



Jaime Miracle, Deputy Director
House Ways and Means Committee
Testimony in Opposition to HB 87
February 4, 2026

Chair Roemer, Vice Chair Thomas, Ranking Member Troy, and members of the House Ways and Means Committee, my name is Jaime Miracle, and I am the deputy director for *Abortion Forward*, formerly Pro-Choice Ohio. I come before you today in opposition to House Bill 87, a bill that once again pretends to support families, but in reality, creates an unconstitutional pathway for legal protections for fetuses and embryos. This could lead to the criminalization of pregnant people in our state.

We often hear anti-abortion legislators talk about supporting families in our state. Unfortunately, the policy proposals that follow do nothing to provide real help to pregnant and parenting Ohioans. Let's be clear: real, economically sound proposals have been presented, including expanding eligibility for childcare assistance for struggling families. We've heard about \$1,000 tax credits for families with young children, implementing a fully refundable state earned income tax credit, and housing assistance for families facing eviction, but none of these proposals move forward. What we see moving in this legislature are anti-abortion policies presented as fake solutions to the affordability crisis facing Ohioans. In addition to HB 87, the state budget gave more than \$25 million dollars to anti-abortion fake health centers that spend more money on advertising than they do on providing assistance for low-income Ohioans.

Ohioans are facing an affordability crisis. Childcare costs increased by over 16% from 2024 to 2025.¹ Thirty nine percent of Ohioans live in a childcare desert.² Any Google search will bring you headline after headline about the increasing costs of housing in our state. Instead of addressing any of these problems with real policy solutions, here we are, yet again, debating a bill that will undermine access to reproductive healthcare in Ohio. Ohioans overwhelmingly do not want this legislature to do that.

In addition to being a disingenuous and ineffective way to actually help families in this state, HB 87 is clearly unconstitutional discrimination by the state against an individual carrying out one's own reproductive decisions. It would allow the state's definition of "dependent" for state income tax purposes to include a "conceived child" both naturally conceived and conceived through fertility treatments. It would also include taxpayers who experience miscarriage but not include taxpayers who get pregnant and then make the decision to have an abortion.

Article I, Section 22 of the Ohio Constitution — as passed by nearly 57% of voters in Ohio just over two years ago — now reads, in part,

¹ <https://www.dispatch.com/story/news/2025/12/07/childcare-costs-in-ohio-forcing-families-to-sacrifice-quit-jobs/86623085007/>

² <https://childcaredeserts.org/2018/?state=OH>

Every individual has a right to make and carry out one's own reproductive decisions, including but not limited to decisions on: contraception; fertility treatment; continuing one's own pregnancy; miscarriage care; and abortion. The State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either: an individual's voluntary exercise of this right or a person or entity that assists an individual exercising this right.

It's that last part that is most important in today's discussion. The bill would allow a pregnant taxpayer (or their spouse) to claim an additional dependent on their taxes once conception occurs, if the pregnancy continues to term or if the taxpayer experiences a miscarriage, but not if the person decides to have an abortion. This bill creates a system in which the "State" is directly penalizing and discriminating against an individual's voluntary exercise of their right to make and carry out their own reproductive decisions. It could not be clearer – HB 87 is unconstitutional at its core.

That is only the beginning of the legal concerns. Let's say a person got pregnant in December 2026, fully intended to continue that pregnancy, and parent the eventual child. Under this bill, they would be eligible to claim that additional dependent for the 2026 tax year. But, after the taxes have been filed, something happens to change their situation – a medical issue arises with the pregnant person, they lose their job and housing, they get divorced, and now an abortion is the best decision for them. Is the state now going to investigate them for fraud? Are we going to have the state looking into the intentions of every pregnant person as they claim the additional dependent?

What happens when someone claims the additional dependent for only one year because of this situation or a miscarriage or they change their mind about parenting and decide adoption is the best for their family? Now the Department of Taxation has a list of potential miscarriages and abortions in the state. That information could be misused in a myriad of ways that could lead to even greater rates of criminalization of pregnant people in our state. What data would the state be collecting on pregnant people in order for them to claim the additional dependent? How would that data be protected? The Ohio Department of Taxation is not covered under data privacy laws like HIPAA.

Fears about potential criminalization are not hyperbole. There are cases across the country and right here in Ohio where prosecutors and other local officials misuse information to attempt to criminalize people experiencing the tragedy of miscarriage. By giving legal rights to fetuses and embryos, HB 87 opens the door to more investigations and more undue prosecutions of pregnant Ohioans – especially Black people, other people of color, and immigrants who are most likely to be targeted, questioned, and harmed. Research has found that although white women more commonly use drugs while pregnant, 80% of pregnant women or mothers arrested or charged with drug related crimes were Black and Latina.³

The amendment added to this bill last May adds a whole new layer of legal concerns about this bill. This amendment further broadened the definition of "dependent" to include "each child

³ Imani Gandy, *Tennessee's Pregnancy Criminalization Law Will Hit Black Women Hardest*, Rewire, April 17, 2014, <https://rewirenewsgroup.com/article/2014/04/17/tennessees-pregnancy-criminalization-law-will-hit-black-women-hardest/>

whom the taxpayer intends to adopt but is conceived by another” and also then states “such a child is not a dependent of the taxpayer that conceives the child for that taxable year.”

Ohio law states that no paperwork creating a legal relationship between adoptive parents and a child can be finalized before the child’s birth. Although unofficial arrangements might be made between a potential adoptive family and potential birth parents before the child is born, none of it creates a legal relationship between the potential adoptive family and the fetus. It certainly does not sever any legal relationship between the birth parent and the fetus as HB 87 does. This amendment is a grotesque sidestep around adoption law and will increase coercion and manipulation of birth parents.

With these adoption provisions, combined with the already existing provisions of this bill that create legal rights for fetuses and embryos, it is clear what the sponsors are doing with this bill: turning pregnant people into simple vessels whose only role is to carry a pregnancy and whose rights are superseded from the moment of conception by the newly created legal rights of the fetus or embryo they are carrying.

For all of these reasons and more that I am sure other opponents will talk about, we urge a no vote on this unconstitutional, irresponsible, and dangerous legislation.