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IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

PRETERM-CLEVELAND, *et al.*,	:	
	:	**Case No.: A2203203**
Plaintiffs,	:	
	:	
v.	:	**Judge Christian A. Jenkins**
	:	
ANDY WILSON, *et al.*,	:	
	:	**Decision and Entry Granting Plaintiffs' Renewed Motion for Judgment on the Pleadings**
Defendants.	:	

I. Introduction

The central provision of the Heartbeat Act, the ban on abortion after the detection of embryonic cardiac activity in R.C. 2919.195 (the "Six-Week Ban"), has gone the way of the dodo. Ohio voters saw to that on November 7, 2023, when they amended the Ohio Constitution to protect the right to abortion before viability. The State concedes this point. The question now before the Court is whether the eleven challenged sections of the Revised Code that S.B. 23 enacted or amended to accompany the Six-Week Ban (the "Ancillary Provisions") are extinct as well, or whether they can live on without it.

The Ancillary Provisions are of the same species as the Six-Week Ban and for that reason they cannot survive. These measures were passed alongside the Six-Week Ban to make it difficult, or impossible, to obtain abortion care in Ohio by placing providers at risk of criminal prosecution as well as professional and financial ruin. The Ancillary Provisions require physicians to report to the Ohio Department of Health on their tests for cardiac activity and on any exception to the Six-Week Ban they try to invoke. They make it a fifth-degree felony, the same offense as a violation of the Six-Week Ban itself, to perform an abortion without first testing for cardiac activity. They

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expose a physician who skips that test, or who performs that test but fails to obtain the patient's signature on a form acknowledging a "fetal heartbeat," to a civil action for "wrongful death" and a forfeiture of up to $20,000. They require every physician who performs an abortion to record whether the patient's health was a reason for it, and they make a physician who fails to keep that record subject to discipline by the State Medical Board.

The State Defendants concede that the Six-Week Ban is unconstitutional, yet they ask the Court to leave nearly all the Ancillary Provisions in place. If the Court agreed, a physician could still be imprisoned for performing a lawful abortion to which the patient now has a constitutional right. And a woman who exercised her constitutional right to end a pregnancy could later sue her physician for wrongful death of the embryo because no one asked her to sign a form.

This Court is addressing a narrow question framed nearly a century ago in *Geiger v. Geiger*, 117 Ohio St. 451 (1927). Can each Ancillary Provision be separated from the Six-Week Ban and stand on its own, and can it still carry out the General Assembly's purpose once the Six-Week Ban is gone? The answer is no. The Ancillary Provisions were enacted to enforce, document, and define the Six-Week Ban. Without the Six-Week Ban, the Ancillary Provisions cannot be read as the General Assembly wrote them. Nor can they serve the purpose for which the General Assembly wrote them. Plaintiffs' Renewed Motion for Judgment on the Pleadings is GRANTED. The State Defendants are permanently enjoined from enforcing the Ancillary Provisions, as set forth below.

II. Background

This Court provided a detailed history of the proceedings in this case in its October 24, 2024 decision granting a permanent injunction.[1] The State Defendants appealed that decision. The

[1] To review that detailed history, the Court's decision can be found on the Clerk of Courts' site by accessing this case under number A2203203 and locating the decision and entry dated October 24, 2024: https://www.courtclerk.org/records-search/case-number-search/

First District Court of Appeals affirmed the Court's decision in part, reversed it in part, and remanded the cause to this Court. An abridged summary of the events preceding the October 24, 2024 decision, followed by the proceeding on appeal and remand, is as follows.

A. Proceedings Before the Appeal

The Ancillary Provisions were adopted in April 2019, when the Ohio General Assembly passed 2019 Am.Sub.S.B. No. 23 ("S.B. 23" or "the Act"), also known as the "Human Rights and Heartbeat Protection Act" or the "Heartbeat Act." S.B. 23 creates a comprehensive statutory scheme of abortion regulations. At its core, S.B. 23 creates a ban on abortion after the detection of embryonic cardiac activity[2] except when the abortion is necessary to prevent the pregnant woman's death or a serious risk of the substantial and irreversible impairment of a major bodily function. R.C. 2919.195(A), (B). But the Act also restricts abortion care through its Ancillary Provisions, which monitor and enforce the Six-Week Ban, require providers to keep certain records in furtherance of the ban, and define the scope of the ban. Among other regulations, S.B. 23 creates new and heightened civil and criminal penalties not only for performing an abortion in violation of the Six-Week Ban, but also for failing to test for embryonic cardiac activity, and for failing to inform patients of it or obtain a written acknowledgment from patients of providing such information.

At the time S.B. 23 was passed, *Roe v. Wade* was the law of the land. Before the Act took

[2] As explained in further detail in the Court's October 24, 2024 decision, S.B. 23 employs the term "fetal heartbeat." That term is potentially misleading and the choice to use it may be designed to lend credence to nascent arguments in support of claims of "fetal personhood." The heart organ consisting of four chambers and valves develops at approximately ten weeks after conception, but the tissues that will eventually form the heart begin to develop during the embryonic stage, prior to the existence of a fetus, such that limited cardiac activity can be detected as early as five or six weeks. *See* Cleveland Clinic Health Library "Fetal Development" last updated 3/19/24, ("The cells that will form the fetal heart begin to cluster around five to six weeks and can pulse.") (available at: https://my.clevelandclinic.org/health/articles/7247-fetal-development-stages-of-growth).

effect, a federal lawsuit was filed seeking to enjoin its enforcement, and the U.S. District Court for the Southern District of Ohio issued a preliminary injunction enjoining its enforcement in its entirety, reasoning that it places an undue burden on a woman's right to choose a pre-viability abortion. *Preterm-Cleveland v. Yost*, 394 F. Supp. 3d 796, 803 (S.D. Ohio 2019). On June 24, 2022, the U.S. Supreme Court overruled *Roe v. Wade* in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), and held that the United States Constitution confers no right to abortion. On the same day, Ohio's Attorney General filed an emergency motion to dissolve the preliminary injunction, and the District Court granted the motion. S.B. 23 took effect that day. Plaintiffs filed a complaint in mandamus with the Ohio Supreme Court, later dismissed that action at the State's urging, and filed this action in this Court on September 2, 2022.

On September 14, 2022, this Court granted Plaintiffs' motion for a temporary restraining order. After expedited discovery and an evidentiary hearing, the Court granted Plaintiffs' motion for a preliminary injunction. In its Preliminary Injunction Order of October 12, 2022, the Court held that S.B. 23 is unconstitutional under the Ohio Constitution and enjoined enforcement of S.B. 23 in its entirety, excluding only provisions relating to adoption and foster care (R.C. 2919.1910 and R.C. 5103.11), R.C. 2919.1913 naming the Act, and R.C. 2317.56(C)(2) relating to the Ohio Department of Health ("ODH") process for producing informed consent materials.

The State appealed. The First District dismissed the appeal for lack of a final appealable order. The Ohio Supreme Court then accepted the State's further appeal on two questions: whether this Court's Preliminary Injunction Order was immediately appealable, and whether abortion providers have standing to challenge a law that exposes them to criminal penalties (an issue that was not addressed by the Court of Appeals).

While that appeal was pending, a coalition of reproductive health, rights, and justice

organizations known as Ohioans United for Reproductive Rights began the process to amend the Ohio Constitution by initiative petition. At the November 7, 2023 election, 56.78 percent of Ohioans casting ballots voted to adopt the initiative.[3] As a result, Article I, Section 22 of the Ohio Constitution (the "Amendment") became effective on December 7, 2023. The complete text of the Amendment reads as follows:

The Right to Reproductive Freedom with Protections for Health and Safety

A. Every individual has a right to make and carry out one's own reproductive decisions, including but not limited to decisions on:
1. contraception;
2. fertility treatment;
3. continuing one's own pregnancy;
4. miscarriage care;
5. abortion;

B. The State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either:
1. An individual's voluntary exercise of this right; or
2. A person or entity that assists an individual exercising this right,

Unless the State demonstrates that it is using the least restrictive means to advance the individual's health in accordance with widely accepted and evidence-based standards of care. However, abortion may be prohibited after fetal viability. But in no case may such an abortion be prohibited if in the professional judgment of the pregnant patient's treating physician it is necessary to protect the pregnant patient's life or health.

C. As used in this section:
1. "Fetal viability" means "the point in a pregnancy when, in the professional judgment of the pregnant patient's treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures. This is determined on a case-by-case basis."

[3] The five-judge majority in *Dobbs* held that abortion rights would be returned to the democratic process in the states. In a striking effort to nullify the will of the majority of Ohio voters, Ohio's General Assembly placed a separate measure before Ohio voters at a special election on August 8, 2023, which, if passed, would have raised the bar for passage of the reproductive rights initiative in November 2023 from a bare majority of votes cast to 60 percent. This proposal did not specifically reference abortion rights, but the clear purpose of putting this measure to the voters at a special election prior to the November 2023 election (when the reproductive rights initiative would be on the ballot) was to frustrate the passage of the reproductive rights initiative. The measure failed 57.11 to 42.89 percent. *See* https://www.ohiosos.gov/elections/election-results-and-data/2023-official-election-results/.

2. "State" includes any governmental entity and any political subdivision.

D. This Section is self-executing.

Ohio Constitution, Article I, Section 22.

