

As Introduced

133rd General Assembly

Regular Session

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S. B. No. 27

Senator Uecker

Cosponsors: Senators Terhar, Brenner, Roegner, Huffman, M., McColley, Wilson

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 70
heartbeat, the physician who is to perform or induce the 71
abortion shall comply with the informed consent requirements in 72
section 2919.192 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 only 138
after it consults with the Ohio state medical association and 139
the Ohio section of the American college of obstetricians and 140
gynecologists relative to the probable anatomical and 141
physiological characteristics of a zygote, blastocyte, embryo, 142
or fetus at the various gestational increments. The materials 143
shall use language that is understandable by the average person 144
who is not medically trained, shall be objective and 145
nonjudgmental, and shall include only accurate scientific 146
information about the zygote, blastocyte, embryo, or fetus at 147
the various gestational increments. If the materials use a 148
pictorial, photographic, or other depiction to provide 149
information regarding the zygote, blastocyte, embryo, or fetus, 150
the materials shall include, in a conspicuous manner, a scale or 151
other explanation that is understandable by the average person 152
and that can be used to determine the actual size of the zygote, 153
blastocyte, embryo, or fetus at a particular gestational 154
increment as contrasted with the depicted size of the zygote, 155
blastocyte, embryo, or fetus at that gestational increment. 156

(D) Upon the submission of a request to the department of 157
health by any person, hospital, physician, or medical facility 158
for one copy of the materials published in accordance with 159
division (C) of this section, the department shall make the 160
requested copy of the materials available to the person, 161
hospital, physician, or medical facility that requested the 162
copy. 163

(E) If a medical emergency or medical necessity compels 164
the performance or inducement of an abortion, the physician who 165
will perform or induce the abortion, prior to its performance or 166

inducement if possible, shall inform the pregnant woman of the 167
medical indications supporting the physician's judgment that an 168
immediate abortion is necessary. Any physician who performs or 169
induces an abortion without the prior satisfaction of the 170
conditions specified in division (B) of this section because of 171
a medical emergency or medical necessity shall enter the reasons 172
for the conclusion that a medical emergency or medical necessity 173
exists in the medical record of the pregnant woman. 174

(F) If the conditions specified in division (B) of this 175
section are satisfied, consent to an abortion shall be presumed 176
to be valid and effective. 177

(G) The performance or inducement of an abortion without 178
the prior satisfaction of the conditions specified in division 179
(B) of this section does not constitute, and shall not be 180
construed as constituting, a violation of division (A) of 181
section 2919.12 of the Revised Code. The failure of a physician 182
to satisfy the conditions of division (B) of this section prior 183
to performing or inducing an abortion upon a pregnant woman may 184
be the basis of both of the following: 185

(1) A civil action for compensatory and exemplary damages 186
as described in division (H) of this section; 187

(2) Disciplinary action under section 4731.22 of the 188
Revised Code. 189

(H) (1) Subject to divisions (H) (2) and (3) of this 190
section, any physician who performs or induces an abortion with 191
actual knowledge that the conditions specified in division (B) 192
of this section have not been satisfied or with a heedless 193
indifference as to whether those conditions have been satisfied 194
is liable in compensatory and exemplary damages in a civil 195

action to any person, or the representative of the estate of any 196
person, who sustains injury, death, or loss to person or 197
property as a result of the failure to satisfy those conditions. 198
In the civil action, the court additionally may enter any 199
injunctive or other equitable relief that it considers 200
appropriate. 201

(2) The following shall be affirmative defenses in a civil 202
action authorized by division (H) (1) of this section: 203

(a) The physician performed or induced the abortion under 204
the circumstances described in division (E) of this section. 205

(b) The physician made a good faith effort to satisfy the 206
conditions specified in division (B) of this section. 207

(3) An employer or other principal is not liable in 208
damages in a civil action authorized by division (H) (1) of this 209
section on the basis of the doctrine of respondeat superior 210
unless either of the following applies: 211

(a) The employer or other principal had actual knowledge 212
or, by the exercise of reasonable diligence, should have known 213
that an employee or agent performed or induced an abortion with 214
actual knowledge that the conditions specified in division (B) 215
of this section had not been satisfied or with a heedless 216
indifference as to whether those conditions had been satisfied. 217

(b) The employer or other principal negligently failed to 218
secure the compliance of an employee or agent with division (B) 219
of this section. 220

(4) Notwithstanding division (E) of section 2919.12 of the 221
Revised Code, the civil action authorized by division (H) (1) of 222
this section shall be the exclusive civil remedy for persons, or 223
the representatives of estates of persons, who allegedly sustain 224

injury, death, or loss to person or property as a result of a 225
failure to satisfy the conditions specified in division (B) of 226
this section. 227

(I) The department of job and family services shall 228
prepare and conduct a public information program to inform women 229
of all available governmental programs and agencies that provide 230
services or assistance for family planning, prenatal care, child 231
care, or alternatives to abortion. 232

Sec. 3701.341. (A) The director of health, pursuant to 233
Chapter 119. and consistent with Chapter 3726. and section 234
2317.56 of the Revised Code, shall adopt rules relating to 235
abortions and the following subjects: 236

