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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 309
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 309's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Koehler

Local Impact Statement Procedure Required: No

Jacquelyn Schroeder, Senior Budget Analyst, and other LBO staff

Highlights

- Government-owned hospitals could experience an increase in administrative costs to comply with the bill's informed consent provisions and to update any hospital policies regarding abortion-inducing drugs. However, the vast majority of abortions are performed outside of the hospital setting; thus, any costs are likely to be minimal.
- The Ohio Department of Health may experience a minimal increase in administrative costs to create an information and certification form as required under the bill and to make the form available to health care providers.
- Violations of the bill's informed consent requirement are expected to be infrequent, suggesting that there should be no significant ongoing impact on the workload or annual operating costs of the state and local civil justice systems (e.g., Attorney General, local prosecuting attorneys, and the courts). Any revenue from civil penalties and statutory interest for the Ohio Parenting and Pregnancy Program is likely to be negligible.

Detailed Analysis

Informed consent for abortion-inducing drugs

The bill requires a health care provider to ensure certain conditions are met before prescribing an abortion-inducing drug for the purpose of terminating a pregnancy, except in the case of a medical emergency. Conditions include: (1) providing the pregnant woman with written instructions and information, including a specified statement, regarding the abortion-inducing drug, (2) the pregnant woman must certify in writing that she received the written instructions and information and that she has had the opportunity to review them, and (3) the provider must receive a copy of the pregnant woman's certification. The copy must be held in the woman's medical file. The Ohio Department of Health (ODH) is required to create a form for health care

providers to use to provide the information and the certification described in the bill. ODH must make the form available to health care providers.

Government-owned hospitals may experience some administrative costs to comply with the bill's informed consent provisions or to update any hospital policies. However, of the approximately 21,800 abortions performed in Ohio in 2024, approximately 200 (0.9%) were performed in hospitals.¹ This includes all hospitals (e.g., nonprofit, for-profit, etc.). Additionally, abortions may only be performed in government-owned facilities under certain circumstances, such as medical emergencies. The bill does not apply in cases of medical emergencies. Thus, any costs to these entities are likely to be minimal. Lastly, ODH may experience a minimal increase in administrative costs to create the information and certification form as required under the bill and to make the form available to health care providers.

Civil actions

The bill establishes two primary enforcement mechanisms: private civil actions and state enforcement actions. It is expected that violations of the bill's informed consent requirements will be infrequent, suggesting that there should be no significant ongoing effect on the workload and related annual operating costs of state and local civil justice systems.

For state enforcement, the Attorney General or a local prosecutor may investigate violations and file actions for civil penalties. Before initiating an action, they must give the provider or facility at least 30 days to comply. Courts may impose penalties of up to \$5,000 per day for each violation and an additional \$10,000 for knowing violations. Each violation can be treated separately or combined. Civil penalties accrue statutory interest, in accordance with continuing law, which must be used to fund the qualifying entities under the Ohio Parenting and Pregnancy Program (OPPP). Additionally, commercial entities that violate the bill may be liable for all costs and attorney's fees related to enforcement proceedings.

The costs for the Office of the Attorney General to investigate and enforce violations will depend on the number of complaints reported, investigations performed, enforcement actions taken, and whether some of those costs are assessed by the court at the conclusion of a case.² Given the option to correct a violation, few violations are likely to be litigated. As a matter of practice, the Attorney General's Office typically attempts to resolve complaints administratively. The bill is silent as to where the civil penalties attorney fees would be credited, but any such revenue would likely be deposited to Fund 1060, General Reimbursement. Any statutory interest on civil penalties will be periodically transferred to the Department of Children and Youth for the OPPP. The amount is expected to be negligible annually.

Specified individuals have a private right of action and can sue the alleged violator to recover damages for injuries and losses, plus statutory damages equal to three times the cost of the drug. However, damages cannot be awarded if the pregnancy resulted from the plaintiff's criminal conduct.

¹ [Induced Abortions in Ohio 2024 Report \(PDF\)](#), which can be accessed by conducting a keyword "abortion" search on ODH's website, odh.ohio.gov.

² Costs to include expenses, and fees related to investigations and proceedings associated with the violation, including attorney's fees.

Under current law, common pleas, municipal, and county courts have subject matter jurisdiction in civil actions. Municipal and county courts have limited civil jurisdiction, and may only hear cases in which the amount of money in dispute does not exceed \$15,000. Common pleas courts hear all cases in which the amount of money in dispute is more than \$15,000. Although the exact number of new civil cases is uncertain, any increase for a single jurisdiction or court is expected to be very small. While some courts may experience new filings from individuals or the state, given their expected infrequency, related costs should be minimal at most and absorbed by existing staff and resources. These costs will also be at least partially offset by filing fees.