As a result of the Amendment, the Ohio Supreme Court dismissed the appeal before it due to a "change in the law" and remanded the matter to this Court. Plaintiffs then amended their complaint to add a claim that S.B. 23 violates the Amendment on its face, and they moved for judgment on the pleadings. On October 24, 2024, this Court granted the motion and permanently enjoined most of S.B. 23. The Court held that R.C. 2919.195 is unconstitutional, that most of the remaining provisions of S.B. 23 are unconstitutional in their own right, and that the rest could not be severed from the unconstitutional provisions. The Court did not enjoin the four provisions Plaintiffs had not challenged: R.C. 2919.1910 and 5103.11, which concern adoption and foster care; R.C. 2919.1913, which names the Act; and R.C. 2317.56(C)(2), which concerns ODH's process for producing informed consent materials. The injunction applied to all defendants and to their agents, employees, servants, successors, and any person in active concert or participation with them.

B. Appeal of the Permanent Injunction

The State Defendants appealed the Court's October 24, 2024, decision to the First District Court of Appeals. *Preterm-Cleveland v. Yost*, 2026-Ohio-23 (1st Dist.). The State Defendants did not challenge the portion of the Court's injunction that prohibits enforcement of R.C. 2919.195. None of the county prosecutor defendants filed a notice of appeal. The State Defendants raised two assignments of error:

> First Assignment of Error: The trial court erred in enjoining enforcement of multiple statutes enacted in the same bill, when plaintiffs did not even identify the challenged statutes in a reply brief, and did not offer any substantive challenge to them.

> Second Assignment of Error: The trial court erred in finding various statutes non-severable, when the provisions can stand alone, and some existed for years before being amended in a bill that also included an unconstitutional provision.

Id. at ¶ 16 (citations omitted).

The First District overruled the first assignment of error and held that this Court did not commit reversible error. *Id.* at ¶ 34. However, the First District sustained the second assignment of error finding that it was not appropriate for this Court to consider the substantive constitutionality of the Ancillary Provisions before considering their severability, not because those provisions were actually constitutional, but because of the way Plaintiffs had presented their case. Specifically, R.C. 2919.195 was the only provision Plaintiffs directly challenged as substantively unconstitutional. *Id.* at ¶ 41. Accordingly, the First District remanded the case to this Court to consider the severability of the Ancillary Provisions.

Following the First District's decision, this Court's October 24, 2024 judgment remains in effect in two significant respects. First, the statewide injunction against enforcement of R.C. 2919.195 remains in place because the State Defendants did not challenge it. Second, the entire judgment remains in effect as to the county prosecutor defendants because none of them filed a notice of appeal.

C. Proceedings on Remand

On May 21, 2026, Plaintiffs filed a Renewed Motion for Judgment on the Pleadings ("Renewed Motion"). Plaintiffs ask the Court to permanently enjoin the Ancillary Provisions of S.B. 23 because none of them can be severed from R.C. 2919.195. The Ancillary Provisions are R.C. 2919.19, 2919.171(A)(1)-(2), 2919.191, 2919.1912, 2919.193(A)-(B) and (D), 2919.193(C), 2919.194(A)(3), 2919.196, 2919.197, 2919.198, 2919.199, and 4731.22(B)(46). Renewed Motion p. 19 n. 10. Plaintiffs do not seek relief as to R.C. 2919.1910, 2919.1913, 5103.11, 2317.56(C)(2),

or 2919.192. *Id.* p. 4. Plaintiffs do not argue the constitutionality of the Ancillary Provisions in their Renewed Motion.

The State Defendants filed a memorandum in opposition on July 3, 2026. The State Defendants oppose the motion except to the extent that R.C. 2919.195 cannot be enforced under Article I, Section 22. They concede that R.C. 2919.198, 2919.199, and 2919.1912(A) cannot be severed from R.C. 2919.195, but only to the extent that those provisions incorporate or enforce R.C. 2919.195. Plaintiffs filed a reply ("Reply") on July 23, 2026.[4] Plaintiffs' Renewed Motion is now ripe for decision.

III. Standard of Review

Civ.R. 12(C) provides that "[a]fter the pleadings are closed but within such time as not to delay trial, any party may move for judgment on the pleadings." When considering a motion for judgment on the pleadings, the Court should construe all material facts in the nonmoving party's pleading as true and determine whether the nonmoving party can prove no set of facts that would entitle it to prevail. *New Riegel Local Sch. Dist. Bd. of Educ. v. Buehrer Grp. Architecture & Eng'g, Inc.*, 2019-Ohio-2851, ¶ 8. "[A] legal conclusion couched as a factual allegation need not be accepted as true." *Waters v. Ohio State Univ.*, 2016-Ohio-5260, ¶ 47 (Ohio Ct. Claims) (citations omitted). Motions under Civ.R. 12(C) "are specifically for resolving questions of law." *State ex rel. Midwest Pride IV v. Pontious*, 75 Ohio St.3d 565, 570 (1996). A statute's constitutionality is a question of law. *See State v. Lynch*, 2021-Ohio-4094, ¶ 14 (1st Dist.). So is severability. *Preterm-Cleveland,* 2026-Ohio-23, at ¶¶ 36, 42; *Planned Parenthood Sw. Ohio Region v. Ohio Dep't of Health*, 2026-Ohio-639, ¶ 46 (1st Dist.).

[4] The State Defendants' memorandum in opposition and Plaintiffs' reply identify D. Andrew Wilson, Attorney General of Ohio, as a defendant in place of former Attorney General David Yost. *See* Civ.R. 25(D)(1).

The State Defendants contend that Plaintiffs cannot obtain judgment on the pleadings because the *Geiger* inquiry "necessarily requires evaluating legislative intent, statutory functionality, and independence." Opposition p. 4. The Court disagrees. Each of those matters is determined from the text of S.B. 23, its title, the findings the General Assembly placed in the Act, and the Act's legislative history. None of them require an evidentiary record, and the State Defendants identify no fact alleged in the pleadings that bears on severability and is in dispute. The First District remanded this case for this Court to decide severability as a question of law, and the Court decides it here. *Preterm-Cleveland,* 2026-Ohio-23, at ¶ 42.

IV. Discussion

The State Defendants concede that the Six-Week Ban is unconstitutional. The only question is whether the Ancillary Provisions are severable from it. The First District has described severability as a question of statutory interpretation and a question of law. *Preterm-Cleveland*, 2026-Ohio-23, at ¶¶ 36, 42. Consistent with the First District's mandate, the Court presumes that each Ancillary Provision is constitutional, and it does not decide that issue. *Id.* at ¶¶ 40-41. Plaintiffs likewise assume that the provisions are constitutional for purposes of their motion. Renewed Motion p. 9; Reply pp. 2-3.[5] Much of the State Defendants' Opposition is addressed to an argument Plaintiffs do not make, that the Amendment repealed every statute that touches abortion. Opposition pp. 4-12. Plaintiffs disclaim that argument (Reply pp. 2-3) and nothing in this decision rests on it. The State Defendants' own contention that the Ancillary Provisions "fall comfortably within" the exception in Article I, Section 22(B) (Opposition pp. 5-6), is an argument

[5] Plaintiffs do not concede that any Ancillary Provision is constitutional, and some of the Plaintiffs challenge the constitutionality of many of the Ancillary Provisions in *Preterm-Cleveland v. Yost*, Franklin C.P. No. 24 CV 2634. Renewed Motion p. 7 n. 7. The parties agree that the Franklin County proceedings have no legal effect on Plaintiffs' entitlement to relief in this case or on the proper scope of that relief. *Preterm-Cleveland*, 2026-Ohio-23, at fn. 4.

about the provisions' constitutionality, and the Court does not reach it either.

A. Severability

It is "emphatically the province and duty of the judicial department to say what the law is." *Marbury v. Madison*, 5 U.S. 137, 177 (1803). As such, the Court may exercise "the negative power to disregard an unconstitutional enactment." *Massachusetts v. Mellon*, 262 U.S. 447, 488 (1923). Ohio courts have long exercised that power. Where the General Assembly "'exceed[s] its authority by promulgating a law in conflict with the constitution,' a court of equity 'may enjoin execution of the law, for the protection of the rights of person or property guaranteed by the constitution.'" *Preterm-Cleveland*, 2026-Ohio-23, at ¶ 19 (quoting *Pfeifer v. Graves*, 88 Ohio St. 473, 487-488 (1913)). Certain provisions may be severable from the unconstitutional enactment if "it is evident that the Legislature would not have enacted those provisions which are within its power, independently of [those] which [are] not." *Alaska Airlines, Inc. v. Brock*, 480 U.S. 678, 684 (1987) (quoting *Buckley v. Valeo,* 424 U.S. 1, 108 (1976) *(per curiam))*. In making that determination, the Court must consider whether the law remains "fully operative" without the invalid provisions. *Plain Dealer Pub. Co. v. Lakewood,* 794 F.2d 1139, 1147 (6th Cir. 1986), *aff'd in part and remanded,* 486 U.S. 750 (1988).

Severability is interpretive and a matter of state law. *Leavitt v. Jane L.*, 518 U.S. 137, 139 (1996). The task of determining the intention of the legislature rests upon state courts. *Dorchy v. Kansas*, 264 U.S. 286, 290 (1924). In *Geiger v. Geiger*, 117 Ohio St. 451, 160 N.E. 28 (1927), the Ohio Supreme Court articulated the well-established three-part test to determine whether under Ohio law an unconstitutional statutory provision may be severed from the remaining portions of the statute. It directed Ohio courts to ask:

(1) Are the constitutional and the unconstitutional parts capable of separation so

that each may be read and may stand by itself?

(2) Is the unconstitutional part so connected with the general scope of the whole as to make it impossible to give effect to the apparent intention of the Legislature if the clause or part is stricken out?