(1) Post-abortion procedures to protect the health of the 237
pregnant woman; 238

(2) Pathological reports; 239

(3) Humane disposition of the product of human conception; 240

(4) Counseling. 241

(B) The director of health shall implement the rules and 242
shall apply to the court of common pleas for temporary or 243
permanent injunctions restraining a violation or threatened 244
violation of the rules. This action is an additional remedy not 245
dependent on the adequacy of the remedy at law. 246

Sec. 3701.79. (A) As used in this section: 247

(1) "Abortion" has the same meaning as in section 2919.11 248
of the Revised Code. 249

(2) "Abortion report" means a form completed pursuant to 250
division (C) of this section. 251

(3) "Ambulatory surgical facility" has the same meaning as	252
in section 3702.30 of the Revised Code.	253
(4) "Department" means the department of health.	254
(5) "Hospital" means any building, structure, institution,	255
or place devoted primarily to the maintenance and operation of	256
facilities for the diagnosis, treatment, and medical or surgical	257
care for three or more unrelated individuals suffering from	258
illness, disease, injury, or deformity, and regularly making	259
available at least clinical laboratory services, diagnostic x-	260
ray services, treatment facilities for surgery or obstetrical	261
care, or other definitive medical treatment. "Hospital" does not	262
include a "home" as defined in section 3721.01 of the Revised	263
Code.	264
(6) "Physician's office" means an office or portion of an	265
office that is used to provide medical or surgical services to	266
the physician's patients. "Physician's office" does not mean an	267
ambulatory surgical facility, a hospital, or a hospital	268
emergency department.	269
(7) "Postabortion care" means care given after the uterus	270
has been evacuated by abortion.	271
(B) The department shall be responsible for collecting and	272
collating abortion data reported to the department as required	273
by this section.	274
(C) The attending physician shall complete an individual	275
abortion report for each the <u>abortion of each zygote,</u>	276
<u>blastocyte, embryo, or fetus</u> the physician performs upon a	277
woman . The report shall be confidential and shall not contain	278
the woman's name. The report shall include, but is not limited	279
to, all of the following, insofar as the patient makes the data	280

available that is not within the physician's knowledge: 281

(1) Patient number; 282

(2) The name and address of the facility in which the 283
abortion was performed, and whether the facility is a hospital, 284
ambulatory surgical facility, physician's office, or other 285
facility; 286

(3) The date of the abortion; 287

(4) If a surgical abortion, the method of final 288
disposition of the fetal remains under Chapter 3726. of the 289
Revised Code; 290

(5) All of the following regarding the woman on whom the 291
abortion was performed: 292

(a) Zip code of residence; 293

(b) Age; 294

(c) Race; 295

(d) Marital status; 296

(e) Number of previous pregnancies; 297

(f) Years of education; 298

(g) Number of living children; 299

(h) Number of zygotes, blastocytes, embryos, or fetuses 300
previously-induced abortions aborted; 301

(i) Date of last induced abortion; 302

(j) Date of last live birth; 303

(k) Method of contraception at the time of conception; 304

(l) Date of the first day of the last menstrual period;	305
(m) Medical condition at the time of the abortion;	306
(n) Rh-type;	307
(o) The number of weeks of gestation at the time of the abortion.	308 309
(5) <u>(6)</u> The type of abortion procedure performed;	310
(6) <u>(7)</u> Complications by type;	311
(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:	312 313 314
(a) A test result indicating Down syndrome in an unborn child;	315 316
(b) A prenatal diagnosis of Down syndrome in an unborn child;	317 318
(c) Any other reason to believe that an unborn child has Down syndrome.	319 320
(8) <u>(9)</u> Type of procedure performed after the abortion;	321
(9) <u>(10)</u> Type of family planning recommended;	322
(10) <u>(11)</u> Type of additional counseling given;	323
(11) <u>(12)</u> Signature of attending physician.	324
(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.	325 326 327 328
(E) The appropriate vital records report or certificate	329

shall be made out after the twentieth week of gestation. 330

(F) A copy of the abortion report shall be made part of 331
the medical record of the patient of the facility in which the 332
abortion was performed. 333

(G) Each hospital shall file monthly and annual reports 334
listing the total number of women who have undergone a post- 335
twelve-week-gestation abortion and received postabortion care. 336
The annual report shall be filed following the conclusion of the 337
state's fiscal year. Each report shall be filed within thirty 338
days after the end of the applicable reporting period. 339

(H) Each case in which a physician treats a post abortion 340
complication shall be reported on a postabortion complication 341
form. The report shall be made upon a form prescribed by the 342
department, shall be signed by the attending physician, and 343
shall be confidential. 344

(I) (1) Not later than the first day of October of each 345
year, the department shall issue an annual report of the 346
abortion data reported to the department for the previous 347
calendar year as required by this section. The annual report 348
shall include at least the following information: 349

(a) The total number of ~~induced abortions~~ zygotes, 350
blastocytes, embryos, or fetuses that were aborted; 351

(b) The number of abortions performed on Ohio and out-of- 352
state residents; 353

