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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Substitute Bill Comparative Synopsis

### Sub. S.B. 23

### 133rd General Assembly

House Health

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Sub. S.B. 23 (As Passed by the Senate)	Latest Version (I_133_1050-3)
<b>Title change</b>	
Provides that the bill is to generally prohibit an abortion of an unborn human individual with a detectable fetal heartbeat and to create the Joint Legislative Committee on Adoption Promotion and Support.	Provides that the bill enacts the Human Rights Protection Act.
<b>Act name</b>	
No provision.	Provides that most of the R.C. sections amended and enacted in the bill are to be known as the "Human Rights Protection Act" (R.C. 2919.1913).

**Sub. S.B. 23  
(As Passed by the Senate)**

**Latest Version  
(I\_133\_1050-3)**

**Findings by the General Assembly: legitimate interest**

Declares that the General Assembly finds that the state of Ohio has a legitimate interest from the outset of the pregnancy in protecting the health of the woman, and a compelling interest from the outset of the pregnancy in protecting the life of the unborn human individual who may be born (*R.C. 2919.191(A)(7)*).

Declares that the General Assembly finds that the state of Ohio has a legitimate and important interest from the outset of the pregnancy in protecting the life of an unborn human individual who may be born (*Section 3*).

**Findings by the General Assembly: specific experts cited**

No provision.

Declares that the General Assembly finds all of the following:

--At fertilization, a human being emerges as a whole, genetically distinct, living human organism and needs only the proper environment to fully develop into a human, according to the American College of Pediatrics.

--Cardiac activity shows that tissues have come together to form organs and the developing central nervous system signals the heart to autonomically beat, according to Dr. Michael S. Parker, M.D.

--When a heartbeat is visualized at seven weeks or less, 91<sup>1</sup>/<sub>2</sub>% will survive the first trimester and 95% of those will deliver live-born infants, according to Dr. Michael S. Parker, M.D.

--After the detection of a fetal heartbeat there is a 95 to 98% certainty that the new life will develop full term, according to Dr. Courtney Slonkosky, M.D.

--A human being at an embryonic age and a human being at an adult age are naturally the same, with the only biological differences being due to the differences in maturity, according to Dr. David Fu-Chi Mark, Ph.D.

*(Section 3.)*

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<b>Findings by the General Assembly: South Dakota Study</b>	
No provision.	States that the General Assembly declares that the report of the South Dakota task force to study abortion, submitted to the Governor and Legislature of South Dakota in December 2005, has contributed greatly to the scientific advancement of determining life, and that the General Assembly has consulted this report, and the expert physician and scientific data contained therein, to contribute to its findings ( <i>Section 3</i> ).
<b>Findings by the General Assembly: detection of a fetal heartbeat</b>	
Declares that the General Assembly finds that the state of Ohio finds that the detection of a fetal heartbeat <b>can be</b> accomplished through standard medical practices ( <i>R.C. 2919.191(A)(9)</i> ).	Declares that the General Assembly finds that the state of Ohio finds that the detection of a fetal heartbeat <b>is</b> accomplished through standard medical practices ( <i>Section 3</i> ).
<b>Consultation with experts re: online gestational information (<i>R.C. 2317.56(C)(2)</i>)</b>	
Requires the Ohio Department of Health (ODH) to consult with <i>independent experts, such as</i> the experts described in continuing law (these experts are the Ohio State Medical Association and the Ohio section of the American College of Obstetricians and Gynecologists) when producing materials for pregnant women on its website regarding the probable anatomical, and physiological characteristics of a zygote, blastocyte, embryo, or fetus at various gestational increments.	Requires ODH to consult with <i>independent health care experts</i> when producing these materials for pregnant women on its website.