(3) Is the insertion of words or terms necessary in order to separate the constitutional part from the unconstitutional part, and to give effect to the former only?

Geiger at 466.

Severance is appropriate when the answer to the first question is yes and the answers to both the second and third questions are no. *Preterm-Cleveland*, 2026-Ohio-23, at ¶ 37 (citing *State v. Noling*, 2016-Ohio-8252, ¶ 35). If the answer to any of the three questions is otherwise, the related provision is not severable.

The first *Geiger* question asks whether the constitutional and unconstitutional parts of the statute are capable of separation so that each may be read and stand by itself. When analyzing this question, Ohio courts have considered whether any of the remaining provisions rely upon the unconstitutional provision for their meaning. *City of Cleveland v. State*, 2014-Ohio-86, ¶ 20. If the remaining provisions would be "nonsensical" without the unconstitutional provision, they are not severable. *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶ 51. The Court must also consider whether severance of an unconstitutional statute would leave the remaining provision "incomplete." *Duryee v. United States Dep't of Treasury*, 6 F. Supp.2d 700, 706 (S.D.Ohio 1995).

The second *Geiger* question asks whether the unconstitutional provision of a statute is so intertwined with the general scope of the whole that it would undermine the remaining law's purpose if it were to be stricken. A provision is not severable if excising the unconstitutional

provision would "fundamentally disrupt the current statutory scheme." *State ex rel. Maurer v. Sheward*, 1994-Ohio-496, 71 Ohio St.3d 513, 523 (1994); *see also State v. Hochhausler*, 1996-Ohio-374, 76 Ohio St.3d 455, 465 (1996) (instructing that severance is only appropriate if the unconstitutional provision "is not so essentially connected with the remainder [of the statute]"); *see also State ex rel. Whitehead v. Sandusky Cty. Bd. of Commrs.*, 2012-Ohio-4837, ¶ 37 (considering whether "the unconstitutional part of [the statute] is so connected to the general scope of . . . [the] entire legislation as to make it impossible to give effect to the apparent intention of the General Assembly if that part is stricken").

To determine whether the unconstitutional provision underlies the whole statute, or whether it is central to the General Assembly's intent, Ohio courts may look to a statute's title and legislative history. *See, e.g., City of Middletown v. Ferguson*, 1985 WL 8660, *9, 1985 Ohio App. LEXIS 6594 (12th Dist. Apr. 29, 1985), *aff'd*, 25 Ohio St.3d 71 (1986) ("A reading of the ordinance's title also suggests such a legislative purpose."); *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451, 500-501 (1999), *overruled on other grounds by State ex rel. Martens v. Findlay Mun. Court*, 2024-Ohio-5667, ¶ 23 (holding that "the passage of the entire bill was so dependent upon its unconstitutional component parts" that it could not be severed "based on comments from . . . the bill's architect, and several key supporters").

The third *Geiger* question asks, "whether it is necessary to insert any words or terms to give effect to the constitutional part of the statute." *Noling*, 2016-Ohio-8252, at ¶ 43. An attempt to "rescue" the remaining provisions by inserting words shows that separating the unconstitutional part from the constitutional part offends the third part of *Geiger*. *10280 Northfield Rd., LLC v. Village of Northfield*, No. 97-4207, 1999 U.S. App. LEXIS 3662, *17 (6th Cir. 1999); *see also Duryee*, 6 F.Supp.2d at 706 (holding "entire subsections of the statute would have to be rearranged

by the Court" to separate the constitutional part of a statute from the unconstitutional part).

The State Defendants contend that the presence of a severability clause in R.C. 2919.19(B)(4) "firmly resolves" the second *Geiger* question. Opposition p. 13. This is incorrect. Ohio law presumes that statutes are severable, R.C. 1.50, and the General Assembly may state its preference in a severability clause, but neither the statute nor the clause answers the *Geiger* questions. Courts routinely find provisions not severable even when the challenged law contains a severability clause. *See City of Tipp City v. Dakin*, 2010-Ohio-1013, ¶ 62 (2d Dist.) (finding a statute was not severable "regardless of a severability clause") (citing *State ex rel. English v. Indus. Comm.*, 160 Ohio St. 215, 219-20 (1953)); *State ex rel. Squire v. City of Cleveland*, 150 Ohio St. 303, 336 (1948) (noting a severability clause "is not conclusive"); *see also Planned Parenthood S. Atl. v. State*, 882 S.E.2d 770, 785 n.15 (S.C. 2023), *reh'g denied* (Feb. 8, 2023) (striking down the entirety of a six-week abortion ban, despite the existence of a severability clause, because "the hallmark feature" of the law was to restrict abortion). Indeed, the U.S. Supreme Court has held that a severability clause "is an aid merely; not an inexorable command." *Dorchy*, 264 U.S. at 290. "[I]f a severability clause could impose such a requirement on courts, legislatures would easily be able to insulate unconstitutional statutes from the most facial review." *Whole Woman's Health v. Hellerstedt*, 579 U.S. 582, 625 (2016). And the clause in R.C. 2919.19(B)(4) preserves by its own terms only those provisions "that can be given effect without the invalid provision or application." Whether a provision can be given effect without the Six-Week Ban is the question *Geiger* answers, and the Court addresses it below, provision by provision.

B. Monitoring and Enforcement Provisions

1. R.C. 2919.171(A)(1)-(2) is not severable except as to R.C. 2919.17 and 2919.18.

R.C. 2919.171(A)(1)-(2) requires providers to submit reports to ODH detailing, among other things, their efforts to check for cardiac activity and the information they are required to determine when they rely on the Six-Week Ban's narrow exceptions.

R.C. 2919.171 predates S.B. 23. Before the Act, subsection (A) required a physician who performed, induced, or attempted an abortion to report to ODH, for each abortion, the information the physician was required to certify in writing or determine under R.C. 2919.17 and 2919.18, which concern abortions after viability and the viability testing that precedes them. ODH compiles those reports into an annual public statistical report. R.C. 2919.171(B). S.B. 23 amended subsection (A)(1) to add four categories of information to each report: the physician's determination of cardiac activity and the results of that test under R.C. 2919.192(A) and (C); the physician's notations about a medical emergency that prevented the test under R.C. 2919.193(C); the physician's written declaration that an abortion performed after the detection of cardiac activity was necessary to prevent the woman's death or serious bodily impairment under R.C. 2919.195(B); and the physician's record of whether the woman's health was a reason for the abortion under R.C. 2919.196(A).

The State Defendants previously conceded that R.C. 2919.171(A)(1)-(2) is not severable. Brief of State Defendants-Appellants, 1st Dist. Hamilton No. C-240668, p. 35 (Mar. 21, 2025) ("The State freely concedes that some provisions are non-severable. As the State noted in its Response in the trial court, a few provisions incorporate the Heartbeat Ban itself, R.C. 2919.195, by reference: 2919.171(A)(1) & (A)(2), 2919.198, 2919.199, 2919.1912(A). The State does not contest that on appeal. But the State concedes nothing more on severability.").

However, in their Opposition before this Court, the State Defendants now argue that removing the requirement to report compliance with R.C. 2919.195 does not negate the entire

reporting function. They assert, without citing any authority, that these reporting categories predate S.B. 23 and serve administrative purposes. Opposition p. 14. They further assert that the provisions "contain no language tying their operation to the Heartbeat Ban," and they conclude, without further analysis, that the provisions "satisfy all Geiger prongs." *Id.*

R.C. 2919.171(A)(1)-(2) mandates reporting of information that a provider is required to determine under R.C. 2919.17, 2919.18, 2919.192(A) and (C), 2919.193(C), 2919.195(B), and 2919.196(A).[6] By the State Defendants' own concession, R.C. 2919.171(A)(1)-(2) is not severable to the extent it requires reporting under R.C. 2919.195(B). The State Defendants would have the Court strike that reference and keep the rest.[7]

Even if the Court were to strike the reference to R.C. 2919.195(B), the analysis would not end there as the State Defendants suggest. As the Court explains below, R.C. 2919.193(C) and 2919.196(A) are not severable from the Six-Week Ban. The requirement to report information determined under those provisions is therefore not severable either.

That leaves the requirement to report information determined under R.C. 2919.17, 2919.18, and 2919.192(A) and (C). Whether those sections are themselves severable from the Six-Week Ban is not before the Court, and the Court does not decide whether they are constitutional. The Court must, however, look to the substance of those sections to determine whether the requirement to report information determined under them is severable from the Six-Week Ban.

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[6] While R.C. 2919.171(A)(1) requires reporting of information determined under R.C. 2919.192(A) and (C) and 2919.196(A), subsection (A)(2) refers to R.C. 2919.192 to 2919.196 as a whole. It requires that if a person other than the physician makes or maintains a record required by those sections on the physician's behalf, that person must also comply with the reporting requirement.

[7] This request is in tension with the State Defendants' position that "severing R.C. 2919.195 requires no textual alteration to any of the remaining provisions. Each continues to operate exactly as written; no modification, redrafting, or supplementation is necessary." Opposition p. 14.

