

As Reported by the House Civil Justice Committee

133rd General Assembly

Regular Session

2019-2020

Am. S. B. No. 27

Senator Uecker

**Cosponsors: Senators Terhar, Brenner, Roegner, Huffman, M., McColley,
Wilson, Hottinger, Huffman, S., Burke, Coley, Eklund, Gavarone, Hill, Hoagland,
Lehner, Obhof Representatives Hambley, Merrin**

A BILL

To amend sections 2317.56, 3701.341, and 3701.79 1
and to enact sections 3726.01, 3726.02, 3726.03, 2
3726.04, 3726.041, 3726.042, 3726.05, 3726.09, 3
3726.10, 3726.11, 3726.12, 3726.13, 3726.14, 4
3726.15, 3726.16, 3726.95, 3726.99, and 4717.271 5
of the Revised Code to impose requirements on 6
the final disposition of fetal remains from 7
surgical abortions. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2317.56, 3701.341, and 3701.79 be 9
amended and sections 3726.01, 3726.02, 3726.03, 3726.04, 10
3726.041, 3726.042, 3726.05, 3726.09, 3726.10, 3726.11, 3726.12, 11
3726.13, 3726.14, 3726.15, 3726.16, 3726.95, 3726.99, and 12
4717.271 of the Revised Code be enacted to read as follows: 13

Sec. 2317.56. (A) As used in this section: 14

(1) "Medical emergency" has the same meaning as in section 15
2919.16 of the Revised Code. 16

(2) "Medical necessity" means a medical condition of a 17

pregnant woman that, in the reasonable judgment of the physician 18
who is attending the woman, so complicates the pregnancy that it 19
necessitates the immediate performance or inducement of an 20
abortion. 21

(3) "Probable gestational age of the zygote, blastocyte, 22
embryo, or fetus" means the gestational age that, in the 23
judgment of a physician, is, with reasonable probability, the 24
gestational age of the zygote, blastocyte, embryo, or fetus at 25
the time that the physician informs a pregnant woman pursuant to 26
division (B) (1) (b) of this section. 27

(B) Except when there is a medical emergency or medical 28
necessity, an abortion shall be performed or induced only if all 29
of the following conditions are satisfied: 30

(1) At least twenty-four hours prior to the performance or 31
inducement of the abortion, a physician meets with the pregnant 32
woman in person in an individual, private setting and gives her 33
an adequate opportunity to ask questions about the abortion that 34
will be performed or induced. At this meeting, the physician 35
shall inform the pregnant woman, verbally or, if she is hearing 36
impaired, by other means of communication, of all of the 37
following: 38

(a) The nature and purpose of the particular abortion 39
procedure to be used and the medical risks associated with that 40
procedure; 41

(b) The probable gestational age of the zygote, 42
blastocyte, embryo, or fetus; 43

(c) The medical risks associated with the pregnant woman 44
carrying the pregnancy to term. 45

The meeting need not occur at the facility where the 46

abortion is to be performed or induced, and the physician 47
involved in the meeting need not be affiliated with that 48
facility or with the physician who is scheduled to perform or 49
induce the abortion. 50

(2) At least twenty-four hours prior to the performance or 51
inducement of the abortion, the physician who is to perform or 52
induce the abortion or the physician's agent does each of the 53
following in person, by telephone, by certified mail, return 54
receipt requested, or by regular mail evidenced by a certificate 55
of mailing: 56

(a) Inform the pregnant woman of the name of the physician 57
who is scheduled to perform or induce the abortion; 58

(b) Give the pregnant woman copies of the published 59
materials described in division (C) of this section; 60

(c) Inform the pregnant woman that the materials given 61
pursuant to division (B) (2) (b) of this section are published by 62
the state and that they describe the zygote, blastocyte, embryo, 63
or fetus and list agencies that offer alternatives to abortion. 64
The pregnant woman may choose to examine or not to examine the 65
materials. A physician or an agent of a physician may choose to 66
be disassociated from the materials and may choose to comment or 67
not comment on the materials. 68

(3) If it has been determined that the unborn human 69
individual the pregnant woman is carrying has a detectable fetal 70
heartbeat, the physician who is to perform or induce the 71
abortion shall comply with the informed consent requirements in 72
section 2919.194 of the Revised Code in addition to complying 73
with the informed consent requirements in divisions (B) (1), (2), 74
(4), and (5) of this section. 75