Sub. S.B. 23 (As Passed by the Senate)	Latest Version (I_133_1050-3)
<b>Amendment to definition of “fetus”</b>	
No provision.	Removes “from the moment of conception” from the existing law definition of fetus (the definition currently states: “the human offspring developing during pregnancy <i>from the moment of conception</i> and includes the embryonic stage of development”) (R.C. 2919.19(A)(5)).
<b>Roe and Casey triggers for Attorney General actions</b>	
Permits the Ohio Attorney General to take certain legal actions provided in the bill if the U.S. Supreme Court overrules <i>Roe v. Wade</i> and <i>Planned Parenthood v. Casey</i> (R.C. 2919.19(B)(2)).	No provision.
<b>Limitation: only county prosecutor with standing may take actions</b>	
No provision.	Allows only a county prosecutor, <i>with standing</i> , to take the actions under the bill if the Attorney General fails to do so (R.C. 2919.19(B)(3)).
<b>Fetal heartbeat examination rules: mandatory requirement to adopt rules (R.C. 2919.192(B))</b>	
No provision.	Provides that the Director of Health <i>must</i> adopt rules specifying the appropriate methods of performing an examination for the purpose of determining the presence of a fetal heartbeat of an unborn human individual.
<b>Fetal heartbeat examination rules: deadline</b>	
No provision.	Provides that the Director of Health must adopt the fetal heartbeat examination rules not later than 120 days of the effective date of S.B. 23 of the 133 <sup>rd</sup> General Assembly (R.C. 2919.192(B)).

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<b>Fetal heartbeat examination rules: transvaginal ultrasound (R.C. 2919.192(B))</b>	
Provides that nothing in the fetal heartbeat examination rules adoption provisions is to be construed as requiring a transvaginal ultrasound.	Repeals an existing law provision that the fetal heartbeat examination rules, if adopted, must require only that an examination must be performed externally. In its place, provides that the rules must not exclude transvaginal ultrasound as a method of detection, nor exclude any other current or new technology procedure, so long as the method, technology, or procedure conforms with standard medical practices.
<b>Meeting the fetal heartbeat requirement (R.C. 2919.192(C))</b>	
Provides that a person is not in violation of the requirement to detect a fetal heartbeat if that person has performed an examination for the purpose of determining the presence of a fetal heartbeat of an unborn human individual.	Provides that a person is not in violation of the requirement to detect a fetal heartbeat if that person has performed an examination for the purpose of determining the presence of a fetal heartbeat of an unborn human individual <i>in accordance with rules adopted under this section</i> (see the fetal heartbeat examination rules and the changes described above).
<b>Reason for abortion (R.C. 2919.196(A)(1))</b>	
Requires that, if <i>the</i> reason for the abortion is to preserve the health of the pregnant woman, the person performing or inducing the abortion must specify as much in a written document.	Requires the same documentation if <i>a</i> reason for the abortion is to preserve the health of the pregnant woman.
<b>Unconstitutionality defense in a wrongful death action: determination made by court of record</b>	
No provision.	Provides that a determination of unconstitutionality is a defense to wrongful death action by a woman for the death of her unborn child only if it was a determination made <i>by a court of record (R.C. 2919.199(C))</i> .

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**Intent of the General Assembly in creating the Joint Legislative Committee on Adoption Promotion and Support**

States that it is the General Assembly's intent that women whose pregnancies are protected under the bill be informed of available options for adoption, and that the Joint Legislative Committee on Adoption Promotion and Support is created in furtherance of this intent (*R.C. 2919.1910(A) and (B)*).

States that the Joint Legislative Committee on Adoption Promotion and Support is created to ensure that citizens are informed of available options in this state (*R.C. 2919.1910(A)*).

**Forfeiture assessed by the State Medical Board**

No provision.

Provides for forfeiture actions against violators of the bill as follows:

--Allows the State Medical Board, under the Administrative Procedure Act adjudication requirements, to assess against a person a forfeiture of not more than \$10,000 for each separate violation or failure of a person to comply with the provisions of this bill.

--Provides that an action to recover a forfeiture must be prosecuted in the name of the state, brought in the Franklin County Court of Common Pleas, and must be commenced and prosecuted by the Attorney General when directed by the State Medical Board.

--Requires that money collected by the State Medical Board or recovered in a court action must be paid to the State Treasurer for deposit into the Foster Care and Adoption Initiatives Fund created by the bill.

(*R.C. 2919.1912.*)

Sub. S.B. 23 (As Passed by the Senate)	Latest Version (I_133_1050-3)
<b>Foster Care and Adoption Initiatives Fund</b>	
No provision.	Creates the Foster Care and Adoption Initiatives Fund custodial fund (not part of the state treasury), the purpose of which is to provide funding for foster care and adoption services and initiatives as determined by the Department of Job and Family Services. Provides that 50% of the money must be used for foster care services and initiatives, and 50% for adoption services and initiatives. ( <i>R.C. 5103.11.</i> )