

Explainer Regarding Ohio's Heartbeat Law Exceptions

Ohio's Heartbeat Law appears in Section 2919.19 through 2919.1910 of Ohio Revised Code (ORC). The relevant part of Ohio's Heartbeat Law appears in Section 2919.193. It does not allow performing or inducing an abortion without first checking for a heartbeat. A related provision, ORC 2919.195, does not allow for an abortion after a fetal heartbeat is detected.

There is no gestational time limit in Ohio's heartbeat law.

The statute contains three exceptions, though they are not labeled as such: one to prevent the death of the mother, the second, due to *a serious risk of the substantial and irreversible impairment* of a major bodily function of the pregnant mother, and the third in cases of an ectopic pregnancy. The legal analysis is as follows:

Subsection (B) makes the law inapplicable "to a physician who performs or induces the abortion if the physician believes that a *medical emergency*, as defined in section 2919.16 of the Revised Code." (ORC 2919.195(B) contains a materially identical exception.)

ORC 2919.16(F) defines "medical emergency" as:

a condition that in the physician's good faith medical judgment, based upon the facts known to the physician at that time, so complicates the woman's pregnancy as to necessitate the immediate performance or inducement of an abortion in order to prevent the death of the pregnant woman or to avoid *a serious risk of the substantial and irreversible impairment* of a major bodily function of the pregnant woman that delay in the performance or inducement of the abortion would create.

The italicized language is crucial, as another provision — ORC 2919.16(K) — defines "serious risk of the substantial and irreversible impairment of a major bodily function" to mean:

any medically diagnosed condition that so complicates the pregnancy of the woman as to directly or indirectly cause the *substantial and irreversible impairment of a major bodily function*. A medically diagnosed condition that constitutes a "serious risk of the substantial and irreversible impairment of a major bodily function" includes pre-eclampsia, *inevitable abortion*, and premature rupture of the membranes, may include, but is not limited to, diabetes and multiple sclerosis, and does not include a condition related to the woman's mental health.

Please note that the list of conditions is an illustration, and more conditions that otherwise meet the definition may be applicable to determining "medical emergency."

Whether these exceptions apply to a particular case depends on the facts of that case.

The exception for an ectopic pregnancy is in ORC 2919.191, which says: the Heartbeat Law's limits "apply only to intrauterine pregnancies, i.e., only when implantation is in the uterus, not in the Fallopian tubes, as occurs in an ectopic or tubal pregnancy.”