(4) Prior to the performance or inducement of the 76
abortion, the pregnant woman signs a form consenting to the 77
abortion and certifies ~~both~~ all of the following on that form: 78

(a) She has received the information and materials 79
described in divisions (B)(1) and (2) of this section, and her 80
questions about the abortion that will be performed or induced 81
have been answered in a satisfactory manner. 82

(b) She consents to the particular abortion voluntarily, 83
knowingly, intelligently, and without coercion by any person, 84
and she is not under the influence of any drug of abuse or 85
alcohol. 86

(c) If the abortion will be performed or induced 87
surgically, she has been provided with the notification form 88
described in division (A) of section 3726.14 of the Revised 89
Code. 90

(d) If the abortion will be performed or induced 91
surgically and she desires to exercise the rights under division 92
(A) of section 3726.03 of the Revised Code, she has completed 93
the disposition determination under section 3726.04 or 3726.041 94
of the Revised Code. 95

A form shall be completed for each zygote, blastocyte, 96
embryo, or fetus to be aborted. If a pregnant woman is carrying 97
more than one zygote, blastocyte, embryo, or fetus, she shall 98
sign a form for each zygote, blastocyte, embryo, or fetus to be 99
aborted. 100

The form shall contain the name and contact information of 101
the physician who provided to the pregnant woman the information 102
described in division (B)(1) of this section. 103

(5) Prior to the performance or inducement of the 104

abortion, the physician who is scheduled to perform or induce 105
the abortion or the physician's agent receives a copy of the 106
pregnant woman's signed form on which she consents to the 107
abortion and that includes the certification required by 108
division (B) (4) of this section. 109

(C) The department of health shall publish in English and 110
in Spanish, in a typeface large enough to be clearly legible, 111
and in an easily comprehensible format, the following materials 112
on the department's web site: 113

(1) Materials that inform the pregnant woman about family 114
planning information, of publicly funded agencies that are 115
available to assist in family planning, and of public and 116
private agencies and services that are available to assist her 117
through the pregnancy, upon childbirth, and while the child is 118
dependent, including, but not limited to, adoption agencies. The 119
materials shall be geographically indexed; include a 120
comprehensive list of the available agencies, a description of 121
the services offered by the agencies, and the telephone numbers 122
and addresses of the agencies; and inform the pregnant woman 123
about available medical assistance benefits for prenatal care, 124
childbirth, and neonatal care and about the support obligations 125
of the father of a child who is born alive. The department shall 126
ensure that the materials described in division (C) (1) of this 127
section are comprehensive and do not directly or indirectly 128
promote, exclude, or discourage the use of any agency or service 129
described in this division. 130

(2) Materials that inform the pregnant woman of the 131
probable anatomical and physiological characteristics of the 132
zygote, blastocyte, embryo, or fetus at two-week gestational 133
increments for the first sixteen weeks of pregnancy and at four- 134

week gestational increments from the seventeenth week of 135
pregnancy to full term, including any relevant information 136
regarding the time at which the fetus possibly would be viable. 137
The department shall cause these materials to be published after 138
it consults with independent health care experts relative to the 139
probable anatomical and physiological characteristics of a 140
zygote, blastocyte, embryo, or fetus at the various gestational 141
increments. The materials shall use language that is 142
understandable by the average person who is not medically 143
trained, shall be objective and nonjudgmental, and shall include 144
only accurate scientific information about the zygote, 145
blastocyte, embryo, or fetus at the various gestational 146
increments. If the materials use a pictorial, photographic, or 147
other depiction to provide information regarding the zygote, 148
blastocyte, embryo, or fetus, the materials shall include, in a 149
conspicuous manner, a scale or other explanation that is 150
understandable by the average person and that can be used to 151
determine the actual size of the zygote, blastocyte, embryo, or 152
fetus at a particular gestational increment as contrasted with 153
the depicted size of the zygote, blastocyte, embryo, or fetus at 154
that gestational increment. 155

(D) Upon the submission of a request to the department of 156
health by any person, hospital, physician, or medical facility 157
for one copy of the materials published in accordance with 158
division (C) of this section, the department shall make the 159
requested copy of the materials available to the person, 160
hospital, physician, or medical facility that requested the 161
copy. 162

