

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

PRETERM-CLEVELAND, INC.
12000 Shaker Boulevard
Cleveland, Ohio 44120,

Plaintiff,

-v-

JOHN R. KASICH
Governor, State of Ohio
Riffe Center, 30th Floor
77 South High Street
Columbus, Ohio 43215,

THE STATE OF OHIO
c/o Mike DeWine
Ohio Attorney General
30 East Broad Street, 14th Floor
Columbus, Ohio 43215,

TIMOTHY J. MCGINTY
Cuyahoga County Prosecutor
Justice Center Bld. Floor 8th and 9th
1200 Ontario Street
Cleveland, Ohio 44113,

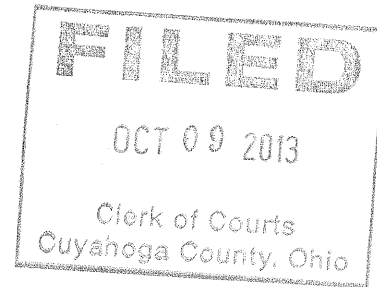
THE OHIO DEPARTMENT OF HEALTH
246 North High Street
Columbus, Ohio 43215,

THEODORE E. WYMSLO, M.D.
Director, The Ohio Department of Health
246 North High Street
Columbus, Ohio 43215,

STATE MEDICAL BOARD OF OHIO
30 East Broad Street, 3rd Floor
Columbus, Ohio 43215,

ANITA M. STEINBERGH, D.O.
President, State Medical Board of Ohio
30 East Broad Street, 3rd Floor
Columbus, Ohio 43215,

Judge: MICHAEL J RUSSO
CV 13 815214



KRIS RAMPRASAD, M.D.)
Vice President, State Medical Board of Ohio)
30 East Broad Street, 3rd Floor)
Columbus, Ohio 43215,)
)
J. CRAIG STRAFFORD, M.D., M.P.H.,)
F.A.C.O.G.)
Secretary, State Medical Board of Ohio)
30 East Broad Street, 3rd Floor)
Columbus, Ohio 43215,)
)
MARK A. BECHTEL, M.D.)
Supervising Member, State Medical Board)
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MICHAEL L. GONIDAKIS)
Member, State Medical Board of Ohio)
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DONALD R. KENNEY, SR.)
Member, State Medical Board of Ohio)
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SUSHIL M. SETHI, M.D., M.P.H., F.A.C.S)
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LANCE A. TALMAGE, M.D.)
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THE OHIO DEPARTMENT OF JOB AND
FAMILY SERVICES

30 East Broad Street, 32nd Floor
Columbus, Ohio 43215,

and

MICHAEL B. COLBERT
Director, The Ohio Department of Job and
Family Services

30 East Broad Street, 32nd Floor
Columbus, Ohio 43215,

Defendants.

COMPLAINT

Plaintiff Preterm-Cleveland, Inc., by and through its undersigned counsel, and
for its Complaint against Defendants states as follows:

PRELIMINARY STATEMENT

1. This action is a challenge to the 2014-2015 Ohio Budget Bill, 2013
Am.Sub.H.B. No. 59 ("**H.B. 59**"), on the ground that it violates the One-Subject Rule
contained in Article II, Section 15(D) of the Ohio Constitution. In particular, certain
provisions in the budget bill, concerning such subjects as consent to abortion,
ambulatory surgical facility licensing, and parenting and pregnancy support, have
nothing whatsoever to do with budgeting, appropriations, spending, or taxation.
Rather, they are controversial riders, added in the eleventh hour to a must-pass bill in
order to ensure that they would pass easily and without opposition. This is precisely the
kind of legislative conduct that the One-Subject Rule of the Ohio Constitution is
intended to prevent by requiring every piece of legislation to address only a single

subject and serve a single purpose. H.B. 59 therefore flagrantly violates the One-Subject Rule of the Ohio Constitution.

INTRODUCTION

2. Plaintiff Preterm-Cleveland, Inc. (***“Preterm”***) is a health care facility that provides reproductive health services, including abortion care. The enactment of provisions in H.B. 59 harms Preterm, its physicians, and its patients.

3. H.B. 59 was enacted on June 30, 2013, in the 130th General Assembly of the State of Ohio, and is an appropriations bill that creates the State’s main operating budget for fiscal years 2014 and 2015.

4. In addition to thousands of provisions that create the budget for the State of Ohio for fiscal years 2014 and 2015, H.B. 59 contains a number of provisions unrelated to appropriations, revenue generation, or taxation, including provisions that improperly create a new substantive program. Specifically, H.B. 59 includes provisions that address the subjects of abortion, R.C. 2317.56, 2919.19, 2919.191, 2919.192, 2919.193, 4731.22 (***“Heartbeat Provisions”***); health care facility regulation, R.C. 3702.30, 3702.302, 3702.303, 3702.304, 3702.305, 3702.306, 3702.307, 3702.308, 3727.60 (***“Written Transfer Agreement Provisions”***); and parenting and pregnancy support, R.C. 5101.80, 5101.801, 5101.804 (***“Parenting and Pregnancy Provisions”***). None of these provisions addresses the primary subject of H.B. 59—the State budget. The inclusion of these provisions destroys the single subject of H.B. 59, and, as a result, renders H.B. 59 unconstitutional.

PARTIES

5. Plaintiff Preterm, a nonprofit corporation organized under the laws of the State of Ohio, has operated a health care clinic in Cuyahoga County, Ohio since 1974. Preterm provides a range of reproductive health services, including family planning, emergency contraception, and contraceptive counseling; pregnancy testing, sonograms, and options counseling; referrals for sexually transmitted diseases; and medical and surgical abortion services. Preterm is a state-licensed ambulatory surgical facility (“*ASF*”). The physicians who perform abortions at Preterm are threatened with professional discipline, civil suits, and criminal penalties if they violate the Heartbeat Provisions of H.B. 59.

6. Governor John R. Kasich (“*Governor Kasich*”) is the Governor of Ohio. Defendant Kasich signed H.B. 59 into law. As the chief executive officer of the State of Ohio, he is charged with the oversight of executive departments, including the Ohio Department of Health and the Ohio Department of Job and Family Services. In addition, he is authorized by the Revised Code to order the Attorney General to prosecute any individual who is indicted for a crime. He is sued in his official capacity.

7. The State of Ohio (the “*State*”) is a state of the United States of America.

8. Timothy J. McGinty (the “*Cuyahoga County Prosecutor*”) is the Cuyahoga County Prosecutor and is charged with enforcing the criminal penalties contained in the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

9. The Ohio Department of Health (“*ODH*”) is a State administrative agency that is empowered to promulgate rules to govern the method by which physicians must

comply with the Heartbeat Provisions of H.B. 59. ODH is also responsible for licensing ASFs and enforcing the Written Transfer Agreement Provisions.

10. Theodore E. Wymslo (the “*Director of Health*”) is the Director of Health. In that capacity, he has regulatory oversight authority relating to the Heartbeat Provisions of H.B. 59, including authority to promulgate rules relating to those provisions. The Director of Health also has authority to issue and renew ASF licenses, conduct inspections, and grant or deny variances for written transfer agreements required under H.B. 59. He is sued in his official capacity.

11. The State Medical Board of Ohio (the “*State Medical Board*”) has disciplinary authority over persons certified to practice medicine in Ohio, including the authority to limit, revoke, or suspend an individual’s certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59.

12. Anita M. Steinbergh is the President of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual’s certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59. She is sued in her official capacity.

13. Kris Ramprasad is the Vice President of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual’s certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

14. J. Craig Strafford is the Secretary of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual’s certificate to practice medicine

for failing to comply with the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

15. Mark A. Bechtel is the Supervising Member of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual's certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

16. Michael L. Gonidakis is a member of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual's certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

17. Donald R. Kenney, Sr. is a member of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual's certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

18. Bruce R. Saferin is a member of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual's certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

19. Sushil M. Sethi is a member of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual's certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

20. Amol Soin is a member of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual's certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

21. Lance A. Talmage is a member of the State Medical Board and has the power to vote to limit, revoke, or suspend an individual's certificate to practice medicine for failing to comply with the Heartbeat Provisions of H.B. 59. He is sued in his official capacity.

22. The Ohio Department of Job and Family Services ("**ODJFS**") is a State administrative agency responsible for administering the Ohio Parenting and Pregnancy Program created by H.B. 59.

23. Michael B. Colbert (the "**Director of ODJFS**") is the Director of Job and Family Services and has regulatory oversight authority relating to the Parenting and Pregnancy Provisions of H.B. 59 and the responsibility to adopt rules necessary to implement H.B. 59's Parenting and Pregnancy Program. He is sued in his official capacity.

JURISDICTION AND VENUE

24. This Court has jurisdiction pursuant to R.C. 2305.01.

25. Venue is proper pursuant to Civ.R. 3(B)(4) and 3(E), because defendant McGinty, who is sued in his official capacity as the Cuyahoga County Prosecutor, has his principal office in Cuyahoga County.

FACTUAL BACKGROUND

A. Overview of H.B. 59

26. H.B. 59's title states that its purpose is "[t]o amend sections . . . ; to enact new sections . . . and to repeal sections . . . of the Revised Code; . . . to make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; [and] to provide authorization and conditions for the operation of state programs" 2013 Am.Sub.H.B. No. 59, pp. 1-20. This title does not indicate a single purpose or subject for H.B. 59.

