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TO: House Health Committee

FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio

DATE: April 2, 2019

RE: Senate Bill 23 – Opponent Testimony

To Chairman Merrin, Vice Chair Manning, Ranking Member Boyd, and members of the House Health Committee, thank you for this opportunity to present opponent testimony on Senate Bill 23.

I will not take much of your time attempting to convince you not to pass a blatantly unconstitutional bill. The ACLU of Ohio has testified against every version of this bill in the past to no avail. We have no reason to believe this attempt will be any more successful.

Still, we feel compelled to briefly update our testimony with the following three points:

First, proponents claim SB 23 would ban abortions when a fetal heartbeat can be detected, approximately six weeks into a pregnancy. However, that claim is really nothing more than linguistic sleight of hand.

SB23 bans all abortions in the State of Ohio. This is because the time a fetal heartbeat is able to be detected is about as early as abortions can be performed, after confirmation of the pregnancy and following a woman's last menstrual period. So, referring to this legislation as a "heartbeat" bill purposely masks proponents' intentions. SB23 should be called exactly what it is – a total ban on all abortion in Ohio.

Second, in past hearings on this total abortion ban and similar legislation, the ACLU of Ohio typically reminds committees these measures go far beyond what courts deem to be acceptable restrictions or regulations. Of course, this time is no different.

Arkansas passed a so-called "heartbeat" bill that applied after 12 weeks. It was struck down in federal district court. The appellate court affirmed that decision. The U.S. Supreme Court refused to hear an appeal.

North Dakota passed a total ban "heartbeat" bill. It was struck down in federal district court. The appellate court affirmed that decision. The U.S. Supreme Court refused to hear an appeal.

Iowa passed their own version. It was struck down in state court in January 2019. Realizing the futility of an appeal, Iowa decided against doing so in February.

Kentucky passed legislation the same as Ohio's just a couple weeks ago. A lawsuit was immediately filed and the district court issued an injunction, halting the law.

This same pattern repeats itself across states sued for bans on abortion when fetal abnormalities are detected, such as Down syndrome. No different for states that ban the dilation and evacuation method of abortion. Again and again, federal and state courts issue injunctions against these radical bills and strike them all down.

Finally, please realize passing SB 23 will not prevent a single abortion in Ohio. If a court were to inexplicably uphold SB 23 after Ohio is sued, women will still seek out and receive abortions in unsafe ways and in unsafe environments or attempt to perform abortion themselves. We know from history when these scenarios occur the result is more injuries and deaths to women because their government eliminated the safest options.

Members of the House Health Committee, we urge you to oppose Senate Bill 23 and turn your attention to efforts desperately in need of your attention that will make positive impacts in the lives of your constituents and all of Ohio.