



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 262**

128th General Assembly  
(As Introduced)

**Sens.** Cates and Gibbs, Faber, Jones, Coughlin, Buehrer, Grendell, Seitz, Schaffer

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## **BILL SUMMARY**

- Prohibits a qualified health plan from providing coverage for an abortion when the life of the mother would not be endangered if the fetus were carried to term or when the pregnancy of the mother was not the result of rape or incest reported to a law enforcement agency.

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## **CONTENT AND OPERATION**

### **Background**

#### **The federal Patient Protection and Affordable Care Act**

On March 23, 2010, the Patient Protection and Affordable Care Act (PPACA) was enacted.<sup>1</sup> Under the PPACA, each state must establish an American Health Benefit Exchange for the state no later than January 1, 2014 (section 1311(b)). If a particular state does not establish an exchange by that time, or if that state establishes an exchange that does not satisfy the requirements promulgated by the United States Secretary of Health and Human Services for exchanges, the PPACA requires the Secretary to establish and operate the required exchange for the state (section 1321(a), (b), and (c)).

The exchange created under the PPACA must make qualified health plans available for individuals and small employers to purchase (section 1311(d)).<sup>2</sup> The

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<sup>1</sup> Pub. L. 111-148, later amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152).

<sup>2</sup> Under the PPACA, most United States citizens are required to obtain health insurance. Citizens can satisfy that requirement by purchasing a qualified health plan through the exchange or by obtaining health insurance in some other way permitted under the PPACA, such as through employment. (Sections 1501(b) and 1312.)

PPACA defines a qualified health plan generally as health insurance coverage that (1) is offered by a licensed and compliant health insurer, (2) is certified by the state, and (3) provides what the Secretary of Health and Human Services defines as the essential health benefits package (section 1301(a)). A person who purchases a qualified health plan through the exchange may be eligible for a refundable tax credit or reduced cost-sharing in the form of lower out-of-pocket limits set by the insurer in accordance with the requirements of the PPACA. Generally, that assistance is available to individuals with a household income between 100% and 400% of the federal poverty level. (Sections 1401 and 1402 of the PPACA.)

### **Coverage for abortion services under the PPACA**

Under the PPACA, the qualified health plans that are offered through an exchange may provide coverage for abortion services. If, however, the abortion services are those for which federal funds are not allowed (based on the law in effect as of six months before the beginning of the plan year involved), the issuer of the plan cannot use any amount attributable to the tax credit or the cost-sharing reduction discussed above to pay for the services. The issuer of such a plan must collect from each enrollee in the plan two separate payments, one for the abortion services-coverage and one for all other coverage, and deposit those funds into separate accounts.<sup>3</sup> These accounting measures are not required when the coverage is for abortion services for which federal funding is permitted. (Section 1303, as amended by section 10104(c) of the PPACA.)

Under section 1303(a), as amended by section 10104(c) of the PPACA, a state can elect to prohibit abortion coverage in qualified health plans offered through an exchange in the state if the state enacts a law to provide for that prohibition.

### **The bill**

Under the bill, no qualified health plan that is offered in Ohio through an exchange created under the PPACA can provide coverage for a nontherapeutic abortion. The bill defines a nontherapeutic abortion as an abortion that is performed or induced when (1) the life of the mother would not be endangered if the fetus were carried to term, or (2) when the pregnancy of the mother was not the result of rape or incest reported to a law enforcement agency.<sup>4</sup> (R.C. 3901.87.) The bill states that its

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<sup>3</sup> The issuer of a qualified health must estimate the basic per enrollee, per month cost, determined on an average actuarial basis, for including coverage under the qualified health plan of abortion services for which federal funds cannot be used (section 1303, as amended by section 10104(c) of the PPACA).

<sup>4</sup> By reference to R.C. 124.85. That section generally prohibits the use of state funds to pay the costs, premiums, or charges associated with a policy, contract, or plan if the policy, contract, or plan provides coverage, benefits, or services related to a nontherapeutic abortion.

purpose is to affirmatively opt out of allowing qualified health plans that cover nontherapeutic abortions to participate in exchanges within Ohio, in accordance with the opt-out provision under the PPACA (Section 2 of the bill).

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## **HISTORY**

| <b>ACTION</b> | <b>DATE</b> |
|---------------|-------------|
| Introduced    | 05-17-10    |

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