27. The Heartbeat Provisions and the Written Transfer Agreement Provisions of H.B. 59 are wholly unrelated to State appropriations, revenue generation, or taxation, and the Parenting and Pregnancy Provisions improperly create an entirely new substantive program through the enactment of H.B. 59.

28. H.B. 59 addresses at least four distinct topics, serving four distinct purposes: (1) budget and appropriations; (2) regulation of abortion and abortion providers; (3) regulation of health care facilities; and (4) creation of a new parenting and pregnancy support program.

B. Heartbeat Provisions

29. H.B. 59 amends R.C. 2317.56 and 4731.22 and enacts and codifies R.C. 2919.19, 2919.191, 2919.192, and 2919.193, which comprise the Heartbeat Provisions. The bill sections enacting the Heartbeat Provisions are attached as Exhibit 1.

30. The Heartbeat Provisions require physicians who perform abortions, including physicians at Preterm, to attempt to detect a fetal heartbeat at least twenty-

four hours before performing an abortion. 2013 Am.Sub.H.B. No. 59, pp. 864-66 (enacting R.C. 2919.191(A), 2919.192(A)).

31. Under the Heartbeat Provisions, if there is a detectable heartbeat the pregnant woman must be informed of the heartbeat and given the option to view and/or listen to it. In addition, the woman must be told the statistical probability of carrying the pregnancy to term. 2013 Am.Sub.H.B. No. 59, pp. 865-66 (enacting R.C. 2919.191(B)(2), 2919.192(A)).

32. Pursuant to H.B. 59's Heartbeat Provisions, the Director of Health is authorized to promulgate rules concerning the methods of performing an examination to detect a heartbeat and is further authorized to adopt rules concerning the statistical information that must be provided to pregnant women. 2013 Am.Sub.H.B. No. 59, pp. 865-66 (enacting R.C. 2919.191(C), 2919.192(C)).

33. A person who fails to comply with the requirements of the Heartbeat Provisions is subject to a civil suit for compensatory and exemplary damages, disciplinary action by the State Medical Board, and/or criminal prosecution for a first-degree misdemeanor for the first offense and a fourth-degree felony for each subsequent offense. 2013 Am.Sub.H.B. No. 59, pp. 865-67, 2061 (enacting R.C. 2919.191(E), 2919.191(H), 2919.192(E), 4731.22(B)(47)).

34. The Heartbeat Provisions are not related to appropriations, revenue generation, or taxation.

C. Written Transfer Agreement Provisions

35. H.B. 59 also enacted the Written Transfer Agreement Provisions by amending R.C. 3702.30 and enacting R.C. 3702.302, 3702.303, 3702.304, 3702.305,

3702.306, 3702.307, 3702.308, and 3727.60. The relevant Revised Code sections of the Written Transfer Agreement Provisions are attached as Exhibit 2.

36. The Written Transfer Agreement Provisions in H.B. 59 require ASFs to obtain a written transfer agreement with a local hospital specifying procedures for transfer of patients from the ASF to the hospital, if and when transfer is necessary. 2013 Am.Sub.H.B. No. 59, p. 1549 (enacting R.C. 3702.303).

37. The Written Transfer Agreement Provisions authorize the Director of Health to grant and rescind variances from the requirement that an ASF have a written transfer agreement. 2013 Am.Sub.H.B. No. 59, pp. 1550-51 (enacting R.C. 3702.304 through 3702.306).

38. The Written Transfer Agreement Provisions also prohibit public hospitals from entering into written transfer agreements with ASFs that perform or induce nontherapeutic abortions and from authorizing physicians with privileges at such hospitals to use those privileges to create an alternative to the written transfer agreement for an ASF that performs abortions. 2013 Am.Sub.H.B. No. 59, pp. 1625-26 (enacting R.C. 3727.60).

39. The Written Transfer Agreement Provisions do not relate to appropriations, revenue generation, or taxation.

D. The Parenting and Pregnancy Provisions

40. H.B. 59 amends R.C. 5101.80 and 5101.801 and enacts and codifies 5101.804, which creates a new substantive program, the Ohio Parenting and Pregnancy Program. The relevant bill sections of the Parenting and Pregnancy Provisions are attached as Exhibit 3.

41. The Parenting and Pregnancy Program's stated purpose is to "[p]romote childbirth, parenting, and alternatives to abortion." 2013 Am.Sub.H.B. No. 59, p. 2161 (enacting R.C. 5101.804(A)(1)).

42. H.B. 59 provides that the Parenting and Pregnancy Program will be funded by the Temporary Assistance for Needy Families ("*TANF*") block grant established under Title IV-A of the Social Security Act, 42 U.S.C. 601. 2013 Am.Sub.H.B. No. 59, p. 2155 (amending R.C. 5101.80(A)(4)(f)).

43. H.B. 59 authorizes ODJFS to provide TANF funds to private, nonprofit organizations to advance the Parenting and Pregnancy Program's stated purpose of promoting childbirth, parenting, and alternatives to abortion. H.B. 59 provides that such organizations cannot be involved in or associated with any abortion activities, including providing abortion counseling or referrals, performing abortion-related medical procedures, or engaging in "pro-abortion" advertising. 2013 Am.Sub.H.B. No. 59, p. 2161 (enacting R.C. 5101.804(B)).

44. Under H.B. 59's Parenting and Pregnancy Program, private, nonprofit organizations that have contracted with ODJFS can subcontract with another entity to provide these services, provided, however, that the subcontractor is not involved in or associated with any abortion activities, including providing abortion counseling or referrals, performing abortion-related medical procedures, or engaging in "pro-abortion" advertising. 2013 Am.Sub.H.B. No. 59, p. 2162 (enacting R.C. 5101.804(C)).

45. H.B. 59 further authorizes the Director of ODJFS to adopt rules, as necessary, to implement the Parenting and Pregnancy Program. 2013 Am.Sub.H.B. No. 59, p. 2162 (enacting R.C. 5101.804(D)).

46. H.B. 59 does not appropriate any State funds to the Parenting and Pregnancy Program it creates. 2013 Am.Sub.H.B. No. 59, pp. 3516-18 (Section 301.10).

47. H.B. 59's Parenting and Pregnancy Provisions create an entirely new substantive program.

E. The General Assembly Added the Heartbeat, Written Transfer Agreement, and Parenting and Pregnancy Provisions as "Riders" to H.B. 59.

48. The original version of H.B. 59, which was introduced in the Ohio House of Representatives on February 12, 2013, did not contain the Heartbeat, Written Transfer Agreement, or Parenting and Pregnancy Provisions.

49. The Parenting and Pregnancy Provisions first appeared in the bill on April 9, 2013. The Written Transfer Agreement Provisions were added in part a week later, while the restriction on public hospitals entering into transfer agreements with abortion clinics appeared for the first time in June. The Heartbeat Provisions were added on June 25, 2013—just five days before H.B. 59 was signed into law, with no opportunity for public testimony.

50. The Heartbeat Provisions borrow heavily from the language contained in a bill (H.B. 125) that was introduced but did not pass in the 129th General Assembly.

51. The history surrounding the passage of the Heartbeat, Written Transfer Agreement, and Parenting and Pregnancy Provisions strongly suggests that those provisions were the product of impermissible logrolling.

COUNT 1
(Violation of Ohio Constitution, Article II, Section 15(D))

52. Preterm incorporates each and every preceding paragraph as if fully restated herein.

53. Ohio Constitution, Article II, Section 15(D) expressly provides that “no bill shall contain more than one subject, which shall be clearly expressed in its title.”

54. The Heartbeat, Written Transfer Agreement, and Parenting and Pregnancy Provisions constitute three wholly distinct, substantive legislative proposals that were grafted onto to H.B. 59, an appropriations bill.

55. H.B. 59 addresses at least four distinct topics: (1) budget and appropriations; (2) regulation of abortion and abortion providers; (3) regulation of health care facilities; and (4) creation of a new parenting and pregnancy support program.

56. The Heartbeat, Written Transfer Agreement, and Parenting and Pregnancy Provisions are not related to the bill’s primary purpose of enacting the State’s budget, nor do they address taxation and appropriations for the State. The Parenting and Pregnancy Provisions improperly create an entirely new substantive program. These provisions were not passed on their own merits but, instead, were added as riders to the State’s biennial budget bill.

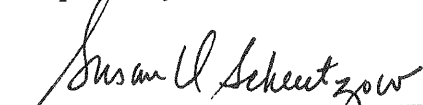
57. The inclusion of the Heartbeat, Written Transfer Agreement, and Parenting and Pregnancy Provisions destroy the unity of the subject of H.B. 59.

58. As a result, H.B. 59 is unconstitutional under Ohio Constitution, Article II, Section 15(D).

WHEREFORE, Preterm prays that this Court:

- (A) Issue a declaration that:
 - (i) H.B. 59 is unconstitutional, because it violates Ohio Constitution, Article II, Section 15(D)—the “One-Subject Rule”;
 - (ii) the following sections of the Revised Code enacted by H.B. 59 are void and unenforceable: R.C. 2919.19, 2919.191, 2919.192, 2919.193, 3702.302, 3702.303, 3702.304, 3702.305, 3702.306, 3702.307, 3702.308, 3727.60, 5101.804; and
 - (iii) the amendments to the following sections of the Revised Code enacted by H.B. 59 are void and unenforceable: R.C. 2317.56, 3702.30, 4731.22, 5101.80, and 5101.801.
- (B) Enjoin Defendants, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from implementing and enforcing the Heartbeat, Written Transfer Agreement, and Parenting and Pregnancy Provisions of H.B. 59—specifically, the following sections of the Revised Code enacted by H.B. 59: R.C. 2919.19, 2919.191, 2919.192, 2919.193, 3702.302, 3702.303, 3702.304, 3702.305, 3702.306, 3702.307, 3702.308, 3727.60, 5101.804; and the amendments to the following sections of the Revised Code enacted by H.B. 59: R.C. 2317.56, 3702.30, 4731.22, 5101.80, and 5101.801;
- (C) Award all such other relief as this Court may deem just and proper.

