A BILL

To amend sections 9.04, 1739.05, and 5101.56 and to
enact sections 1751.95 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 1751.95 and 3923.591 of the Revised Code 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.

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

(b) "Nontherapeutic abortion" does not include either of
the following:

(i) A procedure for an ectopic pregnancy, that is intended to reimplant the fertilized ovum into the pregnant woman's uterus;

(ii) A procedure, in an emergency situation, that is medically necessary to save the pregnant woman's life.

(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 employees of the state or any political subdivision thereof. "Policy, contract, or plan" includes a plan that is associated with a self-insurance program and a policy, contract, or plan that implements a collective bargaining agreement.

(3) "Political subdivision" means 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 include either of the following:

(a) A municipal corporation;

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

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

(B) Subject to division (C) of this section, but

Notwithstanding other provisions of the Revised Code that conflict with the prohibition specified in this division, funds of the state or any political subdivision thereof shall not be expended directly or indirectly to pay the costs, premiums, or charges associated with a policy, contract, or plan if the policy, contract, or plan provides coverage, benefits, or services related to a nontherapeutic abortion.

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

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

Sec. 1739.05. (A) 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 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 1751.53 or 3923.38 of the Revised Code or under Title X of the "Consolidated Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 U.S.C.A. 1161, as amended.

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

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

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

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

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

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

(C) As used in this section, "nontherapeutic abortion" has the same meaning as in section 9.04 of the Revised Code.
Sec. 5101.56. (A) As used in this section, "physician":

(1) "Nontherapeutic abortion" has the same meaning as in section 9.04 of the Revised Code.

(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.

(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:

(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.

(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.

(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 was not a nontherapeutic abortion.

(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 abortion was not a
nontherapeutic abortion. 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.

(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;  

(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;  

(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  

(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.  

(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.  

(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.
(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.