R.C. 2919.192(A) and (C) require providers to test for a "detectable fetal heartbeat" prior to performing an abortion.[8] The First District addressed a similar question in *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639. In that case, 2020 Am.S.B. No. 27 ("S.B. 27"), which required that fetal tissue from procedural abortions be disposed of by interment or cremation, was declared unconstitutional under the Amendment. There, as here, the bill also imposed recordkeeping requirements related to the disposition of fetal tissue. The First District held that "[w]ith regard to the group of provisions in S.B. 27 that incorporate and reference the dispositional requirement, these portions of the bill are not capable of standing independently." *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶ 50. "To the contrary, these provisions define the process by which the dispositional requirement will be carried out, regulated, and enforced." *Id.* The First District noted that "without the dispositional requirement, these provisions become nonsensical, as they all relate to and carry out S.B. 27's central requirement that fetal tissue be disposed of by only interment or cremation." *Id.* at ¶ 51. It asked, "[w]hat meaning, for example, does a form recording a pregnant person's dispositional selection have when the law no longer requires that choice? To what effect is it to create a crime for violating the dispositional requirement when there is actually no such thing?" *Id.*

Applying the same reasoning, and without deciding the substantive constitutionality of R.C. 2919.192, the Court finds that the requirement in R.C. 2919.171(A)(1)-(2) to report the detection of cardiac activity to ODH is not severable from the Six-Week Ban, because requiring that report is nonsensical when the result of the test no longer determines whether the provider may perform the abortion. Although the substance of R.C. 2919.192, which requires a provider to

[8] S.B. 23 renumbered that section from former R.C. 2919.191. Plaintiffs therefore do not challenge whether that provision is severable in this case. The constitutionality of R.C. 2919.192 is being challenged in another court. A motion for summary judgment seeking a permanent injunction against enforcement of R.C. 2919.192, among other provisions, is pending in *Preterm-Cleveland v. Yost*, Franklin C.P. No. 24 CV 2634.

test for embryonic cardiac activity, existed before S.B. 23, the reporting requirements (as well as the criminal and enhanced penalties discussed below) were enacted by S.B. 23. Those requirements were enacted to further the purpose stated in S.B. 23's short title: to "Prohibit abortion if detectable heartbeat." Under the first *Geiger* question, a reporting requirement that is based on an unconstitutional prohibition cannot "be read and ... stand by itself." *Geiger*, 117 Ohio St. at 466; *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶¶ 50-52 (provisions that "define the process by which the [unconstitutional] requirement will be carried out, regulated, and enforced" are "not capable of standing independently"). And under the second *Geiger* question, the requirement is so connected with the Six-Week Ban that giving effect to it without the Six-Week Ban would not carry out the General Assembly's apparent intention in enacting it. *Id.*; *State ex rel. Maurer*, 71 Ohio St.3d at 523. The requirement to report information determined under R.C. 2919.192 is therefore not severable from the Six-Week Ban.

Before S.B. 23 was enacted, R.C. 2919.171(A)(1) required reporting only of information determined under R.C. 2919.17 and 2919.18. Those sections relate to abortion after viability. Their constitutionality is not before the Court, and the Court does not address it. R.C. 2919.17 and 2919.18 are not directly related to S.B. 23, and to the extent R.C. 2919.171(A)(1) requires reporting of information determined under them, it is severable.

For the foregoing reasons, the Court finds that R.C. 2919.171(A)(1)-(2) is not severable as it relates to R.C. 2919.192, 2919.193(C), 2919.195(B), and 2919.196. It is severable as it relates to R.C. 2919.17 and 2919.18.

As a practical matter, this holding leaves R.C. 2919.171(A)(1) in force as it read before S.B. 23 amended it. A physician who performs, induces, or attempts an abortion must continue to report to ODH the information the physician is required to certify or determine under R.C. 2919.17

and 2919.18. The State Defendants may not enforce the requirement to report the information described in R.C. 2919.192(A) and (C), 2919.193(C), 2919.195(B), and 2919.196(A). Because subsection (A)(2) applies only to records required by R.C. 2919.192 to 2919.196, no part of it survives. The surviving requirement can be read without inserting a word; the references to the four S.B. 23 provisions are simply struck from the list in subsection (A)(1). The third *Geiger* question permits this. *Geiger*, 117 Ohio St. at 466; *Planned Parenthood Sw. Ohio Region* at ¶ 49 (a court may remove part of a statute "by running a blue pencil through it").

2. R.C. 2919.193(A), (B), and (D) are not severable.

R.C. 2919.193(A) imposes criminal penalties, and provides for a civil cause of action and professional discipline, for performing an abortion without first complying with R.C. 2919.192's requirement to test for cardiac activity. Subsection (B) provides that subsection (A) does not apply to a physician who believes that a medical emergency prevents compliance, and subsection (D) provides that a person who tests in accordance with R.C. 2919.192(A) and detects no cardiac activity does not violate subsection (A).

The State Defendants again assert that "[t]hese duties existed in prior versions of Ohio law," but they cite no authority. Opposition p. 15. They offer no analysis and proffer no alternative explanation of how this provision could stand alone without the Six-Week Ban. By advancing this argument, the State Defendants would have this Court leave in place a provision criminalizing and otherwise punishing a provider for failing to test for cardiac activity when now, because of the unconstitutionality of R.C. 2919.195, performing that test does not affect whether the provider may lawfully perform an abortion. This would effectively criminalize an act expressly made lawful, and indeed a constitutional right, by a clear majority of Ohio's voters. To say that this outcome would be merely nonsensical is a gross understatement.

The Six-Week Ban at the core of S.B. 23 could be given effect only by requiring a test for cardiac activity before every abortion. The test itself predates S.B. 23. Before the Act, former R.C. 2919.191 required the test, and a person who performed an abortion without it faced a civil action for damages and professional discipline, but no criminal charge. S.B. 23 moved that prohibition into new R.C. 2919.193, kept the civil and disciplinary consequences, and added a fifth-degree felony, the same penalty the Act attached to the Six-Week Ban itself. S.B. 23, Section 1 (amending former R.C. 2919.191 and enacting R.C. 2919.193).

The State itself has explained why. In the first appeal in this case, the State told the First District that R.C. 2919.193 "adds force" to the requirement to determine whether there is cardiac activity "by making it a crime," and it told the Ohio Supreme Court that the Act "protects unborn children with beating hearts in two principal ways," citing the Six-Week Ban and R.C. 2919.193(A). Brief of State Defendants-Appellants, 1st Dist. Hamilton No. C-220504, p. 6 (Dec. 12, 2022); Memorandum in Support of Jurisdiction of Appellants, Ohio Sup. Ct. No. 2023-0004, pp. 1-2 (Jan. 3, 2023). Criminally punishing the failure to check for cardiac activity (as opposed to the performance of the abortion) discourages providers from performing abortions without first performing the check, and so further prevents the provision of abortion care that the Six-Week Ban prohibits. In this way, R.C. 2919.193 is part and parcel of the overall scheme of S.B. 23. It makes the failure to determine cardiac activity a fifth-degree felony, the same penalty imposed for a violation of the Six-Week Ban. And like the Six-Week Ban, it excludes cases in which the pregnant woman's health requires the abortion. This provision defines the process by which the Six-Week Ban is enforced.

R.C. 2919.193(A), (B), and (D) therefore fail the first and second *Geiger* questions. They fail the first because the provision cannot be read and stand by itself once the Six-Week Ban is

gone. *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶ 51 ("To what effect is it to create a crime for violating the dispositional requirement when there is actually no such thing?"). They fail the second because the General Assembly's apparent intention in enacting the felony was to enforce the Six-Week Ban, and that intention cannot be given effect without it. *Geiger*, 117 Ohio St. at 466; *Maurer*, 71 Ohio St.3d at 523. That the requirement to test for cardiac activity remains in R.C. 2919.192 does not change the analysis. The Court does not hold that the test is meaningless; its result still determines whether the informed-consent requirements of R.C. 2919.194(A)(1) and (2) apply, as it did before S.B. 23. The Court holds only that the felony S.B. 23 created enforces the Six-Week Ban and cannot stand without it. Therefore, R.C. 2919.193(A), (B), and (D) are not severable from R.C. 2919.195.

3. R.C. 2919.199 is not severable.

R.C. 2919.199 creates a civil enforcement mechanism by allowing a woman who received an abortion in violation of R.C. 2919.193(A), 2919.194(A), or 2919.195(A) to file a civil action for wrongful death. A civil action of this kind is not new. Before S.B. 23, former R.C. 2919.191(H) allowed a woman to sue for the wrongful death of her unborn child if an abortion was performed without the required test for cardiac activity, or without the informed consent that R.C. 2317.56(B)(3) required, and to recover $10,000 or an amount determined by the trier of fact. S.B. 23 repealed that provision and replaced it with R.C. 2919.199, a new section that adds a cause of action for an abortion performed in violation of the Six-Week Ban, adds a cause of action for an abortion performed without the patient's signature on the acknowledgment form created by R.C. 2919.194(A)(3), and makes an award of court costs and attorney's fees to a prevailing plaintiff mandatory. R.C. 2919.199(A)-(D); S.B. 23, Section 1.[9]

[9] Whether, and how, the remedy that existed before S.B. 23 operates after this decision is not before the Court, as is also true of the pre-S.B. 23 versions of R.C. 2919.171 and R.C. 2919.194 discussed below.

The State Defendants previously conceded that this provision is not severable because it references R.C. 2919.195. But now they argue that the provision is not severable only to the extent it references R.C. 2919.195, and that it also enforces independent duties under R.C. 2919.193 and 2919.194, which they contend remain valid. Opposition p. 15.

As a practical matter, the State Defendants' position would mean that a woman who exercised her constitutional right to end a pregnancy could, after the fact, sue the physician who performed the abortion for the "wrongful death of her unborn child," and collect $10,000 or more plus her attorney's fees, on the ground that the physician did not first perform a test whose result no longer affects whether the abortion may proceed, or did not first obtain her signature on a form acknowledging a "fetal heartbeat." The abortion itself would be lawful, chosen by the patient, and protected by the Ohio Constitution, but Ohio law would nonetheless label it a wrongful death and potentially compensate the patient for saying so. The General Assembly did not design R.C. 2919.199 to produce that result. It designed the section to punish providers for abortions the Six-Week Ban prohibited and conduct by providers to evade the Six-Week Ban.