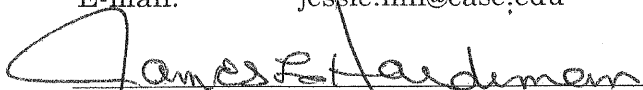
Respectfully submitted,



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Co-Counsel for Preterm

REQUEST FOR SERVICE

TO THE CLERK OF COURT:

Please issue service of Summons on Complaint herein upon the Defendants by certified mail, return receipt requested, at the following addresses:

John R. Kasich, Governor, State of Ohio
Riffe Center, 30th Floor
77 South High Street
Columbus, Ohio 43215,

The State of Ohio
c/o Michael DeWine, Ohio Attorney General
30 East Broad Street, 14th Floor
Columbus, Ohio 43215,

Timothy J. McGinty, Cuyahoga County Prosecutor
Justice Center Bld. Floor 8th and 9th
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The Ohio Department of Health
246 North High Street
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Theodore E. Wymyslo, Director, The Ohio Department of Health
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Lance A. Talmage, Member, State Medical Board of Ohio
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The Ohio Department of Job and Family Services
30 East Broad Street, 32nd Floor
Columbus, Ohio 43215,

and

Michael B. Colbert, Director, the Ohio Department of Job and Family Services
30 East Broad Street, 32nd Floor
Columbus, Ohio 43215.

EXHIBIT 1

(130th General Assembly)
(Amended Substitute House Bill Number 59)

AN ACT

To amend sections 9.03, 9.15, 9.231, 9.239, 9.24, 9.833, 9.90, 9.901, 101.39, 101.391, 102.02, 103.144, 103.63, 107.033, 107.12, 109.06, 109.36, 109.57, 109.572, 109.71, 109.746, 109.77, 109.85, 109.86, 109.90, 109.91, 111.02, 111.15, 111.28, 113.02, 113.061, 117.03, 117.10, 117.20, 119.01, 120.06, 121.02, 121.03, 121.22, 121.35, 121.37, 121.372, 122.075, 122.083, 122.17, 122.171, 122.175, 122.28, 122.30, 122.31, 122.32, 122.33, 122.34, 122.35, 122.36, 122.58, 122.657, 122.658, 122.66, 122.67, 122.68, 122.69, 122.70, 122.701, 122.76, 122.861, 123.01, 123.10, 123.11, 123.201, 123.21, 123.27, 124.11, 124.14, 124.18, 124.30, 124.341, 124.381, 124.57, 124.84, 125.05, 125.21, 125.212, 125.28, 125.602, 125.603, 125.832, 125.836, 126.07, 126.14, 126.32, 126.35, 126.45, 126.46, 126.47, 126.48, 127.14, 127.16, 131.51, 133.01, 133.06, 135.22, 135.61, 135.71, 135.80, 135.81, 135.85, 140.01, 140.03, 140.05, 145.01, 145.012, 145.037, 145.038, 145.22, 149.01, 149.12, 149.311, 149.43, 149.431, 149.54, 151.11, 152.09, 153.692, 154.01, 154.17, 154.20, 154.22, 154.23, 154.25, 156.02, 156.03, 156.04, 156.05, 166.02, 166.03, 166.04, 166.08, 166.25, 167.03, 169.02, 169.05, 169.07, 169.08, 171.05, 173.03, 173.14, 173.17, 173.19, 173.20, 173.21, 173.23, 173.25, 173.26, 173.27, 173.28, 173.39, 173.391, 173.392, 173.394, 173.40, 173.401, 173.402, 173.403, 173.404, 173.42, 173.43, 173.431, 173.432, 173.434, 173.45, 173.47, 173.48, 173.50, 173.501, 173.99, 183.16, 183.33, 187.10, 191.01, 191.02, 191.04,

they were made, may be qualified as authentic evidence if any such person endorses thereon the person's verified certification identifying such records, giving the mode and time of their preparation, and stating that they were prepared in the usual course of the business of the institution. Such records, copies, or photographs may not be qualified by certification as provided in this section unless the party intending to offer them delivers a copy of them, or of their relevant portions, to the attorney of record for each adverse party not less than five days before trial. Nothing in this section shall be construed to limit the right of any party to call the custodian, person who made such records, or person under whose supervision they were made, as a witness.

(B) Division (A) of this section does not apply to any certified copy of the results of any test given to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in a patient's whole blood, blood serum or plasma, breath, or urine at any time relevant to a criminal offense that is submitted in a criminal action or proceeding in accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 of the Revised Code.

Sec. 2317.56. (A) As used in this section:

(1) "Medical emergency" ~~means a condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, creates an immediate threat of serious risk to the life or physical health of the woman from the continuation of the pregnancy necessitating the immediate performance or inducement of an abortion~~ has the same meaning as in section 2919.16 of the Revised Code.

(2) "Medical necessity" means a medical condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, so complicates the pregnancy that it necessitates the immediate performance or inducement of an abortion.

(3) "Probable gestational age of the embryo or fetus" means the gestational age that, in the judgment of a physician, is, with reasonable probability, the gestational age of the embryo or fetus at the time that the physician informs a pregnant woman pursuant to division (B)(1)(b) of this section.

(B) Except when there is a medical emergency or medical necessity, an abortion shall be performed or induced only if all of the following conditions are satisfied:

(1) At least twenty-four hours prior to the performance or inducement of the abortion, a physician meets with the pregnant woman in person in an individual, private setting and gives her an adequate opportunity to ask questions about the abortion that will be performed or induced. At this

meeting, the physician shall inform the pregnant woman, verbally or, if she is hearing impaired, by other means of communication, of all of the following:

- (a) The nature and purpose of the particular abortion procedure to be used and the medical risks associated with that procedure;
- (b) The probable gestational age of the embryo or fetus;
- (c) The medical risks associated with the pregnant woman carrying the pregnancy to term.

The meeting need not occur at the facility where the abortion is to be performed or induced, and the physician involved in the meeting need not be affiliated with that facility or with the physician who is scheduled to perform or induce the abortion.

(2) At least twenty-four hours prior to the performance or inducement of the abortion, ~~one or more physicians or one or more agents of one or more physicians do the physician who is to perform or induce the abortion or the physician's agent does~~ each of the following in person, by telephone, by certified mail, return receipt requested, or by regular mail evidenced by a certificate of mailing:

- (a) Inform the pregnant woman of the name of the physician who is scheduled to perform or induce the abortion;
- (b) Give the pregnant woman copies of the published materials described in division (C) of this section;
- (c) Inform the pregnant woman that the materials given pursuant to division (B)(2)(b) of this section are published by the state and that they describe the embryo or fetus and list agencies that offer alternatives to abortion. The pregnant woman may choose to examine or not to examine the materials. A physician or an agent of a physician may choose to be disassociated from the materials and may choose to comment or not comment on the materials.

(3) If it has been determined that the unborn human individual the pregnant woman is carrying has a detectable heartbeat, the physician who is to perform or induce the abortion shall comply with the informed consent requirements in section 2919.192 of the Revised Code in addition to complying with the informed consent requirements in divisions (B)(1), (2), (4), and (5) of this section.

(4) Prior to the performance or inducement of the abortion, the pregnant woman signs a form consenting to the abortion and certifies both of the following on that form:

- (a) She has received the information and materials described in divisions (B)(1) and (2) of this section, and her questions about the abortion

that will be performed or induced have been answered in a satisfactory manner.

(b) She consents to the particular abortion voluntarily, knowingly, intelligently, and without coercion by any person, and she is not under the influence of any drug of abuse or alcohol.

(4) The form shall contain the name and contact information of the physician who provided to the pregnant woman the information described in division (B)(1) of this section.

(5) Prior to the performance or inducement of the abortion, the physician who is scheduled to perform or induce the abortion or the physician's agent receives a copy of the pregnant woman's signed form on which she consents to the abortion and that includes the certification required by division (B)~~(3)~~(4) of this section.

(C) The department of health shall publish in English and in Spanish, in a typeface large enough to be clearly legible, and in an easily comprehensible format, the following materials on the department's web site:

(1) Materials that inform the pregnant woman about family planning information, of publicly funded agencies that are available to assist in family planning, and of public and private agencies and services that are available to assist her through the pregnancy, upon childbirth, and while the child is dependent, including, but not limited to, adoption agencies. The materials shall be geographically indexed; include a comprehensive list of the available agencies, a description of the services offered by the agencies, and the telephone numbers and addresses of the agencies; and inform the pregnant woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care and about the support obligations of the father of a child who is born alive. The department shall ensure that the materials described in division (C)(1) of this section are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this division.

