



TO: Senate Judiciary Committee

FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio

DATE: June 27, 2017

RE: Senate Bill 145

To Chairman Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, my name is Gary Daniels, chief lobbyist for the American Civil Liberties Union of Ohio (“ACLU of Ohio”) and I appear to present opponent testimony on Senate Bill 145.

AMERICAN CIVIL
LIBERTIES UNION
OF OHIO
4506 CHESTER AVENUE
CLEVELAND, OH 44103-3621
T/216.472.2220
F/216.472.2210
WWW.ACLUOHIO.ORG
contact@acluohio.org

As you have heard from previous testimony on SB 145, this bill is the latest attempt by elected officials to substitute their own judgment for that of medical professionals. Should SB 145 become law, it will serve to make abortion less safe and risk the health of Ohio women by effectively ending dilation and evacuation abortions. The banning of this method may also serve to end all second trimester abortions in Ohio, the true goal of many proponents of these bans.

The dilation & evacuation method criminalized under SB 145 is utilized in almost all second trimester abortions and for good reason – it is an extremely safe way to perform abortions, with a less than 1% rate of serious complications. That is precisely why the American College of Obstetricians & Gynecologists recommends dilation & evacuation for pregnancies after 14 weeks.

Last week, you heard misleading and inaccurate testimony claiming SB 145 does not really ban the dilation & evacuation method. It merely bans performing this method on a living fetus. That same testimony then offered three options to comply with SB 145 – 1) potassium chloride injection, 2) digoxin injection, or 3) umbilical cord transection.

What that witness failed to mention is these methods are rarely used because of the dangers they pose to women including infection, serious bleeding, uterine perforations, and complicating future pregnancies. So infrequently used are these methods that it is extremely difficult to even find training in these procedures. So serious are the potential complications, some physicians have stated it would be a breach of medical ethics to even perform them and they would refuse to do so.

That is why responsible medical professionals have long recommended dilation and evacuation and why it is used, except in rare exceptions.

This information all comes from documents submitted to courts that have issued injunctions against these bans. These same courts have found this information compelling enough to continue ruling against these laws as unnecessary, uncommon, and unsafe.

This committee has heard much about the adoption of these laws in other states. Curiously, you have heard almost nothing about the results of those laws' passage. To date, seven states have passed these bans. So far, lawsuits challenging those bans have been filed in five states. This has led to three injunctions halting enforcement of those laws and another voluntary halt while litigation proceeds. One lawsuit was filed on June 20, 2017 and so there are no substantive updates regarding that suit.

In other words, lawsuits challenging these bans have a current 100% track record of success. SB 145 will be challenged in court at some point. Given the current trajectory of these bans, it is hard to believe Ohio will be any more successful in its defense.

This is because courts and judges considering these cases have concluded the same things offered in our opponent testimony. That is, D&E bans are essentially bans on all second-trimester abortions, complying with D&E bans involve intrusive and risky procedures, and the burden this places on women and clinics renders these laws unconstitutional. (For a more detailed explanation of the numerous hurdles D&E bans face in court, I refer you to the written testimony opposing SB 145 submitted by Dean Jessie Hill, a nationally-recognized expert on reproductive rights litigation).

Members of this committee, the far better alternative to SB 145 is to allow your constituents to make these decisions for themselves free of unnecessary risks or complications: We must trust medical experts to use the procedures that are best for the patient and her healthcare.