(E) If a medical emergency or medical necessity compels 163
the performance or inducement of an abortion, the physician who 164
will perform or induce the abortion, prior to its performance or 165

inducement if possible, shall inform the pregnant woman of the 166
medical indications supporting the physician's judgment that an 167
immediate abortion is necessary. Any physician who performs or 168
induces an abortion without the prior satisfaction of the 169
conditions specified in division (B) of this section because of 170
a medical emergency or medical necessity shall enter the reasons 171
for the conclusion that a medical emergency or medical necessity 172
exists in the medical record of the pregnant woman. 173

(F) If the conditions specified in division (B) of this 174
section are satisfied, consent to an abortion shall be presumed 175
to be valid and effective. 176

(G) The performance or inducement of an abortion without 177
the prior satisfaction of the conditions specified in division 178
(B) of this section does not constitute, and shall not be 179
construed as constituting, a violation of division (A) of 180
section 2919.12 of the Revised Code. The failure of a physician 181
to satisfy the conditions of division (B) of this section prior 182
to performing or inducing an abortion upon a pregnant woman may 183
be the basis of both of the following: 184

(1) A civil action for compensatory and exemplary damages 185
as described in division (H) of this section; 186

(2) Disciplinary action under section 4731.22 of the 187
Revised Code. 188

(H) (1) Subject to divisions (H) (2) and (3) of this 189
section, any physician who performs or induces an abortion with 190
actual knowledge that the conditions specified in division (B) 191
of this section have not been satisfied or with a heedless 192
indifference as to whether those conditions have been satisfied 193
is liable in compensatory and exemplary damages in a civil 194

action to any person, or the representative of the estate of any 195
person, who sustains injury, death, or loss to person or 196
property as a result of the failure to satisfy those conditions. 197
In the civil action, the court additionally may enter any 198
injunctive or other equitable relief that it considers 199
appropriate. 200

(2) The following shall be affirmative defenses in a civil 201
action authorized by division (H) (1) of this section: 202

(a) The physician performed or induced the abortion under 203
the circumstances described in division (E) of this section. 204

(b) The physician made a good faith effort to satisfy the 205
conditions specified in division (B) of this section. 206

(3) An employer or other principal is not liable in 207
damages in a civil action authorized by division (H) (1) of this 208
section on the basis of the doctrine of respondeat superior 209
unless either of the following applies: 210

(a) The employer or other principal had actual knowledge 211
or, by the exercise of reasonable diligence, should have known 212
that an employee or agent performed or induced an abortion with 213
actual knowledge that the conditions specified in division (B) 214
of this section had not been satisfied or with a heedless 215
indifference as to whether those conditions had been satisfied. 216

(b) The employer or other principal negligently failed to 217
secure the compliance of an employee or agent with division (B) 218
of this section. 219

(4) Notwithstanding division (E) of section 2919.12 of the 220
Revised Code, the civil action authorized by division (H) (1) of 221
this section shall be the exclusive civil remedy for persons, or 222
the representatives of estates of persons, who allegedly sustain 223

injury, death, or loss to person or property as a result of a 224
failure to satisfy the conditions specified in division (B) of 225
this section. 226

(I) The department of job and family services shall 227
prepare and conduct a public information program to inform women 228
of all available governmental programs and agencies that provide 229
services or assistance for family planning, prenatal care, child 230
care, or alternatives to abortion. 231

Sec. 3701.341. (A) The director of health, pursuant to 232
Chapter 119. and consistent with Chapter 3726. and section 233
2317.56 of the Revised Code, shall adopt rules relating to 234
abortions and the following subjects: 235

(1) Post-abortion procedures to protect the health of the 236
pregnant woman; 237

(2) Pathological reports; 238

(3) Humane disposition of the product of human conception; 239

(4) Counseling. 240

(B) The director of health shall implement the rules and 241
shall apply to the court of common pleas for temporary or 242
permanent injunctions restraining a violation or threatened 243
violation of the rules. This action is an additional remedy not 244
dependent on the adequacy of the remedy at law. 245

Sec. 3701.79. (A) As used in this section: 246

(1) "Abortion" has the same meaning as in section 2919.11 247
of the Revised Code. 248