(2) Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the zygote, blastocyte, embryo, or fetus at two-week gestational increments for the first sixteen weeks of pregnancy and at four-week gestational increments from the seventeenth week of pregnancy to full term, including any relevant information regarding the time at which the fetus possibly would be viable. The department shall cause these materials to be published only after it consults with the Ohio state medical association and the Ohio section of the American college of obstetricians and gynecologists relative to the probable

and ending on the date the application or document was submitted and that was made to an irrevocable trust a portion of which is not distributable to the applicant for ~~medicaid benefits~~ or the recipient of ~~medicaid benefits~~ or to a revocable trust.

(C)(1) Whoever violates this section is guilty of medicaid eligibility fraud. Except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the value of the ~~medicaid benefits~~ services paid as a result of the violation is one thousand dollars or more and is less than seven thousand five hundred dollars, a violation of this section is a felony of the fifth degree. If the value of the ~~medicaid benefits~~ services paid as a result of the violation is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, a violation of this section is a felony of the fourth degree. If the value of the ~~medicaid benefits~~ services paid as a result of the violation is one hundred fifty thousand dollars or more, a violation of this section is a felony of the third degree.

(2) In addition to imposing a sentence under division (C)(1) of this section, the court shall order that a person who is guilty of medicaid eligibility fraud make restitution in the full amount of any ~~medicaid benefits~~ services paid on behalf of an applicant for or recipient of ~~medicaid benefits~~ for which the applicant or recipient was not eligible, plus interest at the rate applicable to judgments on unreimbursed amounts from the date on which the ~~benefits~~ medicaid services were paid to the date on which restitution is made.

(3) The remedies and penalties provided in this section are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section.

(D) This section does not apply to a person who fully disclosed in an application for ~~medicaid benefits~~ or in a document that requires a disclosure of assets for the purpose of determining eligibility ~~to receive for~~ for ~~medicaid benefits~~ all of the interests in property of the applicant for or recipient of ~~medicaid benefits~~, all transfers of property by the applicant for or recipient of ~~medicaid benefits~~, and the circumstances of all those transfers.

(E) Any amounts of ~~medicaid benefits~~ services recovered as restitution under this section and any interest on those amounts shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.

Sec. 2919.19. As used in this section and sections 2919.191 to 2919.193 of the Revised Code:

(A) "Fetal heartbeat" means cardiac activity or the steady and repetitive

rhythmic contraction of the fetal heart within the gestational sac.

(B) "Fetus" means the human offspring developing during pregnancy from the moment of conception and includes the embryonic stage of development.

(C) "Gestational age" means the age of an unborn human individual as calculated from the first day of the last menstrual period of a pregnant woman.

(D) "Gestational sac" means the structure that comprises the extraembryonic membranes that envelop the fetus and that is typically visible by ultrasound after the fourth week of pregnancy.

(E) "Medical emergency" has the same meaning as in section 2919.16 of the Revised Code.

(F) "Physician" has the same meaning as in section 2305.113 of the Revised Code.

(G) "Pregnancy" means the human female reproductive condition that begins with fertilization, when the woman is carrying the developing human offspring, and that is calculated from the first day of the last menstrual period of the woman.

(H) "Serious risk of the substantial and irreversible impairment of a major bodily function" has the same meaning as in section 2919.16 of the Revised Code.

(I) "Standard medical practice" means the degree of skill, care, and diligence that a physician of the same medical specialty would employ in like circumstances. As applied to the method used to determine the presence of a fetal heartbeat for purposes of section 2919.191 of the Revised Code, "standard medical practice" includes employing the appropriate means of detection depending on the estimated gestational age of the fetus and the condition of the woman and her pregnancy.

(J) "Unborn human individual" means an individual organism of the species homo sapiens from fertilization until live birth.

Sec. 2919.191. (A) A person who intends to perform or induce an abortion on a pregnant woman shall determine whether there is a detectable fetal heartbeat of the unborn human individual the pregnant woman is carrying. The method of determining the presence of a fetal heartbeat shall be consistent with the person's good faith understanding of standard medical practice, provided that if rules have been adopted under division (C) of this section, the method chosen shall be one that is consistent with the rules. The person who determines the presence or absence of a fetal heartbeat shall record in the pregnant woman's medical record the estimated gestational age of the unborn human individual, the method used to test for a fetal heartbeat.

the date and time of the test, and the results of the test.

(B)(1) Except when a medical emergency exists that prevents compliance with this division, no person shall perform or induce an abortion on a pregnant woman prior to determining if the unborn human individual the pregnant woman is carrying has a detectable fetal heartbeat. Any person who performs or induces an abortion on a pregnant woman based on the exception in this division shall note in the pregnant woman's medical records that a medical emergency necessitating the abortion existed and shall also note the medical condition of the pregnant woman that prevented compliance with this division. The person shall maintain a copy of the notes described in this division in the person's own records for at least seven years after the notes are entered into the medical records.

(2) The person who performs the examination for the presence of a fetal heartbeat shall give the pregnant woman the option to view or hear the fetal heartbeat.

(C) The director of health may promulgate rules pursuant to section 111.15 of the Revised Code specifying the appropriate methods of performing an examination for the presence of a fetal heartbeat of an unborn individual based on standard medical practice. The rules shall require only that an examination shall be performed externally.

(D) A person is not in violation of division (A) or (B) of this section if that person has performed an examination for the presence of a fetal heartbeat in the fetus utilizing standard medical practice, that examination does not reveal a fetal heartbeat or the person has been informed by a physician who has performed the examination for fetal heartbeat that the examination did not reveal a fetal heartbeat, and the person notes in the pregnant woman's medical records the procedure utilized to detect the presence of a fetal heartbeat.

(E) Except as provided in division (F) of this section, no person shall knowingly and purposefully perform or induce an abortion on a pregnant woman before determining in accordance with division (A) of this section whether the unborn human individual the pregnant woman is carrying has a detectable heartbeat. The failure of a person to satisfy the requirements of this section prior to performing or inducing an abortion on a pregnant woman may be the basis for either of the following:

(1) A civil action for compensatory and exemplary damages;

(2) Disciplinary action under section 4731.22 of the Revised Code.

(F) Division (E) of this section does not apply to a physician who performs or induces the abortion if the physician believes that a medical emergency exists that prevents compliance with that division.

(G) The director of health may determine and specify in rules adopted pursuant to section 111.15 of the Revised Code and based upon available medical evidence the statistical probability of bringing an unborn human individual to term based on the gestational age of an unborn human individual who possesses a detectable fetal heartbeat.

(H) A woman on whom an abortion is performed in violation of division (B) of this section or division (B)(3) of section 2317.56 of the Revised Code may file a civil action for the wrongful death of the woman's unborn child and may receive at the mother's election at any time prior to final judgment damages in an amount equal to ten thousand dollars or an amount determined by the trier of fact after consideration of the evidence subject to the same defenses and requirements of proof, except any requirement of live birth, as would apply to a suit for the wrongful death of a child who had been born alive.

Sec. 2919.192. (A) If a person who intends to perform or induce an abortion on a pregnant woman has determined, under section 2919.191 of the Revised Code, that the unborn human individual the pregnant woman is carrying has a detectable heartbeat, the person shall not, except as provided in division (B) of this section, perform or induce the abortion until all of the following requirements have been met and at least twenty-four hours have elapsed after the last of the requirements is met:

(1) The person intending to perform or induce the abortion shall inform the pregnant woman in writing that the unborn human individual the pregnant woman is carrying has a fetal heartbeat.

(2) The person intending to perform or induce the abortion shall inform the pregnant woman, to the best of the person's knowledge, of the statistical probability of bringing the unborn human individual possessing a detectable fetal heartbeat to term based on the gestational age of the unborn human individual or, if the director of health has specified statistical probability information pursuant to rules adopted under division (C) of this section, shall provide to the pregnant woman that information.

(B) Division (A) of this section does not apply if the person who intends to perform or induce the abortion believes that a medical emergency exists that prevents compliance with that division.

(C) The director of health may adopt rules that specify information regarding the statistical probability of bringing an unborn human individual possessing a detectable heartbeat to term based on the gestational age of the unborn human individual. The rules shall be based on available medical evidence and shall be adopted in accordance with section 111.15 of the Revised Code.

(D) This section does not have the effect of repealing or limiting any other provision of the Revised Code relating to informed consent for an abortion, including the provisions in section 2317.56 of the Revised Code.

(E) Whoever violates division (A) of this section is guilty of performing or inducing an abortion without informed consent when there is a detectable fetal heartbeat, a misdemeanor of the first degree on a first offense and a felony of the fourth degree on each subsequent offense.

Sec. 2919.193. A pregnant woman on whom an abortion is performed or induced in violation of section 2919.191 or 2919.192 of the Revised Code is not guilty of violating any of those sections; is not guilty of attempting to commit, conspiring to commit, or complicity in committing a violation of any of those sections; and is not subject to a civil penalty based on the abortion being performed or induced in violation of any of those sections.

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a violation of section 2919.27 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant if the court determines that either of the following criteria apply:

(i) If the alleged violation is a violation of a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of a family or household member covered by the order or agreement, or conduct by the defendant that caused a family or household member to believe that the defendant would cause physical harm to that member or that member's property.

(ii) If the alleged violation is a violation of a protection order issued pursuant to section 2903.213 or 2903.214 of the Revised Code or a protection order issued by a court of another state, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of the person covered by the order, or conduct by the defendant that caused the person covered by the order to believe that the defendant would cause physical harm to that person or that person's property.

(b) If a defendant is charged with a violation of section 2903.211 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant.