The provision creates a civil cause of action for violations of R.C. 2919.193(A), 2919.195(A), and 2919.194(A)(1), (2), and (3). To the extent it creates a cause of action for a violation of R.C. 2919.195, it is not severable. Likewise, as explained elsewhere in this decision, R.C. 2919.193(A) and 2919.194(A)(3) are not severable from the Six-Week Ban, so the cause of action for violations of those provisions is not severable either.

That leaves R.C. 2919.194(A)(1) and (2).[10] S.B. 23 did not enact R.C. 2919.194 as a new section. It renumbered former R.C. 2919.192 as R.C. 2919.194, amended the introductory

[10] Like R.C. 2919.192, the whole of R.C. 2919.194 is being challenged as unconstitutional in the Franklin County litigation.

language of subsection (A), and added subsection (A)(3). The language of subsections (A)(1) and (2) was carried over without substantive change. Those subsections create requirements that must be met before an abortion is performed when cardiac activity is detected: the provider must inform the pregnant woman in writing that cardiac activity exists and must inform her of the statistical probability of carrying the pregnancy to term. Although it is not before this Court to determine whether these provisions are severable,[11] it is before this Court to determine whether the civil enforcement mechanism for violating them (which was enacted by S.B. 23) is severable from the Six-Week Ban. The Court finds that it is not.

Three features of R.C. 2919.199 indicate that the General Assembly enacted it as part of the Six-Week Ban's enforcement scheme, and that the cause of action for a violation of R.C. 2919.194(A)(1) and (2) cannot be separated from that scheme. First, to preserve an action for a violation of R.C. 2919.194(A)(1) and (2), the Court would have to excise clauses from subsections (A)(1), (A)(2), (C), and (D)(2) of R.C. 2919.199 and then read what remained as though the General Assembly had enacted a stand-alone remedy for violations of the informed-consent provisions. That is effectively rewriting, which the third *Geiger* question forbids. The result would not be a provision that can be read and stand by itself, which is required by the first question. *Geiger*, 117 Ohio St. at 466; *Noling*, 2016-Ohio-8252, at ¶ 35; *see Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶¶ 50-52 (declining to parse the enforcement provisions of S.B. 27).

Second, in R.C. 2919.199 the General Assembly took an existing remedy out of the statute that required the test and the disclosure, placed it in a new section alongside a new cause of action for violating the Six-Week Ban, and made the award of attorney's fees mandatory. The restructuring shows that the remedy was redesigned as a component of the Six-Week Ban's

[11] Nor would severing those subsections change the outcome: R.C. 2919.194 would revert to its language before S.B. 23 was enacted, which includes the requirements now listed in subsections (A)(1) and (2).

enforcement. And third, exposing providers to potentially massive civil liability in a wrongful death action for failing to provide a pregnant woman with information about cardiac activity or failing to obtain a written acknowledgement adds substantial force to the Six-Week Ban. With the Six-Week Ban gone, the General Assembly's apparent intention in enacting R.C. 2919.199 cannot be given effect. *Geiger*, 117 Ohio St. at 466; *Maurer*, 71 Ohio St.3d at 523. For the foregoing reasons, R.C. 2919.199 is not severable from the Six-Week Ban.

4. R.C. 2919.1912 is not severable.

R.C. 2919.1912, titled "Forfeiture for violations," was newly enacted by S.B. 23. This section authorizes the State Medical Board to assess a forfeiture of up to $20,000 for each violation of the Six-Week Ban in R.C. 2919.195 or any of the following sections: R.C. 2919.171 (requiring providers to report information about the abortions they perform to ODH); R.C. 2919.192 (requiring a provider who intends to perform an abortion to test for cardiac activity, to note the results in the patient's medical records, and to give the patient the option to view or hear the cardiac activity); R.C. 2919.193 (making it a fifth-degree felony to perform an abortion without testing for cardiac activity, authorizing a civil claim for compensatory and exemplary damages and professional discipline, excepting cases of medical emergency, and requiring providers to record the medical condition that justified noncompliance in a medical emergency); R.C. 2919.194 (requiring a provider who intends to perform an abortion after the detection of cardiac activity to inform the patient in writing that cardiac activity has been detected, to inform the patient of the statistical probability of carrying the pregnancy to term, and to obtain the patient's written acknowledgment of receipt of that information. A first violation of this section is a first-degree misdemeanor, and each subsequent violation is a fourth-degree felony); and R.C. 2919.196 (requiring providers to note in medical records to be retained for seven years whether an abortion

was performed to preserve the health of the patient and, if so, the medical condition and medical rationale, and, if the patient's health was not a reason for the abortion, to note that fact). The forfeiture may be imposed in addition to any criminal penalty and the money collected is paid into the foster care and adoption initiatives fund that S.B. 23 created in R.C. 5103.11. R.C. 2919.1912(A), (C).

The State Defendants previously conceded that R.C. 2919.1912(A) is not severable from R.C. 2919.195 because it references that section. They now argue that the reference to R.C. 2919.195 is the only portion of R.C. 2919.1912 that is not severable. Opposition p. 15. But the forfeiture authorized by R.C. 2919.1912 cannot apply to violations of R.C. 2919.195, which is unconstitutional, or to violations of R.C. 2919.193 or 2919.196, which, for the reasons discussed in this decision, are not severable from R.C. 2919.195.

As explained above, the reporting requirements of R.C. 2919.171 remain enforceable only as to information determined under R.C. 2919.17 and 2919.18. That surviving requirement has its own enforcement mechanism, and it predates S.B. 23. Specifically, a physician who files a report late pays a late fee of $500 for each thirty-day period; a physician who files no report, or an incomplete one, may be ordered by a court to file a complete report and held in contempt; a physician who fails to comply is subject to discipline by the State Medical Board; and a physician who falsifies a report commits a first-degree misdemeanor. R.C. 2919.171(C); R.C. 4731.22(B)(43). The forfeiture of up to $20,000 for each violation is fundamentally different. S.B. 23 created it, listed it in the same sentence as the forfeiture for violating the Six-Week Ban, and directed its proceeds to a fund the Act created. Under the second *Geiger* question, the forfeiture is "so connected with the general scope of the whole" that giving effect to it without the Six-Week Ban would not carry out the General Assembly's apparent intention. *Geiger*, 117 Ohio St. at 466;

Maurer, 71 Ohio St.3d at 523 ("In order to sever a portion of a statute, we must first find that such a severance will not fundamentally disrupt the statutory scheme of which the unconstitutional provision is a part."). The Court therefore finds that, unlike the surviving reporting requirement in R.C. 2919.171, which can be enforced through the sanctions in R.C. 2919.171(C), the forfeiture authorized by R.C. 2919.1912 for violations of R.C. 2919.171 is not severable.

The Court now turns to R.C. 2919.194. As explained below, R.C. 2919.194(A)(3) is not severable from the Six-Week Ban, so a forfeiture for violating that subsection is not severable either. A forfeiture for failing to comply with R.C. 2919.194(A)(1) and (2) is also not severable. Those subsections carry their own penalty, which predates S.B. 23: a violation is a first-degree misdemeanor on a first offense and a fourth-degree felony thereafter. R.C. 2919.194(E). S.B. 23 added, on top of those existing penalties, a forfeiture of up to $20,000 for each violation. The General Assembly's intention to increase the risks faced by abortion-care providers in connection with the adoption of the Six-Week Ban is evident. Without the Six-Week Ban, that intention cannot be given effect. *Geiger*, 117 Ohio St. at 466; *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶¶ 50-51. The other subsections of R.C. 2919.194 are not ones that individual providers could violate.[12] As such, the forfeiture established by R.C. 2919.1912 for violations of R.C. 2919.194 is not severable from the Six-Week Ban.

5. R.C. 4731.22(B)(46) is not severable.

R.C. 4731.22(B)(46) authorizes the State Medical Board to discipline a physician who fails to comply with the requirements to make or maintain the medical records and documents described

[12] Subsection (B) provides an exception in the event of a medical emergency; subsection (C) provides that the director of health may adopt rules specifying information regarding the statistical probability of a pregnant woman carrying her pregnancy to term; subsection (D) states that the section does not repeal any other provision of the Revised Code; and subsection (E) makes a violation of subsection (A) a crime.

in R.C. 2919.192(A), 2919.193(C), 2919.195(B), and 2919.196(A).[13] S.B. 23 rewrote this subsection. Before the Act, the subsection authorized discipline for failing to keep the notes that former R.C. 2919.191(B) required when a medical emergency prevented testing for cardiac activity, and for failing to satisfy the requirements of former R.C. 2919.191 before performing an abortion. S.B. 23 replaced that text with a list of four records the Act requires. Three of those records exist only because of the Six-Week Ban: the physician's notations about an emergency that prevented testing for cardiac activity (R.C. 2919.193(C)), the physician's declaration that an abortion after the detection of cardiac activity was necessary to protect the woman's life or health (R.C. 2919.195(B)), and the physician's record of whether the woman's health was a reason for the abortion (R.C. 2919.196(A)). S.B. 23, Section 1 (amending R.C. 4731.22(B)(47)).

