

**Proponent Testimony**  
**House Bill 64**  
**Adoption Network Cleveland**

Chairman LaRe, Vice-Chair Swearingen and Ranking Member Leland, my name is Aaron Ockerman. I am the legislative agent for the Adoption Network Cleveland and I would like to offer proponent testimony for HB 64, legislation sponsored by Representative Powell that deals with the issue of fertility fraud. Our Executive Director, Betsie Norris, apologizes that she cannot be here personally to offer remarks, but feels strongly that her organization be represented in-person at this hearing.

Adoption Network Cleveland: The Ohio Family Connection is an innovative non-profit organization that fulfills otherwise unmet needs for information, advocacy, education, and support for members of the adoption triad (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 issues as donor conceived individuals. Those overlapping policy considerations converge in HB 64 where issues of genetic identity, medical history and openness are central.

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 another donor.

Believe it or not, fertility fraud is not a crime. It is a heinous abuse of trust between doctors and patients and does lifelong damage to the donor conceived people who result from this activity as well as the parents of that child who were also lied to. It is not illegal under Ohio

civil or criminal statutes, and states including Indiana, Florida, Texas, and Colorado have recently passed legislation to address this hole in the law.

The number of victims of this crime is continuing to grow. As direct to consumer DNA testing becomes more and more popular, more people will discover that they and their parents or siblings have been affected by fertility fraud. 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.

In addition to the violations of trust that this act encompasses, there are solid policy reasons for wanting to make it 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 shared 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 victims of fertility fraud want and deserve justice under Ohio law. Proponents of HB 64 not only want civil remedies that include compensatory and punitive damages. They want Ohio law to deter doctors in the loosely regulated area of fertility treatment through criminal sanctions including jail time. To this end, We are suggesting a couple of amendments to HB 64:

- Fertility fraud should be considered a 2nd degree felony, which carries jail time.

- The statute of limitations should be five years after the discovery of the crime. Patients who use donor sperm are often contractually required to wait a minimum of 18 years before doing any kind of DNA testing, so the 10 year statute of limitations in the bill is basically rendered moot.

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 amend and support HB 64. I will do my best to answer any questions the committee may have.