(2) An evaluation ordered under division (A)(1) of this section shall be completed no later than thirty days from the date the order is entered pursuant to that division. In that order, the court shall do either of the

disorder of the musculoskeletal system;

(v) In the treatment of patients, employing the techniques of advised or supervised exercise; electrical neuromuscular stimulation; massage or manipulation; or air, water, heat, cold, sound, or infrared ray therapy only to those disorders of the musculoskeletal system that are amenable to treatment by such techniques and that are identifiable by examination performed in accordance with division (B)(1)(a)(i) of this section and diagnosable in accordance with division (B)(1)(a)(ii) of this section.

(b) "Educational requirements" means the completion of a course of study appropriate for certification to practice mechanotherapy on or before November 3, 1985, as determined by rules adopted under this chapter.

(2) Mechanotherapists who received a certificate to practice from the board prior to March 2, 1992, may continue to practice mechanotherapy, as defined in rules adopted by the board. Such mechanotherapists shall practice in accordance with rules adopted by the board.

A person authorized by this division to practice as a mechanotherapist may examine, diagnose, and assume responsibility for the care of patients with due regard for first aid and the hygienic and nutritional care of the patients. Roentgen rays shall be used by a mechanotherapist only for diagnostic purposes.

(3) A person who holds a certificate to practice mechanotherapy and completed educational requirements in mechanotherapy on or before November 3, 1985, is entitled to use the title "doctor of mechanotherapy" and is a "physician" who performs "medical services" for the purposes of Chapters 4121. and 4123. of the Revised Code and the medicaid program ~~established under section 5111.01 of the Revised Code~~, and shall receive payment or reimbursement as provided under those chapters and that ~~section~~ program.

Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend an individual's certificate to practice, refuse to grant a certificate to an individual, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate if the individual or certificate holder is found by the board to have committed fraud during the administration of the examination for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to

reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(1) Permitting one's name or one's certificate to practice or certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 to 307.629 of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of

Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code;

(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;

(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;

(47) Failure to comply with the requirement regarding maintaining notes described in division (B) of section 2919.191 of the Revised Code or failure to satisfy the requirements of section 2919.191 of the Revised Code prior to performing or inducing an abortion upon a pregnant woman.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice.

EXHIBIT 2

(130th General Assembly)
(Amended Substitute House Bill Number 59)

AN ACT

To amend sections 9.03, 9.15, 9.231, 9.239, 9.24, 9.833, 9.90, 9.901, 101.39, 101.391, 102.02, 103.144, 103.63, 107.033, 107.12, 109.06, 109.36, 109.57, 109.572, 109.71, 109.746, 109.77, 109.85, 109.86, 109.90, 109.91, 111.02, 111.15, 111.28, 113.02, 113.061, 117.03, 117.10, 117.20, 119.01, 120.06, 121.02, 121.03, 121.22, 121.35, 121.37, 121.372, 122.075, 122.083, 122.17, 122.171, 122.175, 122.28, 122.30, 122.31, 122.32, 122.33, 122.34, 122.35, 122.36, 122.58, 122.657, 122.658, 122.66, 122.67, 122.68, 122.69, 122.70, 122.701, 122.76, 122.861, 123.01, 123.10, 123.11, 123.201, 123.21, 123.27, 124.11, 124.14, 124.18, 124.30, 124.341, 124.381, 124.57, 124.84, 125.05, 125.21, 125.212, 125.28, 125.602, 125.603, 125.832, 125.836, 126.07, 126.14, 126.32, 126.35, 126.45, 126.46, 126.47, 126.48, 127.14, 127.16, 131.51, 133.01, 133.06, 135.22, 135.61, 135.71, 135.80, 135.81, 135.85, 140.01, 140.03, 140.05, 145.01, 145.012, 145.037, 145.038, 145.22, 149.01, 149.12, 149.311, 149.43, 149.431, 149.54, 151.11, 152.09, 153.692, 154.01, 154.17, 154.20, 154.22, 154.23, 154.25, 156.02, 156.03, 156.04, 156.05, 166.02, 166.03, 166.04, 166.08, 166.25, 167.03, 169.02, 169.05, 169.07, 169.08, 171.05, 173.03, 173.14, 173.17, 173.19, 173.20, 173.21, 173.23, 173.25, 173.26, 173.27, 173.28, 173.39, 173.391, 173.392, 173.394, 173.40, 173.401, 173.402, 173.403, 173.404, 173.42, 173.43, 173.431, 173.432, 173.434, 173.45, 173.47, 173.48, 173.50, 173.501, 173.99, 183.16, 183.33, 187.10, 191.01, 191.02, 191.04,

commissioners in identifying the public health quality indicators.

Sec. 3701.99. (A) Whoever violates division (C) of section 3701.23, division (C) of section 3701.232, division (C) of section 3701.24, division (B) of section 3701.25, division ~~(H)~~(D)(2) of section 3701.262, ~~division (D) of section 3701.263,~~ or sections 3701.46 to 3701.55 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 3701.82 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 3701.352 or 3701.81 of the Revised Code is guilty of a misdemeanor of the second degree.

Sec. 3702.30. (A) As used in this section:

(1) "Ambulatory surgical facility" means a facility, whether or not part of the same organization as a hospital, that is located in a building distinct from another in which inpatient care is provided, and to which any of the following apply:

(a) Outpatient surgery is routinely performed in the facility, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists.

(b) Anesthesia is administered in the facility by an anesthesiologist or certified registered nurse anesthetist, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists.

(c) The facility applies to be certified by the United States centers for medicare and medicaid services as an ambulatory surgical center for purposes of reimbursement under Part B of the medicare program, Part B of Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(d) The facility applies to be certified by a national accrediting body approved by the centers for medicare and medicaid services for purposes of deemed compliance with the conditions for participating in the medicare program as an ambulatory surgical center.

(e) The facility bills or receives from any third-party payer, governmental health care program, or other person or government entity any ambulatory surgical facility fee that is billed or paid in addition to any fee for professional services.

(f) The facility is held out to any person or government entity as an ambulatory surgical facility or similar facility by means of signage, advertising, or other promotional efforts.

"Ambulatory surgical facility" does not include a hospital emergency

department.

(2) "Ambulatory surgical facility fee" means a fee for certain overhead costs associated with providing surgical services in an outpatient setting. A fee is an ambulatory surgical facility fee only if it directly or indirectly pays for costs associated with any of the following:

(a) Use of operating and recovery rooms, preparation areas, and waiting rooms and lounges for patients and relatives;

(b) Administrative functions, record keeping, housekeeping, utilities, and rent;

(c) Services provided by nurses, orderlies, technical personnel, and others involved in patient care related to providing surgery.

"Ambulatory surgical facility fee" does not include any additional payment in excess of a professional fee that is provided to encourage physicians, podiatrists, and dentists to perform certain surgical procedures in their office or their group practice's office rather than a health care facility, if the purpose of the additional fee is to compensate for additional cost incurred in performing office-based surgery.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care facility" means any of the following:

(a) An ambulatory surgical facility;

(b) A freestanding dialysis center;

(c) A freestanding inpatient rehabilitation facility;

(d) A freestanding birthing center;

(e) A freestanding radiation therapy center;

(f) A freestanding or mobile diagnostic imaging center.

(5) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

(B) By rule adopted in accordance with sections 3702.12 and 3702.13 of the Revised Code, the director of health shall establish quality standards for health care facilities. The standards may incorporate accreditation standards or other quality standards established by any entity recognized by the director.

In the case of an ambulatory surgical facility, the standards shall require the ambulatory surgical facility to maintain an infection control program. The purposes of the program are to minimize infections and communicable diseases and facilitate a functional and sanitary environment consistent with standards of professional practice. To achieve these purposes, ambulatory surgical facility staff managing the program shall create and administer a plan designed to prevent, identify, and manage infections and communicable

diseases; ensure that the program is directed by a qualified professional trained in infection control; ensure that the program is an integral part of the ambulatory surgical facility's quality assessment and performance improvement program; and implement in an expeditious manner corrective and preventive measures that result in improvement.

(C) Every ambulatory surgical facility shall require that each physician who practices at the facility comply with all relevant provisions in the Revised Code that relate to the obtaining of informed consent from a patient.

(D) The director shall issue a license to each health care facility that makes application for a license and demonstrates to the director that it meets the quality standards established by the rules adopted under division (B) of this section and satisfies the informed consent compliance requirements specified in division (C) of this section.

(E)(1) Except as provided in division (H) of this section and in section 3702.301 of the Revised Code, no health care facility shall operate without a license issued under this section.

(2) If the department of health finds that a physician who practices at a health care facility is not complying with any provision of the Revised Code related to the obtaining of informed consent from a patient, the department shall report its finding to the state medical board, the physician, and the health care facility.

(3) This division does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a health care facility and in favor of a patient who allegedly sustains harm as a result of the failure of the patient's physician to obtain informed consent from the patient prior to performing a procedure on or otherwise caring for the patient in the health care facility.

(F) The rules adopted under division (B) of this section shall include all of the following:

(1) Provisions governing application for, renewal, suspension, and revocation of a license under this section;

(2) Provisions governing orders issued pursuant to section 3702.32 of the Revised Code for a health care facility to cease its operations or to prohibit certain types of services provided by a health care facility;

(3) Provisions governing the imposition under section 3702.32 of the Revised Code of civil penalties for violations of this section or the rules adopted under this section, including a scale for determining the amount of the penalties;

(4) Provisions specifying the form inspectors must use when conducting inspections of ambulatory surgical facilities.

