physically unable to 203
comply with the reporting requirement. 204~~

(D) Payment or reimbursement for abortion services shall 205
not be made with state or local funds for associated services 206
such as anesthesia, laboratory tests, or hospital services if 207
the abortion service itself cannot be paid or reimbursed with 208
state or local funds. All abortion services for which a 209
physician is seeking reimbursement or payment for the purposes 210
of this division shall be submitted on a hard-copy billing 211
invoice. 212

(E) Documentation that supports the certification made by 213
a physician shall be maintained by the physician in the 214
recipient's medical record. ~~When the physician certifies that 215
circumstances described in division (C) (2) (b) or (c) of this 216
section are the case, a copy of the statement signed by the 217
patient, the patient's legal guardian, or the person who made 218
the report shall be maintained in the patient's medical record.~~ 219

~~(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.

(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.

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

Section 3. Sections 9.04, 1739.05, 1751.95, 3923.591, and 5101.56 of the Revised Code, as amended or enacted by this act, apply to policies, contracts, agreements, and plans that are issued, delivered, modified, or renewed on or after the effective date of this act.

Section 4. Section 1739.05 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 156, Sub. S.B. 259, and Sub. S.B. 265, all of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.