



Ohio Legislative Service Commission

Bill Analysis

Shelagh Baker

H.B. 570

129th General Assembly
(As Introduced)

Reps. Lynch and Grossman, J. Adams, Buchy, Johnson, C. Hagan, Conditt, Wachtmann, Huffman, Stebelton, Thompson, Roegner, M. Slaby, R. Adams, Bubb, Derickson, DeVitis, Scherer, Hill, Hayes, Terhar, Sprauge, Uecker, Smith, Newbold, Pelanda, Gardner, Boose

BILL SUMMARY

- Establishes the crime of sex-selection abortion, which involves several different types of conduct, including performing an abortion on a woman while knowing she sought it because of the sex of the unborn child, using force or threats to coerce a woman to have an abortion because of the sex of the unborn child, or soliciting or accepting funds for the performance of an abortion based on the sex of the unborn child.
- Provides that sex-selection abortion is a felony of the third degree.
- Specifies that a woman on whom an abortion is performed, induced, or attempted is not guilty of sex-selection abortion and cannot be held liable for the abortion in a civil action.
- Permits a civil action for injunctive relief to prevent a person from performing or inducing a sex-selection abortion.
- Permits a civil action for damages, court costs, and attorney fees against a person who commits the crime of sex-selection abortion.
- Requires a medical or mental health professional to report any known or suspected instance of the crime of sex-selection abortion to an appropriate law enforcement agency.
- Establishes the crime of failing to report unknown of suspected sex-selection abortion, a felony of the fifth degree.

CONTENT AND OPERATION

Sex-selection abortion

The bill creates the crime of "sex-selection abortion."¹ A person commits this crime by purposely doing any of the following:

(1) Performing or inducing or attempting to perform or induce an abortion on a pregnant woman knowing that the woman sought the abortion because of the sex or gender of the unborn child;

(2) Using force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a pregnant woman to have an abortion because of the sex or gender of the unborn child;

(3) Soliciting or accepting funds for the performance of an abortion based on the sex or gender of the unborn child.

Sex-selection abortion is a felony of the third degree. The prison term for this felony is a minimum of 12 and a maximum of 60 months.²

The bill specifies that a woman upon whom a sex-selection abortion is performed is not guilty of the crime of sex-selection abortion or of attempting to commit, conspiring to commit, or complicity in committing the crime and cannot be held liable for the crime in a civil action.

Injunction

The bill authorizes a civil action in the appropriate court for injunctive relief to prevent a person from performing or inducing or attempting to perform or induce an abortion in violation of the bill.³ The action may be brought by the pregnant woman, her spouse or parents, or the Ohio Attorney General. The court may grant the relief on a showing that there is an immediate threat that the person will perform or induce or attempt to perform or induce further abortions in violation of the bill.

¹ R.C. 2919.20.

² R.C. 2929.14.

³ R.C. 2919.20.

Damages

A civil action may be brought under the bill for compensatory damages, any punitive or exemplary damages permitted by existing law, court costs, and attorney fees.⁴ The action may be brought by the woman upon whom an abortion is performed or induced or attempted in violation of the bill. It may also be brought by the father of the unborn child, or, if the woman is not age 18 or older at the time of the violation, the woman's parents, unless the pregnancy resulted from criminal conduct of the father or parent, or the father or parent consented to the abortion.

An action for damages for performing or inducing or attempting to perform or induce a sex-selection abortion must be commenced not later than one year after the performance or inducement of the abortion.⁵

If the judgment in an action for damages brought under the bill is in favor of the defendant and the court finds on the filing of a motion that commencing the action was frivolous conduct that adversely affected the defendant, the court is required by the bill to award reasonable attorney's fees to the defendant.⁶ "Frivolous conduct" under the bill is the same as in existing law concerning civil actions and includes conduct that serves merely to harass or maliciously injure another party, is for another improper purpose, or cannot be supported by a good faith argument.⁷

Reporting

A physician, physician assistant, registered nurse, counselor, or other medical or mental health professional is required by the bill to report any known or suspected violation to an appropriate law enforcement agency.⁸

A person required by the bill to make a report who fails to do so is guilty of failing to report a known or suspected sex-selection abortion, a felony of the fifth degree. The prison term is a minimum of six months and a maximum of twelve months.⁹

⁴ R.C. 2305.74.

⁵ R.C. 2305.11.

⁶ R.C. 2307.54.

⁷ R.C. 2323.51.

⁸ R.C. 2919.201.

⁹ R.C. 2929.14.

HISTORY

ACTION

DATE

Introduced

06-13-12

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