(G) An ambulatory surgical facility that performs or induces abortions shall comply with section 3701.791 of the Revised Code.

(H) The following entities are not required to obtain a license as a freestanding diagnostic imaging center issued under this section:

(1) A hospital registered under section 3701.07 of the Revised Code that provides diagnostic imaging;

(2) An entity that is reviewed as part of a hospital accreditation or certification program and that provides diagnostic imaging;

(3) An ambulatory surgical facility that provides diagnostic imaging in conjunction with or during any portion of a surgical procedure.

Sec. 3702.302. In the case of an ambulatory surgical facility not certified by the centers for medicare and medicaid services as an ambulatory surgical center, the director of health shall conduct an inspection of the facility each time the facility submits an application for license renewal. The director shall not renew the license unless all of the following conditions are met:

(A) The inspector conducting the inspection completes each item on the following, as applicable:

(1) Until the director adopts rules under division (F) of section 3702.30 of the Revised Code, the form approved by the director on the effective date of this section:

(2) The form specified by the director pursuant to rules adopted under division (F) of section 3702.30 of the Revised Code.

(B) The inspection demonstrates that the ambulatory surgical facility complies with all quality standards established by the director in rules adopted under division (B) of section 3702.30 of the Revised Code.

(C) The director determines that the most recent version of the updated written transfer agreement filed in accordance with division (B) of section 3702.303 of the Revised Code is satisfactory, unless the director has granted a variance from the written transfer agreement requirement as permitted by section 3702.304 of the Revised Code.

Sec. 3702.303. (A) Except as provided in division (C) of this section, an ambulatory surgical facility shall have a written transfer agreement with a local hospital that specifies an effective procedure for the safe and immediate transfer of patients from the facility to the hospital when medical care beyond the care that can be provided at the ambulatory surgical facility is necessary, including when emergency situations occur or medical complications arise. A copy of the agreement shall be filed with the director of health.

(B) An ambulatory surgical facility shall update a written transfer

agreement every two years and file a copy of the updated agreement with the director.

(C) The requirement for a written transfer agreement between an ambulatory surgical facility and a hospital does not apply if either of the following is the case:

(1) The facility is a provider-based entity, as defined in 42 C.F.R. 413.65(a)(2), of a hospital and the facility's policies and procedures to address situations when care beyond the care that can be provided at the ambulatory surgical facility are approved by the governing body of the facility's parent hospital and implemented;

(2) The director of health has, pursuant to the procedure specified in section 3702.304 of the Revised Code, granted the facility a variance from the requirement.

Sec. 3702.304. (A) The director of health may grant a variance from the written transfer agreement requirement of section 3702.303 of the Revised Code if the ambulatory surgical facility submits to the director a complete variance application, prescribed by the director, and the director determines after reviewing the application that the facility is capable of achieving the purpose of a written transfer agreement in the absence of one. The director's determination is final.

(B) A variance application is complete for purposes of division (A) of this section if it contains or includes as attachments all of the following:

(1) A statement explaining why application of the requirement would cause the facility undue hardship and why the variance will not jeopardize the health and safety of any patient;

(2) A letter, contract, or memorandum of understanding signed by the facility and one or more consulting physicians who have admitting privileges at a minimum of one local hospital, memorializing the physician or physicians' agreement to provide back-up coverage when medical care beyond the level the facility can provide is necessary;

(3) For each consulting physician described in division (B)(2) of this section:

(a) A signed statement in which the physician attests that the physician is familiar with the facility and its operations, and agrees to provide notice to the facility of any changes in the physician's ability to provide back-up coverage;

(b) The estimated travel time from the physician's main residence or office to each local hospital where the physician has admitting privileges;

(c) Written verification that the facility has a record of the name, telephone numbers, and practice specialties of the physician;

(d) Written verification from the state medical board that the physician possesses a valid certificate to practice medicine and surgery or osteopathic medicine and surgery issued under Chapter 4731. of the Revised Code;

(e) Documented verification that each hospital at which the physician has admitting privileges has been informed in writing by the physician that the physician is a consulting physician for the ambulatory surgical facility and has agreed to provide back-up coverage for the facility when medical care beyond the care the facility can provide is necessary.

(4) A copy of the facility's operating procedures or protocols that, at a minimum, do all of the following:

(a) Address how back-up coverage by consulting physicians is to occur, including how back-up coverage is to occur when consulting physicians are temporarily unavailable;

(b) Specify that each consulting physician is required to notify the facility, without delay, when the physician is unable to expeditiously admit patients to a local hospital and provide for continuity of patient care;

(c) Specify that a patient's medical record maintained by the facility must be transferred contemporaneously with the patient when the patient is transferred from the facility to a hospital.

(5) Any other information the director considers necessary.

(C) The director's decision to grant, refuse, or rescind a variance is final.

(D) The director shall consider each application for a variance independently without regard to any decision the director may have made on a prior occasion to grant or deny a variance to that ambulatory surgical facility or any other facility.

Sec. 3702.305. The director of health may impose conditions on any variance the director has granted under section 3702.304 of the Revised Code. The director may, at any time, rescind the variance for any reason, including a determination by the director that the facility is failing to meet one or more of the conditions or no longer adequately protects public health and safety. The director's decision to rescind a variance is final.

Sec. 3702.306. A variance the director of health grants under section 3702.304 of the Revised Code is effective for the period of time specified by the director, except that it shall not be effective beyond the date the ambulatory surgical facility's license expires. If a variance is to expire on the date the facility's license expires, the facility may submit to the director an application for a new variance with its next license renewal application.

Sec. 3702.307. An ambulatory surgical facility shall notify the director of health when any of the following occurs:

(A) The facility modifies any provision of its most recent written

transfer agreement filed with the director under section 3702.303 of the Revised Code. Notification under these circumstances shall occur not later than the business day after the modification is finalized. As used in this division, "business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(B) The facility modifies its operating procedures or protocols described in division (B)(4) of section 3702.304 of the Revised Code. Notification under these circumstances shall occur not later than forty-eight hours after the modification is made.

(C) The ambulatory surgical facility becomes aware of an event, including disciplinary action by the state medical board pursuant to section 4731.22 of the Revised Code, that may affect a consulting physician's certificate to practice medicine and surgery or osteopathic medicine and surgery or the physician's ability to admit patients to a hospital identified in a variance application, as described in division (B)(3)(e) of section 3702.304 of the Revised Code. Notification under these circumstances shall occur not later than one week after the facility becomes aware of the event's occurrence.

Sec. 3702.308. If any provision in sections 3702.302 to 3702.307 of the Revised Code is enjoined, the injunction does not affect any remaining provision of those sections, any provision of section 3702.30 of the Revised Code, or any provision of the rules adopted under that section.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) "Service area" means the current and projected primary and secondary service areas to which the long-term care facility is, or will be, providing long-term care services.

(E) "Primary service area" means the geographic region, usually comprised of the Ohio zip code in which the long-term care facility is located and contiguous zip codes, from which approximately seventy-five to eighty per cent of the facility's residents currently originate or are expected to originate.

annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (B)(1)(a) of this section.

(2) "Hospital" means an institution classified as a hospital under section 3701.07 of the Revised Code in which are provided to inpatients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than twenty-four hours or a hospital operated by a health maintenance organization. "Hospital" does not include a facility licensed under Chapter 3721. of the Revised Code, a health care facility operated by the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities, a health maintenance organization that does not operate a hospital, the office of any private licensed health care professional, whether organized for individual or group practice, or a clinic that provides ambulatory patient services and where patients are not regularly admitted as inpatients. "Hospital" also does not include an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(3) "Joint commission" means the commission formerly known as the joint commission on accreditation of healthcare organizations or the joint commission on accreditation of hospitals.

Sec. 3727.60. (A) As used in this section:

(1) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.

(2) "Nontherapeutic abortion" has the same meaning as in section 9.04 of the Revised Code.

(3) "Political subdivision" means any body corporate and politic that is responsible for governmental activities in a geographic area smaller than the state.

(4) "Public hospital" means a hospital registered with the department of health under section 3701.07 of the Revised Code that is owned, leased, or controlled by this state or any agency, institution, instrumentality, or

political subdivision of this state. "Public hospital" includes any state university hospital, state medical college hospital, joint hospital, or public hospital agency.

(5) "Written transfer agreement" means an agreement described in section 3702.303 of the Revised Code.

(B) No public hospital shall do either of the following:

(1) Enter into a written transfer agreement with an ambulatory surgical facility in which nontherapeutic abortions are performed or induced;

(2) Authorize a physician who has been granted staff membership or professional privileges at the public hospital to use that membership or those privileges as a substitution for, or alternative to, a written transfer agreement for purposes of a variance application described in section 3702.304 of the Revised Code that is submitted to the director of health by an ambulatory surgical facility in which nontherapeutic abortions are performed or induced.

Sec. 3734.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

(B) "Director" means the director of environmental protection.

(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any material that is an infectious waste or a hazardous waste.