This subsection is a single sentence. The General Assembly's purpose in rewriting it was to punish any failure to create the records that the State Medical Board would use to police compliance with the Six-Week Ban. That purpose cannot be given effect without the Six-Week Ban. *Geiger*, 117 Ohio St. at 466 (second question); *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶ 50 (provisions that define how the central requirement "will be carried out, regulated, and enforced" are not severable). Nor can the reference to R.C. 2919.192(A) stand on its own. The record described in R.C. 2919.192(A) documents the estimated gestational age, the method of the test for cardiac activity, its date, time, and result. This is the record that establishes whether the Six-Week Ban applied to a particular abortion. Discipline for failing to make that record, standing alone, no longer serves the purpose for which the General Assembly imposed it. R.C. 4731.22(B)(46) is therefore not severable from the Six-Week Ban.

C. Recordkeeping Provisions

[13] S.B. 23 included this provision to be codified at R.C. 4731.22(B)(47), but due to subsequent amendments, this provision is now codified at R.C. 4731.22(B)(46).

S.B. 23's three recordkeeping provisions, R.C. 2919.193(C), 2919.194(A)(3), and 2919.196, impose patient recordkeeping requirements that providers must follow to comply with the Six-Week Ban. These provisions were designed to ensure that providers complied with the Six-Week Ban and to further the State's ability to enforce it. The Court finds that the recordkeeping provisions are not severable because they cannot function without the Six-Week Ban and because they are intertwined with the General Assembly's purpose in enacting S.B. 23. The recordkeeping provisions therefore are not severable under the test established in *Geiger*.

1. R.C. 2919.193(C) is not severable.

S.B. 23 enacted R.C. 2919.193. Subsection (C) requires a physician who performs an abortion without checking for cardiac activity under the medical-emergency exception in subsection (B) to record the basis for that decision in the patient's medical records and to retain a copy in the physician's own records for seven years.

The General Assembly's findings, enacted as Section 3 of S.B. 23, state that "[t]he State of Ohio has a compelling interest in protecting the life of an unborn human individual who may be born," and that a detectable heartbeat "has become a key medical predictor that an unborn human individual will reach live birth." S.B. 23, Section 3(E), (G). Absent the Six-Week Ban, however, the recordkeeping requirement in R.C. 2919.193(C) serves no purpose and no longer carries out the General Assembly's intent.

The First District's decision in *Planned Parenthood Sw. Ohio Region*, discussed above, is instructive. The First District upheld the trial court's ruling that the provisions of S.B. 27 that incorporated and referenced the fetal-tissue disposition requirement were not capable of standing independently, because they only "relate[d] to and carr[ied] out S.B. 27's central requirement." *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶¶ 50-51. Without that requirement, the

First District explained, the recordkeeping provisions became "nonsensical": "What meaning, for example, does a form recording a pregnant person's dispositional selection have when the law no longer requires that choice? To what effect is it to create a crime for violating the dispositional requirement when there is actually no such thing?" *Id.* at ¶ 51.

The same question applies here. R.C. 2919.193(C) requires a physician to document a medical emergency that prevented the test for cardiac activity. Under subsection (B) the physician's opinion that such an emergency exists is the only basis on which a physician may forgo testing for cardiac activity without committing the felony created by division (A). The record of that opinion is the evidence which could be used to challenge the exception. The requirement to test for cardiac activity itself remains in R.C. 2919.192. But once subsection (A) and its felony are gone, the record supporting the exception has no function left. R.C. 2919.193(C) is "nonsensical" in the sense the First District used that word: it no longer serves the purpose for which the General Assembly enacted it. *Planned Parenthood Sw. Ohio Region* at ¶ 51.

Rather than analyze legislative intent, the State Defendants misstate the governing standard and ask whether the "Legislature would have enacted the remaining provisions in the absence of the unconstitutional provision." Opposition pp. 13-14. The question under *Geiger* is whether the unconstitutional part is so connected with the general scope of the whole that it is impossible to give effect to the General Assembly's apparent intent once that part is stricken. *Geiger*, 117 Ohio St. at 466. The State Defendants also assert that this provision serves "independent medical and regulatory purposes," but they identify none and cite no authority. Opposition p. 16. The Court cannot supply a purpose for the provision by unsupported reference to the general practice of medicine once the Six-Week Ban it served has been declared unconstitutional.

Finally, R.C. 2919.193(C) cannot be severed from R.C. 2919.193(A) and (B), which it

cross-references and which the Court has already found not severable. Giving effect to subsection (C) without subsections (A) and (B) would require significant rewriting of the remaining statutory language. Absent R.C. 2919.193(A) and (B), there is no reasonable purpose in keeping R.C. 2919.193(C).

2. R.C. 2919.194(A)(3) is not severable.

S.B. 23 renumbered former R.C. 2919.192 as R.C. 2919.194 and added subsection (A)(3), which requires the patient to sign a form acknowledging receipt of information "that the unborn human individual the pregnant woman is carrying has a fetal heartbeat and that the pregnant woman is aware of the statistical probability of bringing the unborn human individual the pregnant woman is carrying to term." Under S.B. 23, the provider must give the patient this information, and the patient must acknowledge receipt of it in writing.

Without the Six-Week Ban, this provision also becomes "nonsensical." R.C. 2919.194(A)(3) relates to and carries out the Six-Week Ban's central prohibition. *See Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶ 51. As explained above in the analysis of R.C. 2919.193(C), this provision advances the General Assembly's intent in enacting S.B. 23: to prohibit abortion after the detection of cardiac activity by burdening patients and providers in the exercise of what is now a constitutional right.[14] In this way, R.C. 2919.194(A)(3) is so connected with the Six-Week Ban that it is impossible to give effect to the General Assembly's apparent intent once that part is stricken.

[14] See 2019 Sub. S.B. No. 23, As Passed by the Senate (Mar. 13, 2019) at 1; Hearing on S.B. 23 Before the S. Comm. on Health, Human Services and Medicaid (Feb. 13, 2019) (sponsor testimony of Senator Kristina Roegner) at 1; Hearing on S.B. 23 Before the H. Health Comm. (Mar. 19, 2019) (sponsor testimony of Senator Kristina Roegner) at 1. The bill's short title, "Prohibit abortion if detectable heartbeat," and its legislative history are available at https://www.legislature.ohio.gov/legislation/133/sb23. The Legislative Service Commission's final analysis of the Act is available at https://www.legislature.ohio.gov/download?key=12355.

3. R.C. 2919.196 is not severable.

S.B. 23 created R.C. 2919.196. It provides that "[t]he provisions of this section are wholly independent of the requirements of sections 2919.192 to 2919.195 of the Revised Code." The section requires providers to document in the patient's medical records whether "a purported reason for the abortion is to preserve the health of the pregnant woman," and if so, "the medical condition that the abortion is asserted to address and the medical rationale" for the provider's conclusion that the abortion is necessary to address that condition. In cases where the health of the patient is not the "purported reason" for the abortion, the provider is required to record "that maternal health is not a reason of the abortion." In other words, the provider is effectively required to record whether the abortion is elective. By necessity, therefore, the provider will be required to elicit such information from the patient.

The State Defendants argue that R.C. 2919.196 requires documentation of medical factors supporting a procedure and remains valid regardless of whether the Six-Week Ban exists, but again they offer no analysis to support the argument. Opposition p. 16. The purpose of this provision is clear from its placement and its vocabulary. S.B. 23 placed R.C. 2919.196 immediately after the Six-Week Ban, and it employs the same language as the Six-Week Ban. R.C. 2919.195(B) requires a physician who performs an abortion under the Six-Week Ban's exception to declare in writing "the pregnant woman's medical condition that the medical procedure is asserted to address and the medical rationale for the physician's conclusion that the medical procedure is necessary." R.C. 2919.196(A)(1) requires every provider, for every abortion in which the woman's health is a purported reason, to document "the medical condition that the abortion is asserted to address and the medical rationale for the person's conclusion that the abortion is necessary to address that condition." And R.C. 2919.196(A)(2) requires the provider, in every other case, to record "that

maternal health is not a reason of the abortion." The Act then made the record reportable to ODH (R.C. 2919.171(A)(1)), and the failure to make the record subject to forfeiture (R.C. 2919.1912(A)) and grounds for professional discipline (R.C. 4731.22(B)(46)).

In the context of a comprehensive statutory scheme that made abortion after the detection of cardiac activity a felony unless necessary to protect the woman's life or health, a record for every abortion stating whether health was the reason would provide the State a means to identify abortions performed after cardiac activity that did not fit the exception. The General Assembly's findings confirm this point. The Act was enacted to protect "the life of an unborn human individual who may be born." S.B. 23, Section 3(G). A record of whether an abortion was elective served that end by exposing abortions the Act was designed to prohibit. Once the Six-Week Ban is eliminated, the distinction the record draws between an abortion performed for the woman's health and one performed for any other reason has no legal significance because the Ohio Constitution now protects the decision, regardless of the reason. The State Defendants identify no purpose the record would serve in that circumstance, and the Court can supply none from the text of the Act. Its only remaining effect would be to require every woman seeking an abortion to state her reasons and every provider to write them down. Such a function no longer carries out the General Assembly's apparent intention. *Geiger*, 117 Ohio St. at 466; *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶ 51.

The State Defendants rely on the sentence that opens R.C. 2919.196: "The provisions of this section are wholly independent of the requirements of sections 2919.192 to 2919.195 of the Revised Code." Opposition p. 16. This sentence describes the scope of the provision's applicability, but it does not answer the severability question. It establishes that the documentation duty applies to every abortion, regardless of whether cardiac activity was detected or the provider

invoked an exception, so that no abortion escapes the record. The second *Geiger* question asks about the apparent intention of the General Assembly for the Act as a whole, not about a provision's description of its own scope. R.C. 2919.196 is a provision whose entire function depended on the Six-Week Ban. It fails the second *Geiger* question for that reason and is not severable.

