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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 64  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 64's Bill Analysis](#)

**Version:** As Introduced

**Primary Sponsor:** Rep. Powell

**Local Impact Statement Procedure Required:** No

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### Highlights

- It is expected that violations of the bill's prohibition will be infrequent, which means that there should be no discernible ongoing effect on county criminal and civil justice systems.
- Criminal convictions may generate negligible annual court cost revenue credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020), and a marginal annual increase in prison incarceration costs.

### Detailed Analysis

#### Penalties

##### Criminal penalties

The bill creates the criminal offense of "fraudulent assisted reproduction," under which a health care professional is prohibited from purposely or knowingly using human reproductive material from a donor while performing an assisted reproduction procedure if the person receiving the procedure has not expressly consented to the use of the material from that donor. A health care professional who violates this prohibition is guilty of a third degree felony. Under current law, unchanged by the bill, the court may impose a 9, 12, 18, 24, 30, or 36-month definite prison term, a fine of up to \$10,000, or both. Prosecution for a violation of the prohibition is barred unless it is commenced within ten years after the offense is committed.

##### Civil penalties

The bill authorizes a civil action for recovery against a health care professional to be filed by: (1) the woman on whom the procedure was performed and the woman's spouse or surviving spouse when performed without consent, (2) the child born as a result of the procedure, and (3) a donor of human reproductive material when the donor's material was used and the health

care professional knows or reasonably should have known it was used without consent. Under the bill, a person may bring a separate action for each child born to the person or spouse as a result of an assisted reproduction procedure performed without consent, or in the case of a donor, for each individual who received the donor's human reproductive material without the donor's consent. Civil actions must be brought within ten years after the procedure was performed or within five years after the discovery that the offense took place.

### **Fiscal effect**

The bill is not likely to result in a notable number of new criminal or civil case filings, as it seems likely that few health care professionals are likely to knowingly violate the prohibition and essentially risk their careers by exposing themselves to the possibility of a criminal prosecution, civil action, and license revocation.

To the degree that a county incurs costs, they will be minimal annually, as violations requiring adjudication as criminal or civil matters will be few and infrequent. Costs may be offset to some degree by the collection of fines, and court costs and fees imposed by the court on a person found to have violated the bill or held liable in a civil action. Fines are generally credited to a county's general fund, while local court costs and fees can be deposited for a mix of general and special purposes. State court costs of \$60 for a felony are collected by local jurisdictions and forwarded to the state treasury for crediting as follows: \$30 to the Indigent Defense Support Fund (Fund 5DY0) and \$30 to the Victims of Crime/Reparations Fund (Fund 4020).

The marginal annual cost of adding an offender to the prison system administered by the Department of Rehabilitation and Correction (DRC) is \$3,000 to \$4,000. In calendar year 2016, the most recent year for which data is available, DRC reported the average time served for a third degree felony was 2.09 years.