(F) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid

EXHIBIT 3

(130th General Assembly)
(Amended Substitute House Bill Number 59)

AN ACT

To amend sections 9.03, 9.15, 9.231, 9.239, 9.24, 9.833, 9.90, 9.901, 101.39, 101.391, 102.02, 103.144, 103.63, 107.033, 107.12, 109.06, 109.36, 109.57, 109.572, 109.71, 109.746, 109.77, 109.85, 109.86, 109.90, 109.91, 111.02, 111.15, 111.28, 113.02, 113.061, 117.03, 117.10, 117.20, 119.01, 120.06, 121.02, 121.03, 121.22, 121.35, 121.37, 121.372, 122.075, 122.083, 122.17, 122.171, 122.175, 122.28, 122.30, 122.31, 122.32, 122.33, 122.34, 122.35, 122.36, 122.58, 122.657, 122.658, 122.66, 122.67, 122.68, 122.69, 122.70, 122.701, 122.76, 122.861, 123.01, 123.10, 123.11, 123.201, 123.21, 123.27, 124.11, 124.14, 124.18, 124.30, 124.341, 124.381, 124.57, 124.84, 125.05, 125.21, 125.212, 125.28, 125.602, 125.603, 125.832, 125.836, 126.07, 126.14, 126.32, 126.35, 126.45, 126.46, 126.47, 126.48, 127.14, 127.16, 131.51, 133.01, 133.06, 135.22, 135.61, 135.71, 135.80, 135.81, 135.85, 140.01, 140.03, 140.05, 145.01, 145.012, 145.037, 145.038, 145.22, 149.01, 149.12, 149.311, 149.43, 149.431, 149.54, 151.11, 152.09, 153.692, 154.01, 154.17, 154.20, 154.22, 154.23, 154.25, 156.02, 156.03, 156.04, 156.05, 166.02, 166.03, 166.04, 166.08, 166.25, 167.03, 169.02, 169.05, 169.07, 169.08, 171.05, 173.03, 173.14, 173.17, 173.19, 173.20, 173.21, 173.23, 173.25, 173.26, 173.27, 173.28, 173.39, 173.391, 173.392, 173.394, 173.40, 173.401, 173.402, 173.403, 173.404, 173.42, 173.43, 173.431, 173.432, 173.434, 173.45, 173.47, 173.48, 173.50, 173.501, 173.99, 183.16, 183.33, 187.10, 191.01, 191.02, 191.04,

suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section.

(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult.

Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code:

(1) "County family services agency" has the same meaning as in section 307.981 of the Revised Code.

(2) "State agency" has the same meaning as in section 9.82 of the Revised Code.

(3) "Title IV-A administrative agency" means both of the following:

(a) A county family services agency or state agency administering a Title IV-A program under the supervision of the department of job and family services;

(b) A government agency or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program created under section 5101.803 of the Revised Code.

(4) "Title IV-A program" means all of the following that are funded in part with funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended:

(a) The Ohio works first program established under Chapter 5107. of the Revised Code;

(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;

(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant to section 5101.801 of the Revised Code;

(d) The kinship permanency incentive program created under section 5101.802 of the Revised Code;

(e) The Title IV-A demonstration program created under section 5101.803 of the Revised Code;

(f) The Ohio parenting and pregnancy program created under section 5101.804 of the Revised Code;

(g) A component of a Title IV-A program identified under divisions (A)(4)(a) to ~~(e)(f)~~ of this section that the Title IV-A state plan prepared under division (C)(1) of this section identifies as a component.

(B) The department of job and family services shall act as the single state agency to administer and supervise the administration of Title IV-A programs. The Title IV-A state plan and amendments to the plan prepared under division (C) of this section are binding on Title IV-A administrative agencies. No Title IV-A administrative agency may establish, by rule or otherwise, a policy governing a Title IV-A program that is inconsistent with a Title IV-A program policy established, in rule or otherwise, by the director of job and family services.

(C) The department of job and family services shall do all of the following:

(1) Prepare and submit to the United States secretary of health and

human services a Title IV-A state plan for Title IV-A programs;

(2) Prepare and submit to the United States secretary of health and human services amendments to the Title IV-A state plan that the department determines necessary, including amendments necessary to implement Title IV-A programs identified in divisions (A)(4)(c) to ~~(F)(g)~~ of this section;

(3) Prescribe forms for applications, certificates, reports, records, and accounts of Title IV-A administrative agencies, and other matters related to Title IV-A programs;

(4) Make such reports, in such form and containing such information as the department may find necessary to assure the correctness and verification of such reports, regarding Title IV-A programs;

(5) Require reports and information from each Title IV-A administrative agency as may be necessary or advisable regarding a Title IV-A program;

(6) Afford a fair hearing in accordance with section 5101.35 of the Revised Code to any applicant for, or participant or former participant of, a Title IV-A program aggrieved by a decision regarding the program;

(7) Administer and expend, pursuant to Chapters 5104., 5107., and 5108. of the Revised Code and sections 5101.801, 5101.802, ~~and~~ 5101.803, and 5101.804 of the Revised Code, any sums appropriated by the general assembly for the purpose of those chapters and sections and all sums paid to the state by the secretary of the treasury of the United States as authorized by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended;

(8) Conduct investigations and audits as are necessary regarding Title IV-A programs;

(9) Enter into reciprocal agreements with other states relative to the provision of Ohio works first and prevention, retention, and contingency to residents and nonresidents;

(10) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:

(a) Examine issues of process, practice, impact, and outcomes;

(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received benefits or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;

(c) Provide the department with reports at times the department specifies.

(11) Not later than the last day of each January and July, prepare a report containing information on the following:

(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.

(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.

(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under division (C)(11) of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or government entity on request.

(E) An authorized representative of the department or a county family services agency or state agency administering a Title IV-A program shall have access to all records and information bearing thereon for the purposes of investigations conducted pursuant to this section. An authorized representative of a government entity or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program shall have access to all records and information bearing on the project for the purpose of investigations conducted pursuant to this section.

Sec. 5101.801. (A) Except as otherwise provided by the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program, a Title IV-A program identified under division (A)(4)(c), (d), (e), ~~or (f)~~ or (g) of section 5101.80 of the Revised Code shall provide benefits and services that are not "assistance" as defined in 45 C.F.R. 260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance.

(B)(1) Except as otherwise provided by the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program, the department of job and family services shall do either of the following regarding a Title IV-A program identified under division (A)(4)(c), (d), (e), ~~or (f)~~ or (g) of section 5101.80 of the Revised Code:

(a) Administer the program or supervise a county family services agency's administration of the program;

(b) Enter into an interagency agreement with a state agency for the state agency to administer the program under the department's supervision.

(2) The department may enter into an agreement with a government

entity and, to the extent permitted by federal law, a private, not-for-profit entity for the entity to receive funding for a project under the Title IV-A demonstration program created under section 5101.803 of the Revised Code.

(3) To the extent permitted by federal law, the department may enter into an agreement with a private, not-for-profit entity for the entity to receive funds under the Ohio parenting and pregnancy program created under section 5101.804 of the Revised Code.

(C) The department may adopt rules governing Title IV-A programs identified under divisions (A)(4)(c), (d), (e), ~~and (f), and (g)~~ of section 5101.80 of the Revised Code. Rules governing financial and operational matters of the department or between the department and county family services agencies shall be adopted as internal management rules adopted in accordance with section 111.15 of the Revised Code. All other rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(D) If the department enters into an agreement regarding a Title IV-A program identified under division (A)(4)(c), (e), ~~or (f), or (g)~~ of section 5101.80 of the Revised Code pursuant to division (B)(1)(b) or (2) of this section, the agreement shall include at least all of the following:

(1) A requirement that the state agency or entity comply with the requirements for the program or project, including all of the following requirements established by federal statutes and regulations, state statutes and rules, the United States office of management and budget, and the Title IV-A state plan prepared under section 5101.80 of the Revised Code:

- (a) Eligibility;
- (b) Reports;
- (c) Benefits and services;
- (d) Use of funds;
- (e) Appeals for applicants for, and recipients and former recipients of, the benefits and services;
- (f) Audits.

(2) A complete description of all of the following:

- (a) The benefits and services that the program or project is to provide;
- (b) The methods of program or project administration;
- (c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the program or project's benefits and services;

(d) Other requirements that the department requires be included.

(3) Procedures for the department to approve a policy, established by rule or otherwise, that the state agency or entity establishes for the program or project before the policy is established;

state laws, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the Title IV-A state plan submitted to the United States secretary under that section, and federal waivers the United States secretary grants.

(C) The department shall begin implementation of the Title IV-A demonstration program no later than January 1, 2006.

Sec. 5101.804. (A) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the Ohio parenting and pregnancy program to provide services for pregnant women and parents or other relatives caring for children twelve months of age or younger that do both of the following:

(1) Promote childbirth, parenting, and alternatives to abortion;

(2) Meet one or more of the four purposes of the temporary assistance for needy families block grant as specified in 42 U.S.C. 601.

(B) To the extent permitted by federal law, the department of job and family services may provide funds under the program to entities with which the department enters into agreements under division (B)(3) of section 5101.801 of the Revised Code. In accordance with criteria the department develops, the department may solicit proposals from entities seeking to provide services under the program. The department may enter into an agreement with an entity only if it meets all of the following conditions:

(1) Is a private, not-for-profit entity;

(2) Is an entity whose primary purpose is to promote childbirth, rather than abortion, through counseling and other services, including parenting and adoption support;

(3) Provides services to pregnant women and parents or other relatives caring for children twelve months of age or younger, including clothing, counseling, diapers, food, furniture, health care, parenting classes, postpartum recovery, shelter, and any other supportive services, programs, or related outreach;

(4) Does not charge pregnant women and parents or other relatives caring for children twelve months of age or younger a fee for any services received;

(5) Is not involved in or associated with any abortion activities, including providing abortion counseling or referrals to abortion clinics, performing abortion-related medical procedures, or engaging in pro-abortion advertising;

(6) Does not discriminate in its provision of services on the basis of race, religion, color, age, marital status, national origin, disability, or gender.