(2) "Abortion report" means a form completed pursuant to 249
division (C) of this section. 250

(3) "Ambulatory surgical facility" has the same meaning as 251
in section 3702.30 of the Revised Code. 252

(4) "Department" means the department of health. 253

(5) "Hospital" means any building, structure, institution, 254
or place devoted primarily to the maintenance and operation of 255
facilities for the diagnosis, treatment, and medical or surgical 256
care for three or more unrelated individuals suffering from 257
illness, disease, injury, or deformity, and regularly making 258
available at least clinical laboratory services, diagnostic x- 259
ray services, treatment facilities for surgery or obstetrical 260
care, or other definitive medical treatment. "Hospital" does not 261
include a "home" as defined in section 3721.01 of the Revised 262
Code. 263

(6) "Physician's office" means an office or portion of an 264
office that is used to provide medical or surgical services to 265
the physician's patients. "Physician's office" does not mean an 266
ambulatory surgical facility, a hospital, or a hospital 267
emergency department. 268

(7) "Postabortion care" means care given after the uterus 269
has been evacuated by abortion. 270

(B) The department shall be responsible for collecting and 271
collating abortion data reported to the department as required 272
by this section. 273

(C) The attending physician shall complete an individual 274
abortion report for ~~each the~~ abortion of each zygote, 275
blastocyte, embryo, or fetus the physician performs ~~upon a~~ 276
~~woman~~. The report shall be confidential and shall not contain 277
the woman's name. The report shall include, but is not limited 278
to, all of the following, insofar as the patient makes the data 279

available that is not within the physician's knowledge: 280

(1) Patient number; 281

(2) The name and address of the facility in which the 282
abortion was performed, and whether the facility is a hospital, 283
ambulatory surgical facility, physician's office, or other 284
facility; 285

(3) The date of the abortion; 286

(4) If a surgical abortion, the method of final 287
disposition of the fetal remains under Chapter 3726. of the 288
Revised Code; 289

(5) All of the following regarding the woman on whom the 290
abortion was performed: 291

(a) Zip code of residence; 292

(b) Age; 293

(c) Race; 294

(d) Marital status; 295

(e) Number of previous pregnancies; 296

(f) Years of education; 297

(g) Number of living children; 298

(h) Number of zygotes, blastocytes, embryos, or fetuses 299
previously-induced abortions aborted; 300

(i) Date of last induced abortion; 301

(j) Date of last live birth; 302

(k) Method of contraception at the time of conception; 303

(l) Date of the first day of the last menstrual period;	304
(m) Medical condition at the time of the abortion;	305
(n) Rh-type;	306
(o) The number of weeks of gestation at the time of the abortion.	307 308
(5) <u>(6)</u> The type of abortion procedure performed;	309
(6) <u>(7)</u> Complications by type;	310
(7) <u>(8)</u> Written acknowledgment by the attending physician that the pregnant woman is not seeking the abortion, in whole or in part, because of any of the following:	311 312 313
(a) A test result indicating Down syndrome in an unborn child;	314 315
(b) A prenatal diagnosis of Down syndrome in an unborn child;	316 317
(c) Any other reason to believe that an unborn child has Down syndrome.	318 319
(8) <u>(9)</u> Type of procedure performed after the abortion;	320
(9) <u>(10)</u> Type of family planning recommended;	321
(10) <u>(11)</u> Type of additional counseling given;	322
(11) <u>(12)</u> Signature of attending physician.	323
(D) The physician who completed the abortion report under division (C) of this section shall submit the abortion report to the department within fifteen days after the woman is discharged.	324 325 326 327
(E) The appropriate vital records report or certificate	328

shall be made out after the twentieth week of gestation. 329

(F) A copy of the abortion report shall be made part of 330
the medical record of the patient of the facility in which the 331
abortion was performed. 332

(G) Each hospital shall file monthly and annual reports 333
listing the total number of women who have undergone a post- 334
twelve-week-gestation abortion and received postabortion care. 335
The annual report shall be filed following the conclusion of the 336
state's fiscal year. Each report shall be filed within thirty 337
days after the end of the applicable reporting period. 338

(H) Each case in which a physician treats a post abortion 339
complication shall be reported on a postabortion complication 340
form. The report shall be made upon a form prescribed by the 341
department, shall be signed by the attending physician, and 342
shall be confidential. 343

