Proponent Testimony
Senate Bill 288
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Chairman Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee, my name is Betsie Norris. I am the founder and executive director of Adoption Network Cleveland, and an adoptee myself. I would like to offer proponent testimony on behalf of the organization for Sub. SB 288, which encompasses provisions that deal with the issue of fertility fraud.

Adoption Network Cleveland is an innovative non-profit organization that fulfills otherwise unmet needs for information, advocacy, education, and support for members of the adoption constellation (adoptees, birthparents, and adoptive/kinship/foster parents), youth in foster care, siblings, and related professionals. Although fertility fraud may seem unrelated to adoption, in reality adoptees share many of the same concerns as donor conceived individuals. Those overlapping policy considerations converge in Sub. SB 288 where issues of genetic identity, medical history and openness are central. We are happy to join the U.S. Donor Conceived Council in supporting this legislation.

Fertility fraud involves the misuse of genetic material to create a viable embryo. The classic example is a fertility doctor that uses his own sperm to fertilize the egg of one of his patients, despite the patient having only consented to use the sperm of a donor.

With the advent of 23 And Me and other similar companies, this phenomenon has only recently come to light, so corrective legislative action is both timely and appropriate.

As cases have surfaced, states have begun to make this deceitful and unethical action a crime. Since 2019 the following states have passed laws to address this: Arkansas, Arizona, Colorado, Florida, Indiana, Kentucky, Texas, and Utah. California passed its law in 1996. Similar bills are pending in several other states including Michigan and Iowa.

In addition to the violations of trust that this act encompasses, there are solid policy reasons for wanting to make fertility fraud illegal. First, individuals who

are the victims of fertility fraud are left with incomplete or false medical histories. This jeopardizes not only those individuals but their children and grandchildren as well. Second, due to the sheer volume of victims potentially residing in the same area, it is not inconceivable that these half siblings would interact with each other without knowing they were related. An abhorrent but possible outcome of this interaction would be the marriage of half siblings who share the same biological father but were birthed by different mothers. Both of these outcomes are unacceptable, and purveyors of this act should be held accountable.

The bill before you:

- Creates criminal and civil penalties in cases of assisted reproduction where it is discovered that a health care provider either
    - Used human reproductive material from the health care provider, donor, or any other person while performing the procedure if the patient receiving the procedure had not expressly consented to the use of that material
    - Misrepresented to the patient receiving the procedure any material information about the donor's profile (e.g., health, education)

- Establishes that if a health care professional is convicted of, or pleads guilty to, fraudulent assisted reproduction, the court shall notify the appropriate professional licensing board of the conviction or guilty plea.

- Establishes the offense as a third-degree felony, or in the case of multiple violations a second-degree felony.

- Provides that a patient's consent to the use of human reproductive material from an anonymous donor is not consent to use the reproductive material of the health care professional performing the procedure.

Mr. Chairman, we all know individuals who struggle with fertility issues and have sought various interventions. It is not hard to envision just how widely these issues impact our fellow Ohioans. Thank you for receiving our testimony. I urge the committee to support these provisions in Sub. SB 288. I will do my best to answer any questions the committee may have.