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Sponsor Testimony
Senate Bill 123
Ohio Senate Health Committee
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Chair Huffman, Vice-Chair Antani, Ranking Member Antonio, and Members of the Senate Health Committee, thank you for the opportunity to provide sponsor testimony for S.B. 123, the Human Life Protection Act. The Ohio General Assembly has a strong history of pro-life legislation designed to protect the lives of the unborn as well as the health of mothers. Ohio is a pro-life state, and the Human Life Protection Act would further solidify this legacy.

The Human Life Protection Act would prohibit a person from intentionally causing an abortion, by whatever means, whether that is by a drug, substance, and/or instrument, unless the life of the mother is at stake. It is important to note that the enactment of this piece of state legislation is contingent on certain acts by the federal government.

S.B. 123 enacts provisions that apply *only* if one or both of the following conditions are met which uphold the state's authority to prohibit abortions

- The issuance of a US Supreme Court Decision that upholds a state's authority to prohibit abortion
- The adoption of an amendment to the US Constitution that authorizes a state to prohibit an abortion

Once either of the above conditions is satisfied, the Human Life Protection Act would:

- Prohibit a person from purposely causing or inducing an abortion through a drug, substance or with an instrument. Any person found guilty of causing or inducing an abortion would be guilty of criminal abortion, a felony of the fourth degree. (Sec. 2904.03)

- Prohibit a person that would “purposely take the life of a child born by attempted abortion, who is alive when removed from the uterus of the pregnant woman”. Killing a child after they are born alive would be a first-degree felony. (Sec 2904.05)
- Prohibit a person from selling, distributing, any drugs medicine, instrument or device if they have reasonable cause to believe that these items would be used for an abortion or if the recipient intends to use them to cause an abortion. Promoting an abortion would be a first-degree misdemeanor. (Sec 2904.04)

The bill does include an exemption if the physician determines the “abortion was necessary to prevent the death of the pregnant woman or a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman”¹. If this is indeed the case, and there is not an immediate medical emergency, the physician must comply with the following:

- Certify in writing that the abortion is necessary to prevent death or substantial impairment of the mother.
- Obtain written certification from a different physician that the abortion is necessary (Second opinion)
- Attempt to perform the abortion in a manner that provides the highest chances of survival for the unborn child – unless that method would seriously harm or cause the death of the mother.
- Certify in writing the available methods and why the chosen method was selected.
- Arrange for the attendance of at least one other physician to be present and provide immediate medical care for the child as soon as the child is delivered.

Please note, in section 2904.22 of S.B. 123 “A woman on whom an abortion was induced or attempted shall be immune from prosecution....” In fact, a woman on whom an abortion was performed in violation of S.B. 123 “may file a civil action for the wrongful death of her unborn child if the violation was a proximate cause of the death of her unborn child”². If the woman prevails, she shall receive damages in the amount of \$10,000 or another determined amount as well as court costs and reasonable attorney’s fees. Likewise, if the defendant prevails, the defendant shall be awarded reasonable attorney fees and court costs.

¹ https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_134/bills/sb123/IN/00/sb123_00_IN?format=pdf (section 2901.031)

² https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_134/bills/sb123/IN/00/sb123_00_IN?format=pdf (section 2904.35)

Finally, the state board shall revoke a physician's license to practice medicine in this state if the physician is guilty of one of the violations listed above.

However, let us take a moment to clarify what this bill does not do. This bill does not ban contraceptives, nor is that intended. It also does not ban any other drug used secondarily or off-label as an abortive drug, only banning those that are primarily abortive. There are many drugs used regularly by women for means other than abortion, but this legislation does not take action against those drugs. Instead, it is focused on substances that are specifically designed to take the life of an unborn child and are used for very few, if any, other purposes.

The Human Life Protection Act has already been enacted in 12 states (AR, ID, KY, LS, MS, MO, ND, OK, SD, TN, TX & UT) and six additional states continue to have abortion bans that were in place before the *Roe v. Wade* decision (AL, AZ, MI, NM, WV, WI). With 18 states that already have abortion bans enacted, Ohio would join this growing trend - states that respect the sanctity of human life.

We are optimistic that the United States Supreme Court will soon recognize the sanctity of all human life and overturn the previously flawed decision of *Roe v. Wade*. The Human Life Protection Act will ensure that Ohio stands ready to protect future generations of Ohioans with the full force of law the moment this happens.

We want to thank this committee in advance for your thoughtful consideration of this legislation before you today, and would be happy to answer any questions at this time.