(I) (1) Not later than the first day of October of each 344
year, the department shall issue an annual report of the 345
abortion data reported to the department for the previous 346
calendar year as required by this section. The annual report 347
shall include at least the following information: 348

(a) The total number of ~~induced abortions~~ zygotes, 349
blastocytes, embryos, or fetuses that were aborted; 350

(b) The number of abortions performed on Ohio and out-of- 351
state residents; 352

(c) The number of abortions performed, sorted by each of 353
the following: 354

(i) The age of the woman on whom the abortion was 355
performed, using the following categories: under fifteen years 356

of age, fifteen to nineteen years of age, twenty to twenty-four 357
years of age, twenty-five to twenty-nine years of age, thirty to 358
thirty-four years of age, thirty-five to thirty-nine years of 359
age, forty to forty-four years of age, forty-five years of age 360
or older; 361

(ii) The race and Hispanic ethnicity of the woman on whom 362
the abortion was performed; 363

(iii) The education level of the woman on whom the 364
abortion was performed, using the following categories or their 365
equivalents: less than ninth grade, ninth through twelfth grade, 366
one or more years of college; 367

(iv) The marital status of the woman on whom the abortion 368
was performed; 369

(v) The number of living children of the woman on whom the 370
abortion was performed, using the following categories: none, 371
one, or two or more; 372

(vi) The number of weeks of gestation of the woman at the 373
time the abortion was performed, using the following categories: 374
less than nine weeks, nine to twelve weeks, thirteen to nineteen 375
weeks, or twenty weeks or more; 376

(vii) The county in which the abortion was performed; 377

(viii) The type of abortion procedure performed; 378

(ix) The number of ~~abortions~~ zygotes, blastocytes, 379
embryos, or fetuses previously performed on ~~performed on~~ aborted by the woman 380
on whom the abortion was performed; 381

(x) The type of facility in which the abortion was 382
performed; 383

(xi) For Ohio residents, the county of residence of the 384
woman on whom the abortion was performed. 385

(2) The report also shall indicate the number and type of 386
the abortion complications reported to the department either on 387
the abortion report required under division (C) of this section 388
or the postabortion complication report required under division 389
(H) of this section. 390

(3) In addition to the annual report required under 391
division (I)(1) of this section, the department shall make 392
available, on request, the number of abortions performed by zip 393
code of residence. 394

(J) The director of health shall implement this section 395
and shall apply to the court of common pleas for temporary or 396
permanent injunctions restraining a violation or threatened 397
violation of its requirements. This action is an additional 398
remedy not dependent on the adequacy of the remedy at law. 399

Sec. 3726.01. As used in this chapter: 400

(A) "Abortion facility" means any of the following in 401
which abortions are induced or performed: 402

(1) Ambulatory surgical facility as defined in section 403
3702.30 of the Revised Code; 404

(2) Any other facility in which abortion is legally 405
provided. 406

(B) "Cremation" has the same meaning as in section 4717.01 407
of the Revised Code. 408

(C) "Fetal remains" means the product of human conception 409
that has been aborted. If a woman is carrying more than one 410
zygote, blastocyte, embryo, or fetus, such as in the incidence 411

of twins or triplets, each zygote, blastocyte, embryo, or fetus 412
or any of its parts that is aborted is a separate product of 413
human conception that has been aborted. 414

(D) "Interment" means the burial or entombment of fetal 415
remains. 416

Sec. 3726.02. (A) Final disposition of fetal remains from 417
a surgical abortion at an abortion facility shall be by 418
cremation or interment. 419

(B) The cremation of fetal remains under division (A) of 420
this section shall be in a crematory facility, in compliance 421
with Chapter 4717. of the Revised Code. 422

(C) As used in this section, "crematory facility" has the 423
same meaning as in section 4717.01 of the Revised Code. 424

Sec. 3726.03. (A) A pregnant woman who has a surgical 425
abortion has the right to determine both of the following 426
regarding the fetal remains: 427

(1) Whether the final disposition shall be by cremation or 428
interment; 429

(2) The location for the final disposition. 430

(B) A pregnant woman who has a surgical abortion shall be 431
provided with a notification form described in division (A) of 432
section 3726.14 of the Revised Code. 433