(C) An entity that has entered into an agreement with the department under division (B)(3) of section 5101.801 of the Revised Code may enter into a subcontract with another entity under which the other entity provides all or part of the services described in division (B)(3) of this section. A subcontract may be entered into with another entity only if that entity meets all of the following conditions:

(1) Is a private, not-for-profit entity;

(2) Is physically and financially separate from any entity, or component of an entity, that engages in abortion activities;

(3) Is not involved in or associated with any abortion activities, including providing abortion counseling or referrals to abortion clinics, performing abortion-related medical procedures, or engaging in pro-abortion advertising.

(D) The director of job and family services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the Ohio parenting and pregnancy program.

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of the Revised Code:

(A)(1) "Association" or "institution" includes any all of the following:

(a) Any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks; any

(b) Any individual, including the operator of a foster home, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage; and any

(c) Any individual not in the regular employ of a court, or of an institution or association certified in accordance with section 5103.03 of the Revised Code, who in any manner becomes a party to the placing of children in foster homes, unless the individual is related to such children by blood or marriage; or is the appointed guardian of such children; provided, that any.

(2) "Association" or "institution" does not include any of the following:

(a) Any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the department of education, a local board of education, the department of youth services, the department of ~~mental health~~ mental health and addiction services, or the department of developmental disabilities; or any.

TOTAL ALL BUDGET FUND GROUPS	\$	2,500,598	\$	2,350,598
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SECTION 299.10. INS DEPARTMENT OF INSURANCE

Federal Special Revenue Fund Group

3EV0 820610	Health Insurance Premium Review	\$	1,300,000	\$	1,300,000
3U50 820602	OSHIIP Operating Grant	\$	1,970,725	\$	1,970,725
TOTAL FED Federal Special Revenue Fund Group		\$	3,270,725	\$	3,270,725

State Special Revenue Fund Group

5540 820601	Operating Expenses - OSHIIP	\$	180,000	\$	180,000
5540 820606	Operating Expenses	\$	27,570,433	\$	24,910,367
5550 820605	Examination	\$	8,184,065	\$	8,184,065
TOTAL SSR State Special Revenue Fund Group		\$	35,934,498	\$	33,274,432
TOTAL ALL BUDGET FUND GROUPS		\$	39,205,223	\$	36,545,157

MARKET CONDUCT EXAMINATION

When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or rules administered by the Superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 5540).

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES

The Director of Budget and Management, at the request of the Superintendent of Insurance, may transfer funds from the Department of Insurance Operating Fund (Fund 5540), established by section 3901.021 of the Revised Code, to the Superintendent's Examination Fund (Fund 5550), established by section 3901.071 of the Revised Code, only for expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND

Not later than the thirty-first day of July each fiscal year, the Director of Budget and Management shall transfer \$5,000,000 from the Department of Insurance Operating Fund (Fund 5540) to the General Revenue Fund.

SECTION 301.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES

General Revenue Fund

Am. Sub. H. B. No. 59

130th G.A.

3517

GRF 600321	Program Support	\$	31,320,964	\$	31,109,751
GRF 600410	TANF State/Maintenance of Effort	\$	152,386,934	\$	152,386,934
GRF 600413	Child Care State/Maintenance of Effort	\$	84,732,730	\$	84,732,730
GRF 600416	Information Technology Projects	\$	54,223,871	\$	54,184,700
GRF 600420	Child Support Programs	\$	6,498,667	\$	6,591,048
GRF 600421	Family Assistance Programs	\$	3,161,930	\$	3,161,930
GRF 600423	Families and Children Programs	\$	6,384,514	\$	6,542,517
GRF 600502	Child Support - Local	\$	23,814,103	\$	23,814,103
GRF 600511	Disability Financial Assistance	\$	22,000,000	\$	22,000,000
GRF 600521	Family Assistance - Local	\$	41,132,751	\$	41,132,751
GRF 600523	Family and Children Services	\$	54,255,323	\$	54,255,323
GRF 600528	Adoption Services				
	State	\$	28,623,389	\$	28,623,389
	Federal	\$	38,202,557	\$	38,202,557
	Adoption Services Total	\$	66,825,946	\$	66,825,946
GRF 600533	Child, Family, and Adult Community & Protective Services	\$	13,500,000	\$	13,500,000
GRF 600534	Adult Protective Services	\$	500,000	\$	500,000
GRF 600535	Early Care and Education	\$	123,596,474	\$	123,596,474
GRF 600540	Food Banks	\$	6,000,000	\$	6,000,000
GRF 600541	Kinship Permanency Incentive Program	\$	3,500,000	\$	3,500,000
GRF 655522	Medicaid Program Support - Local	\$	38,267,970	\$	38,267,970
GRF 655523	Medicaid Program Support - Local Transportation	\$	30,680,495	\$	30,680,495
TOTAL GRF General Revenue Fund					
	State	\$	724,580,115	\$	724,580,115
	Federal	\$	38,202,557	\$	38,202,557
	GRF Total	\$	762,782,672	\$	762,782,672
General Services Fund Group					
4A80 600658	Public Assistance Activities	\$	34,000,000	\$	34,000,000
5DM0 600633	Administration & Operating	\$	19,660,339	\$	19,660,339
5HC0 600695	Unemployment	\$	60,000,000	\$	60,000,000
	Compensation Interest				
5HL0 600602	State and County Shared Services	\$	3,020,000	\$	3,020,000
6130 600645	Training Activities	\$	8,100,000	\$	92,989
TOTAL GSF General Services Fund Group		\$	124,780,339	\$	116,773,328
Federal Special Revenue Fund Group					
3270 600606	Child Welfare	\$	29,769,866	\$	29,769,866
3310 600615	Veterans Programs	\$	8,000,000	\$	8,000,000
3310 600624	Employment Services Programs	\$	26,000,000	\$	26,000,000
3310 600686	Workforce Programs	\$	6,260,000	\$	6,260,000
3840 600610	Food Assistance Programs	\$	209,333,246	\$	180,381,394
3850 600614	Refugee Services	\$	12,564,952	\$	12,564,952

3950	600616	Federal Discretionary Grants	\$	2,259,264	\$	2,259,264
3960	600620	Social Services Block Grant	\$	47,000,000	\$	47,000,000
3970	600626	Child Support - Federal	\$	235,000,000	\$	235,000,000
3980	600627	Adoption Program - Federal	\$	174,178,779	\$	174,178,779
3A20	600641	Emergency Food Distribution	\$	5,000,000	\$	5,000,000
3D30	600648	Children's Trust Fund Federal	\$	3,477,699	\$	3,477,699
3F01	655624	Medicaid Program Support	\$	110,680,495	\$	110,680,495
3H70	600617	Child Care Federal	\$	241,987,805	\$	222,212,089
3N00	600628	Foster Care Program - Federal	\$	311,968,616	\$	311,968,616
3S50	600622	Child Support Projects	\$	534,050	\$	534,050
3V00	600688	Workforce Investment Act	\$	136,000,000	\$	136,000,000
		Programs				
3V40	600678	Federal Unemployment	\$	182,814,212	\$	182,814,212
		Programs				
3V40	600679	UC Review Commission -	\$	6,185,788	\$	6,185,788
		Federal				
3V60	600689	TANF Block Grant	\$	777,957,809	\$	790,304,845
TOTAL FED Federal Special Revenue						
Fund Group			\$	2,526,972,581	\$	2,490,592,049
State Special Revenue Fund Group						
1980	600647	Children's Trust Fund	\$	5,873,848	\$	5,873,848
4A90	600607	Unemployment Compensation	\$	9,006,000	\$	9,006,000
		Administration Fund				
4E70	600604	Family and Children Services	\$	400,000	\$	400,000
		Collections				
4F10	600609	Family and Children	\$	683,549	\$	683,549
		Activities				
5DB0	600637	Military Injury Relief	\$	2,000,000	\$	2,000,000
		Subsidies				
5DP0	600634	Adoption Assistance Loan	\$	500,000	\$	500,000
5ES0	600630	Food Bank Assistance	\$	500,000	\$	500,000
5KU0	600611	Unemployment Compensation	\$	2,000,000	\$	2,000,000
		Support - Other Sources				
5NG0	600660	Victims of Human Trafficking	\$	100,000	\$	100,000
5U60	600663	Family and Children Support	\$	4,000,000	\$	4,000,000
TOTAL SSR State Special Revenue						
Fund Group			\$	25,063,397	\$	25,063,397
Agency Fund Group						
1920	600646	Child Support Intercept -	\$	129,250,000	\$	129,250,000
		Federal				
5830	600642	Child Support Intercept -	\$	14,000,000	\$	14,000,000
		State				
5B60	600601	Food Assistance Intercept	\$	1,000,000	\$	1,000,000
TOTAL AGY Agency Fund Group			\$	144,250,000	\$	144,250,000
Holding Account Redistribution Fund Group						
R012	600643	Refunds and Audit	\$	2,200,000	\$	2,200,000
		Settlements				
R013	600644	Forgery Collections	\$	10,000	\$	10,000
TOTAL 090 Holding Account Redistribution			\$	2,210,000	\$	2,210,000
Fund Group						
TOTAL ALL BUDGET FUND GROUPS			\$	3,586,058,989	\$	3,541,671,446