D. Scoping Provisions

Plaintiffs refer to the remaining four provisions as the Scoping Provisions. These provisions define, limit, and allocate the Six-Week Ban and its enforcement. R.C. 2919.19 supplies the Act's definitions and its fallback and severability clauses. R.C. 2919.191 limits the Act's testing, disclosure, and prohibition provisions to intrauterine pregnancies. R.C. 2919.197 excludes contraception from the Act's reach. And R.C. 2919.198 provides that the Act's penalties fall on providers rather than pregnant women. Plaintiffs argue that each fails the first and second *Geiger* questions because each defines the scope of, or clarifies the operation of, the Six-Week Ban and has no meaning without it. Renewed Motion pp. 16-17. The State Defendants respond that these provisions "remain operable" so long as any section they refer to remains in force. They concede only that R.C. 2919.198 is not severable to the extent it references R.C. 2919.195. Opposition pp. 16-18.

The First District has already applied *Geiger* to provisions like this. S.B. 27, the fetal-tissue disposition law at issue in *Planned Parenthood Sw. Ohio Region*, contained a definitions section (R.C. 3726.01), two sections exempting pregnant women from liability for noncompliance (R.C. 3726.15 and 3726.95), and a section providing that conflicting provisions of the Revised Code did not apply to the disposition of fetal tissue (R.C. 3726.16). 2026-Ohio-639, at ¶¶ 5, 48, fn. 5. The First District held that all of these failed along with the unconstitutional dispositional requirement,

because they were among the provisions that "define the process by which the dispositional requirement will be carried out, regulated, and enforced," including "who may be punished with a crime for violating S.B. 27's dispositional mandates." *Id.* at ¶¶ 50-52. The same reasoning applies here.

1. R.C. 2919.19 is not severable.

a. Subsection (A): the definitions.

R.C. 2919.19(A) existed before S.B. 23. As enacted in 2013, it defined ten terms, including "fetal heartbeat," "gestational age," "standard medical practice," and "unborn human individual," for use in former R.C. 2919.191 to 2919.193. S.B. 23 made several changes to division (A). It added five definitions: "conception," "contraceptive," "DNA," "intrauterine pregnancy," and "spontaneous miscarriage," and it extended the definitions to a larger range of sections: new R.C. 2919.191 to 2919.1910.[15]

The five new definitions serve no purpose apart from S.B. 23. "Intrauterine pregnancy" appears in one operative provision of the Revised Code, R.C. 2919.191, which limits the Act's testing, disclosure, and prohibition provisions to intrauterine pregnancies. As discussed below, that section is not severable from R.C. 2919.195. "Contraceptive" appears in one section, R.C. 2919.197. "Conception" appears only within the definitions of "contraceptive" and "fetus." "DNA" and "spontaneous miscarriage" do not appear in any operative provisions. "Spontaneous miscarriage" is used only in the findings the General Assembly enacted in Section 3 of S.B. 23 to explain why a detectable heartbeat justified prohibiting abortion. The extension of the definitions

[15] R.C. 2919.19(A) now refers to "sections 2919.191 to 2919.199." The Court's research indicates that 2025 Am.Sub.H.B. No. 96, effective September 30, 2025, repealed R.C. 2919.1910, which created the joint legislative committee on adoption promotion and support, and amended R.C. 2919.19(A) accordingly. The repeal does not affect the analysis in this decision; the Court did not enjoin R.C. 2919.1910 in its October 24, 2024 decision, and Plaintiffs do not seek relief as to it.

to R.C. 2919.195 and the sections that follow it served the new sections the Act created, every one of which is either unconstitutional, not severable from the Six-Week Ban, or outside the scope of Plaintiffs' motion.

A definition standing alone has no effect. It is made operative by the provisions that use the defined term, and when those provisions cannot be enforced, the definition has nothing to define. The First District held the definitions in S.B. 27 not severable for that reason. *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶¶ 48, fn. 5, 50-52. This Court reached the same conclusion about S.B. 23's definitions in its October 24, 2024 decision. That reasoning did not depend on the constitutionality of any provision. The amendments S.B. 23 made to R.C. 2919.19(A) fail the first *Geiger* question because they cannot be read and stand by themselves once the provisions they serve are inoperative. They fail the second *Geiger* question because the General Assembly added them to supply the vocabulary of the Six-Week Ban and its enforcement scheme, an intention that cannot be given effect without the Six-Week Ban. *Geiger*, 117 Ohio St. at 466.

The State Defendants respond that "[s]tatutory definitions operate wherever they apply throughout Chapter 2919" and "remain essential to interpreting the chapter." Opposition p. 16. The definitions in R.C. 2919.19(A) apply only to "this section and sections 2919.191 to 2919.199," not throughout Chapter 2919. The terms that R.C. 2919.192 and R.C. 2919.194(A)(1) and (2) use, including "fetal heartbeat," "gestational age," "standard medical practice," and "unborn human individual," were defined in R.C. 2919.19(A) before S.B. 23 was enacted. They remain defined after this decision, but the provisions added by S.B. 23 are not severable.

b. Subsection (B): the fallback and severability clauses.

Subsection (B) was enacted by S.B. 23. This provision addresses what happens to the Act

when a court enjoins it. Subsection (B)(1) provides that a court order suspending enforcement of any provision of the Act "is not to be regarded as tantamount to repeal of that provision." Subsections (B)(2) and (3) authorize the Attorney General, and any county prosecutor if the Attorney General fails to act within thirty days, to apply to a state or federal court for a declaration that the Act is constitutional or for an order lifting an injunction against it, upon "any court order or judgment restoring, expanding, or clarifying the authority of states to prohibit or regulate abortion," or upon an amendment to the United States Constitution doing the same. Subsection (B)(4) is a severability clause.

The General Assembly enacted the Six-Week Ban in April 2019, when *Roe v. Wade* and *Planned Parenthood v. Casey* were the law of the land. The drafters were clearly aware of this. Subsection (B) is the Act's plan for surviving the injunction the drafters expected to be issued. An injunction was to be treated as a suspension rather than a repeal, so that the Act could be revived without reenactment if the law later changed. The drafters' plan worked as they intended. On June 24, 2022, the day *Dobbs* was decided, the Attorney General moved to dissolve the federal injunction, and S.B. 23 took effect that same day.

Subsections (B)(1) through (3) fail the first *Geiger* question because they cannot be read apart from the sections they preserve and revive. Subsection (B)(2) authorizes relief only as to "sections specified in division (B)(1)," which are the provisions of the Act. This revival mechanism is directly tied to restoration of state authority "to prohibit or regulate abortion." As such it clearly has one purpose, making the prohibition in R.C. 2919.195 effective. These subsections fail the second *Geiger* question because their evident purpose, to keep the Six-Week Ban alive through a period of federal constitutional disability so that it could be enforced later, cannot be given effect when the Six-Week Ban has become unconstitutional under Ohio's own

Constitution. *Geiger*, 117 Ohio St. at 466. And they fail the third *Geiger* question, because limiting them to sections that survive this decision would require the Court to rewrite the cross-reference in subsection (B)(1).

The State Defendants' Opposition does not separately defend subsections (B)(1) through (3). It argues only that "[t]he severability clause in R.C. 2919.19(B)(4) confirms legislative intent that all workable provisions remain in effect." Opposition p. 16. The Court has addressed that argument above. A severability clause states a preference, but it does not answer the *Geiger* questions. And R.C. 2919.19(B)(4) by its own terms preserves only provisions "that can be given effect without the invalid provision or application." The Court's holdings that the portion of R.C. 2919.171(A)(1) that predates S.B. 23 remains in effect, and that the definitions that predate S.B. 23 remain in effect, are consistent with the clause. As to the rest of the Act, the clause has no provisions left to save. For these reasons, the amendments S.B. 23 made to R.C. 2919.19(A), and the whole of R.C. 2919.19(B), are not severable from the Six-Week Ban.

2. R.C. 2919.191 is not severable.

R.C. 2919.191 provides that "[s]ections 2919.192 to 2919.195 of the Revised Code apply only to intrauterine pregnancies." S.B. 23 enacted it as a new section, together with the definition of "intrauterine pregnancy" in R.C. 2919.19(A)(8), to exclude ectopic pregnancies from coverage by the Act. Before S.B. 23, the requirement to test for cardiac activity and the requirement to disclose its result applied to pregnancies generally. The limitation to intrauterine pregnancies was enacted along with the Six-Week Ban for an evident reason. An ectopic pregnancy is not viable and endangers the woman's life. A prohibition on terminating a pregnancy after the detection of cardiac activity with the potential for felony criminal liability cannot sensibly extend to such a pregnancy.

Plaintiffs argue that the section exists only to define the reach of the Six-Week Ban. Renewed Motion pp. 16-17. The State Defendants respond that it "retains meaning as long as any of the referenced statutes remain operable, and several do." Opposition p. 16. The General Assembly's apparent intention in enacting R.C. 2919.191 was to limit the applicability of the Six-Week Ban. Without the Six-Week Ban, that intention cannot be given effect, and the section fails the second *Geiger* question. *Geiger*, 117 Ohio St. at 466. It also fails the third *Geiger* question. The section refers to a range, "2919.192 to 2919.195." Two of the four sections in that range are inoperative. To confine the section to the two that survive, the Court would have to replace the range with a list. In so doing the Court would be required to insert words in the section, which *Geiger* forbids. The First District similarly held an analogous provision of S.B. 27, the section providing that conflicting provisions of the Revised Code did not apply to the disposition of fetal tissue, not severable from the dispositional requirement. *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶¶ 48, fn. 5, 50-52. R.C. 2919.191 is not severable from the Six-Week Ban.