Sec. 3726.04. (A) (1) If a pregnant woman desires to 434
exercise the rights under division (A) of section 3726.03 of the 435
Revised Code, she shall make the determination in writing using 436
a form prescribed by the director of health under division (C) 437
of section 3726.14 of the Revised Code. The determination must 438
clearly indicate both of the following: 439

(a) Whether the final disposition will be by cremation or 440
interment; 441

(b) Whether the final disposition will be at a location 442
other than one provided by the abortion facility. 443

(2) If a pregnant woman does not desire to exercise the 444
rights under division (A) of section 3726.03 of the Revised 445
Code, the abortion facility shall determine whether final 446
disposition shall be by cremation or interment. 447

(B) (1) A pregnant woman who is under eighteen years of 448
age, unmarried, and unemancipated shall obtain parental consent 449
from one of the person's parents, guardian, or custodian to the 450
final disposition determination she makes under division (A) (1) 451
of this section. The consent shall be made in writing using a 452
form prescribed by the director under division (B) of section 453
3726.14 of the Revised Code. 454

(2) The consent under division (B) (1) of this section is 455
not required for a pregnant woman exercising her rights under 456
division (A) of section 3726.03 of the Revised Code if an order 457
authorizing the minor to consent, or the court to consent on 458
behalf of the minor, to the abortion was issued under section 459
2151.85 or division (C) of section 2919.121 of the Revised Code. 460

Sec. 3726.041. (A) A pregnant woman who is carrying more 461
than one zygote, blastocyte, embryo, or fetus, who desires to 462
exercise the rights under division (A) of section 3726.03 of the 463
Revised Code, shall complete one form under division (A) (1) of 464
section 3726.04 of the Revised Code for each zygote, blastocyte, 465
embryo, or fetus that will be aborted. 466

(B) A pregnant woman who obtains parental consent under 467
division (B) (1) of section 3726.04 of the Revised Code shall use 468

one consent form for each zygote, blastocyte, embryo, or fetus 469
that will be aborted. 470

Sec. 3726.042. A form used under section 3726.04 of the 471
Revised Code that covers more than one zygote, blastocyte, 472
embryo, or fetus that will be aborted is invalid. 473

Sec. 3726.05. An abortion facility may not release fetal 474
remains from a surgical abortion, or arrange for the cremation 475
or interment of such fetal remains, until it obtains a final 476
disposition determination made, and if applicable, the consent 477
made, under section 3726.04 or 3726.041 of the Revised Code. 478

Sec. 3726.09. (A) Except as provided in division (B) of 479
this section, an abortion facility shall pay for and provide for 480
the cremation or interment of the fetal remains from a surgical 481
abortion performed at that facility. 482

(B) If the disposition determination made under division 483
(A) (1) of section 3726.04 or 3726.041 of the Revised Code 484
identifies a location for final disposition other than one 485
provided by the abortion facility, the pregnant woman is 486
responsible for the costs related to the final disposition of 487
the fetal remains at the chosen location. 488

Sec. 3726.10. An abortion facility shall document in the 489
pregnant woman's medical record the final disposition 490
determination made, and if applicable, the consent made, under 491
section 3726.04 or 3726.041 of the Revised Code. 492

Sec. 3726.11. An abortion facility shall maintain 493
evidentiary documentation demonstrating the date and method of 494
the disposition of fetal remains from surgical abortions 495
performed or induced in the facility. 496

Sec. 3726.12. An abortion facility shall have written 497

policies and procedures regarding cremation or interment of 498
fetal remains from surgical abortions performed or induced in 499
the facility. 500

Sec. 3726.13. An abortion facility shall develop and 501
maintain a written list of locations at which it provides or 502
arranges for the final disposition of fetal remains from 503
surgical abortions. 504

Sec. 3726.14. Not later than ninety days after the 505
effective date of this section, the director of health, in 506
accordance with Chapter 119. of the Revised Code, shall adopt 507
rules necessary to carry out sections 3726.01 to 3726.13 of the 508
Revised Code, including rules that prescribe the following: 509

(A) The notification form informing pregnant women who 510
seek surgical abortions of the following: 511

(1) The right to determine final disposition of fetal 512
remains under division (A) of section 3726.03 of the Revised 513
Code; 514

