

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 77 – SB 1236

February 17, 2019

**SUMMARY OF ORIGINAL BILL:** Requires an ultrasound to determine the presence of a fetal heartbeat. Prohibits abortions from the point a fetal heartbeat is detected. Creates exceptions for medical emergency.

Requires the person determining the presence or absence of a fetal heartbeat to record the estimated gestational age of the fetus, the ultrasound method used, the date and time of the test, and the results of the test in the pregnant woman's medical record. Requires that the pregnant woman be offered the results of the ultrasound, including if a fetal heartbeat is detected, in person or by telephone.

Allows for a civil cause of action if the pregnant woman is not given the required information or is given false information. Authorizes damages, court costs and reasonable attorney's fees.

Requires a physician who performs an abortion or attempts to procure a miscarriage under the medical emergency exception to declare in a written statement to be placed in the woman's medical records that the procedure is necessary and the specific condition that constitutes the medical emergency. Repeals the *Tennessee Infants Protection Act* enacted by Public Chapter 353 of the Public Acts of 2017.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (004306):** Deletes all language after the enacting clause. Deletes penalties for criminal abortion and attempt to procure criminal miscarriage. Redefines "viable and viability" as the presence of an intrauterine fetus with a heartbeat. Prohibits abortions from the point a fetal heartbeat is detected. Deletes rebuttable presumption that an unborn child of at least 24 weeks gestational age is viable. Requires the person determining the presence or absence of a fetal heartbeat to record the estimated gestational age of the fetus, the ultrasound method used, the date and time of the test, and the results of the test in the pregnant woman's medical record.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

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Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 9-4-5116, no state funds are to be expended to perform abortions unless the pregnancy is the result of an act of rape or incest, or the woman's life is in danger unless the abortion is performed.
- The proposed legislation will not change the procedures currently in place for an abortion resulting from the woman's life being in danger. State funds expended for abortions performed in the case of an act of rape or incest will require an ultrasound which could result in additional costs associated with the ultrasound.
- Based on information provided by the Department of Finance and Administration, Division of Benefits Administration (Benefits Administration), the proposed legislation may result in an increase in ultrasounds; however, it is assumed they will meet Benefit Administration's carrier's medical necessity requirement and will not significantly impact any managed-care plans for employees of state government, local government or local education agencies.
- Based on information provided by the Division of TennCare (Division), abortions are only covered under emergent circumstances; therefore, any fiscal impact to the Division is estimated to be not significant.
- Any necessary rule changes by boards under the Division of Health Related Boards can be accommodated within the appropriate board's regularly-scheduled meetings at no additional cost.
- Based on information provided by the Administrative Office of the Courts, the proposed legislation would not result in a significant increase in caseloads for the state and local courts. Any increase in expenditures will be absorbed within existing state and local resources.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/vlh