The effect of this holding on R.C. 2919.192 and R.C. 2919.194, which are not before the Court, is that those sections apply as they did before S.B. 23 was enacted. The Court expresses no view on their application to any particular pregnancy or on their constitutionality, which is at issue in the Franklin County litigation.

3. R.C. 2919.197 is not severable.

R.C. 2919.197 provides that "[n]othing in sections 2919.19 to 2919.196 of the Revised Code prohibits the sale, use, prescription, or administration of a drug, device, or chemical for contraceptive purposes." S.B. 23 enacted this provision as a new section along with the definitions of "contraceptive" and "conception." R.C. 2919.19(A)(1), (2). The General Assembly included it because the Act defines "pregnancy" as beginning with fertilization, "conception" as fertilization,

and "unborn human individual" as an organism "from fertilization until live birth," and it makes it a felony to cause or abet "the termination of the life of the unborn human individual" after the detection of cardiac activity. R.C. 2919.19(A)(1), (11), (15); R.C. 2919.195(A). R.C. 2919.197 expressly excludes contraception from the reach of any of those definitions.

The State Defendants argue that the section "remains fully operable as a legislative directive and is not connected to R.C. 2919.195." Opposition p. 17. However, R.C. 2919.197 refers to "sections 2919.19 to 2919.196," a range that includes R.C. 2919.195. The only provision in that range that could be read to reach contraception is the Six-Week Ban, which prohibits causing the termination of the life of an "unborn human individual" defined to exist from fertilization. Without the Six-Week Ban, R.C. 2919.197 becomes completely meaningless, and thereby nonsensical. The section fails the first *Geiger* question for that reason, and it fails the second because its purpose, to mark the outer limit of the Six-Week Ban, cannot be given effect without the Six-Week Ban. *Geiger*, 117 Ohio St. at 466; *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶¶ 48, fn. 5, 50-52 (R.C. 3726.16).

Finally, the Court notes that the right R.C. 2919.197 was written to protect now rests on even firmer ground. Article I, Section 22(A)(1) of the Ohio Constitution guarantees every individual the right to make and carry out her own decisions on contraception. As a result, nothing is lost by anyone because of this Court's holding that R.C. 2919.197 is not severable.

4. R.C. 2919.198 is not severable.

R.C. 2919.198 provides that a pregnant woman who has an abortion that violates R.C. 2919.193, 2919.194, or 2919.195 is not guilty of violating those sections and is not subject to a civil penalty. Immunity like this predates S.B. 23. Former R.C. 2919.193 immunized women receiving abortion care from liability for violations of former R.C. 2919.191 and 2919.192, the

testing and disclosure requirements then in effect. S.B. 23 renumbered the section as R.C. 2919.198 and rewrote its cross-references so that the immunity would cover the Act's two new felonies, R.C. 2919.193 and 2919.195, as well as the renumbered disclosure requirement in R.C. 2919.194.

The State Defendants concede that R.C. 2919.198 is not severable to the extent it references R.C. 2919.195, but they argue that it "remains operable" as to the rest. Opposition pp. 17-18. This section's function within S.B. 23 was to direct all the Act's penalties to providers of abortion care. The drafters evidently thought that, if they made providing abortion care a high-risk activity for providers, it would become difficult or even impossible to obtain abortion care, even in those circumstances permitted by the Act. In this way, allocating the Act's penalties to providers is an integral part of the Act's enforcement scheme. The First District held that the provisions of S.B. 27 exempting pregnant women from liability were not severable from the dispositional requirement for exactly this reason: provisions that decide "who may be punished" for violating the central requirement "define the process by which [it] will be carried out, regulated, and enforced," and they cannot stand without it. *Planned Parenthood Sw. Ohio Region*, 2026-Ohio-639, at ¶¶ 48, fn. 5, 50-52. Thus, the section fails the second *Geiger* question because its purpose, to direct the Six-Week Ban's penalties to providers of abortion care, cannot be given effect without the Six-Week Ban. *Geiger*, 117 Ohio St. at 466. R.C. 2919.198 is not severable from the Six-Week Ban.

No woman is exposed to liability as a result of this holding. The felonies in R.C. 2919.193 and 2919.195 cannot be enforced against anyone. The offense in R.C. 2919.194(E) is committed by the person who performs an abortion without providing the information that subsection (A) requires, and the immunity that applied to that offense before S.B. 23 was enacted, former R.C.

2919.193, is not before the Court. For these reasons, the Scoping Provisions are not severable from the Six-Week Ban.

E. Permanent Injunctive Relief

Having found that the Ancillary Provisions, as S.B. 23 enacted or amended them, are not severable from the Six-Week Ban, the Court turns to the remedy. Under Ohio law, injunctive relief is warranted "when a statute is unconstitutional, enforcement will infringe upon constitutional rights and cause irreparable harm, and there is no adequate remedy at law." *UAW Local Union 1112 v. Philomena*, 121 Ohio App.3d 760, 781 (10th Dist. 1998), citing *Olds v. Klotz*, 131 Ohio St. 447 (1936), paragraph two of the syllabus. The same relief is available against a provision that cannot be severed from an unconstitutional one. Where a court determines that a provision cannot be severed, "it will treat both provisions as inoperative," and "a public official acting to enforce either provision would act without statutory authorization, and might, in a proper case, be enjoined from enforcing either." *Preterm-Cleveland*, 2026-Ohio-23, at ¶ 38.

This is such a case. Plaintiffs provide abortion care in Ohio, and the State Defendants are the officers charged with enforcing the Ancillary Provisions: the Attorney General, who prosecutes forfeiture actions under R.C. 2919.1912(B); the Director of Health, who receives the reports required by R.C. 2919.171 and adopts the rules that implement the Act; and the Secretary and Supervising Member of the State Medical Board, which assesses forfeitures under R.C. 2919.1912 and disciplines physicians under R.C. 4731.22. Enforcement of an inoperative provision against Plaintiffs, whether by prosecution, forfeiture, professional discipline, or exposure to the civil suit that R.C. 2919.199 creates, is an injury for which the law affords no adequate remedy. Indeed, the threat of enforcement seems quite real. Despite the adoption of the Amendment and its broad protections, the State Defendants vigorously assert their authority to enforce nearly every Ancillary

Provision. The requirement of irreparable harm is satisfied, and no bond is required. *Magda v. Ohio Elections Comm'n*, 2016-Ohio-5043, ¶ 38 (10th Dist.) ("A finding that a constitutional right has been threatened or impaired mandates a finding of irreparable injury as well."); *Vanguard Transp. Sys. v. Edwards Transfer & Storage Co. Gen. Commodities Div.*, 109 Ohio App.3d 786, 793 (10th Dist. 1996) (a court "has the power to set the bond at nothing").

Accordingly, the Court permanently enjoins the State Defendants, and their agents, employees, servants, successors, and any person in active concert or participation with them, from enforcing the following provisions of the Revised Code as enacted or amended by S.B. 23: R.C. 2919.19(A); R.C. 2919.19(B); R.C. 2919.171(A)(1), to the extent it requires the reporting of information described in R.C. 2919.192(A) and (C), 2919.193(C), 2919.195(B), and 2919.196(A); R.C. 2919.171(A)(2); R.C. 2919.191; R.C. 2919.193; R.C. 2919.194(A)(3); R.C. 2919.196; R.C. 2919.197; R.C. 2919.198; R.C. 2919.199; R.C. 2919.1912; and R.C. 4731.22(B)(46). The permanent injunction against enforcement of R.C. 2919.195 entered on October 24, 2024 remains in effect. The Court does not enjoin R.C. 2919.192, R.C. 2919.1913, R.C. 5103.11, or R.C. 2317.56(C)(2), and it does not enjoin R.C. 2919.171(A)(1) to the extent it requires the reporting of information determined under R.C. 2919.17 and 2919.18.[16] This decision does not alter the October 24, 2024 judgment as it applies to the county prosecutor defendants, which became final because they did not appeal such that the First District lacked jurisdiction to disturb it. *Preterm-Cleveland,* 2026-Ohio-23, at ¶ 44.

V. Conclusion

For the foregoing reasons, the Plaintiffs' Renewed Motion for Judgment on the Pleadings is hereby GRANTED. The Court permanently enjoins the State Defendants, and their agents,

[16] The Court also does not enjoin R.C. 2919.1910, but as noted, that section has been repealed.

employees, servants, successors, and any person in active concert or participation with them, from enforcing the following provisions of the Revised Code as enacted or amended by S.B. 23: R.C. 2919.19(A); R.C. 2919.19(B); R.C. 2919.171(A)(1), to the extent it requires the reporting of information described in R.C. 2919.192(A) and (C), 2919.193(C), 2919.195(B), and 2919.196(A); R.C. 2919.171(A)(2); R.C. 2919.191; R.C. 2919.193; R.C. 2919.194(A)(3); R.C. 2919.196; R.C. 2919.197; R.C. 2919.198; R.C. 2919.199; R.C. 2919.1912; and R.C. 4731.22(B)(46). The injunction against enforcement of R.C. 2919.195 entered on October 24, 2024 remains in effect. The Court does not enjoin R.C. 2919.192, R.C. 2919.1913, R.C. 5103.11, or R.C. 2317.56(C)(2), and it does not enjoin R.C. 2919.171(A)(1) to the extent it requires the reporting of information determined under R.C. 2919.17 and 2919.18.

SO ORDERED.

Judge Christian A. Jenkins

10/22/26
Date