(2) The available options for locations and methods for 515
the disposition of fetal remains. 516

(B) The consent form for purposes of section 3726.04 or 517
3726.041 of the Revised Code; 518

(C) (1) A detachable supplemental form to the form 519
described in division (B) (4) of section 2317.56 of the Revised 520
Code that meets the following requirements: 521

(a) Indicates whether the pregnant woman has indicated a 522
preference as to the method of disposition of the fetal remains 523
and the preferred method selected; 524

(b) Indicates whether the pregnant woman has indicated a 525

preference as to the location of disposition of the fetal 526
remains; 527

(c) Provides for the signature of the physician who is to 528
perform or induce the abortion; 529

(d) Provides for a medical identification number for the 530
pregnant woman but does not provide for the pregnant woman's 531
printed name or signature. 532

(2) If a medical emergency or medical necessity prevents 533
the pregnant woman from completing the detachable supplemental 534
form, procedures to complete that form a reasonable time after 535
the medical emergency or medical necessity has ended. 536

Sec. 3726.15. A person who buries or cremates fetal 537
remains from a surgical abortion is not liable for or subject to 538
damages in any civil action, prosecution in any criminal 539
proceeding, or professional disciplinary action related to the 540
disposal of fetal remains, if that person does all of the 541
following: 542

(A) Acts in good faith compliance with this chapter and, 543
if applicable, section 4717.271 of the Revised Code; 544

(B) Receives a copy of a properly executed detachable 545
supplemental form described in division (C) (1) of section 546
3726.14 of the Revised Code; 547

(C) Acts in furtherance of the final disposition of the 548
fetal remains. 549

Sec. 3726.16. Except for the requirements of section 550
3705.20 of the Revised Code, no conflicting provision of the 551
Revised Code or conflicting procedure of an agency or board 552
shall apply regarding a person who buries or cremates fetal 553

remains in accordance with section 3726.15 of the Revised Code. 554

Sec. 3726.95. A pregnant woman who has a surgical 555
abortion, the fetal remains from which are not disposed of in 556
compliance with this chapter, is not guilty of committing, 557
attempting to commit, complicity in the commission of, or 558
conspiracy in the commission of a violation of section 3726.99 559
of the Revised Code. 560

Sec. 3726.99. (A) No person shall fail to comply with 561
section 3726.02, 3726.05, 3726.10, or 3726.11 of the Revised 562
Code. 563

(B) Whoever knowingly violates division (A) of this 564
section is guilty of failure to dispose of fetal remains 565
humanely, a misdemeanor of the first degree. 566

Sec. 4717.271. The following applies to a crematory 567
operator that cremates fetal remains for an abortion facility 568
under Chapter 3726. of the Revised Code. 569

(A) A crematory operator shall not do any of the 570
following: 571

(1) Cremate fetal remains without receiving a copy of a 572
properly executed detachable supplemental form described in 573
division (C)(1) of section 3726.14 of the Revised Code; 574

(2) Dispose of the cremated fetal remains by a means other 575
than one of the following: 576

(a) Placing them in a grave, crypt, or niche; 577

(b) Scattering them in any dignified manner, including in 578
a memorial garden, at sea, by air, or at a scattering ground 579
described in section 1721.21 of the Revised Code; 580

<u>(c) Any other lawful manner.</u>	581
<u>(3) Arrange for the disposal of the cremated fetal remains</u>	582
<u>by a means other than one described in division (A) (2) of this</u>	583
<u>section;</u>	584
<u>(4) Arrange for the transfer of the cremated fetal remains</u>	585
<u>for disposal by a means other than one described in division (A)</u>	586
<u>(2) of this section.</u>	587
<u>(B) A crematory operator is not required to secure a death</u>	588
<u>certificate, a burial or burial-transit permit, or a cremation</u>	589
<u>authorization form to cremate fetal remains.</u>	590
Section 2. That existing sections 2317.56, 3701.341, and	591
3701.79 of the Revised Code are hereby repealed.	592
Section 3. Neither of the following shall apply until	593
rules are adopted under section 3726.14 of the Revised Code:	594
(A) The prohibition under section 3726.99 of the Revised	595
Code;	596
(B) The prohibitions under division (A) of section	597
4717.271 of the Revised Code.	598