(c) The number of abortions performed, sorted by each of 354
the following: 355

(i) The age of the woman on whom the abortion was 356
performed, using the following categories: under fifteen years 357

of age, fifteen to nineteen years of age, twenty to twenty-four 358
years of age, twenty-five to twenty-nine years of age, thirty to 359
thirty-four years of age, thirty-five to thirty-nine years of 360
age, forty to forty-four years of age, forty-five years of age 361
or older; 362

(ii) The race and Hispanic ethnicity of the woman on whom 363
the abortion was performed; 364

(iii) The education level of the woman on whom the 365
abortion was performed, using the following categories or their 366
equivalents: less than ninth grade, ninth through twelfth grade, 367
one or more years of college; 368

(iv) The marital status of the woman on whom the abortion 369
was performed; 370

(v) The number of living children of the woman on whom the 371
abortion was performed, using the following categories: none, 372
one, or two or more; 373

(vi) The number of weeks of gestation of the woman at the 374
time the abortion was performed, using the following categories: 375
less than nine weeks, nine to twelve weeks, thirteen to nineteen 376
weeks, or twenty weeks or more; 377

(vii) The county in which the abortion was performed; 378

(viii) The type of abortion procedure performed; 379

(ix) The number of ~~abortions~~ zygotes, blastocytes, 380
embryos, or fetuses previously performed on ~~performed on~~ aborted by the woman 381
on whom the abortion was performed; 382

(x) The type of facility in which the abortion was 383
performed; 384

(xi) For Ohio residents, the county of residence of the 385
woman on whom the abortion was performed. 386

(2) The report also shall indicate the number and type of 387
the abortion complications reported to the department either on 388
the abortion report required under division (C) of this section 389
or the postabortion complication report required under division 390
(H) of this section. 391

(3) In addition to the annual report required under 392
division (I)(1) of this section, the department shall make 393
available, on request, the number of abortions performed by zip 394
code of residence. 395

(J) The director of health shall implement this section 396
and shall apply to the court of common pleas for temporary or 397
permanent injunctions restraining a violation or threatened 398
violation of its requirements. This action is an additional 399
remedy not dependent on the adequacy of the remedy at law. 400

Sec. 3726.01. As used in this chapter: 401

(A) "Abortion facility" means any of the following in 402
which abortions are induced or performed: 403

(1) Ambulatory surgical facility as defined in section 404
3702.30 of the Revised Code; 405

(2) Any other facility in which abortion is legally 406
provided. 407

(B) "Cremation" has the same meaning as in section 4717.01 408
of the Revised Code. 409

(C) "Fetal remains" means the product of human conception 410
that has been aborted. If a woman is carrying more than one 411
zygote, blastocyte, embryo, or fetus, such as in the incidence 412

of twins or triplets, each zygote, blastocyte, embryo, or fetus 413
or any of its parts that is aborted is a separate product of 414
human conception that has been aborted. 415

(D) "Interment" means the burial or entombment of fetal 416
remains. 417

Sec. 3726.02. (A) Final disposition of fetal remains from 418
a surgical abortion at an abortion facility shall be by 419
cremation or interment. 420

(B) The cremation of fetal remains under division (A) of 421
this section shall be in a crematory facility, in compliance 422
with Chapter 4717. of the Revised Code. 423

(C) As used in this section, "crematory facility" has the 424
same meaning as in section 4717.01 of the Revised Code. 425

Sec. 3726.03. (A) A pregnant woman who has a surgical 426
abortion has the right to determine both of the following 427
regarding the fetal remains: 428

(1) Whether the final disposition shall be by cremation or 429
interment; 430

(2) The location for the final disposition. 431

(B) A pregnant woman who has a surgical abortion shall be 432
provided with a notification form described in division (A) of 433
section 3726.14 of the Revised Code. 434

Sec. 3726.04. (A) (1) If a pregnant woman desires to 435
exercise the rights under division (A) of section 3726.03 of the 436
Revised Code, she shall make the determination in writing using 437
a form prescribed by the director of health under division (C) 438
of section 3726.14 of the Revised Code. The determination must 439
clearly indicate both of the following: 440

(a) Whether the final disposition will be by cremation or 441
interment; 442

(b) Whether the final disposition will be at a location 443
other than one provided by the abortion facility. 444

(2) If a pregnant woman does not desire to exercise the 445
rights under division (A) of section 3726.03 of the Revised 446
Code, the abortion facility shall determine whether final 447
disposition shall be by cremation or interment. 448

(B) (1) A pregnant woman who is under eighteen years of 449
age, unmarried, and unemancipated shall obtain parental consent 450
from one of the person's parents, guardian, or custodian to the 451
final disposition determination she makes under division (A) (1) 452
of this section. The consent shall be made in writing using a 453
form prescribed by the director under division (B) of section 454
3726.14 of the Revised Code. 455

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

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

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

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

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

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

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

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Sec. 3726.12. An abortion facility shall have written
policies and procedures regarding cremation or interment of

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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

(c) Any other lawful manner. 581

(3) Arrange for the disposal of the cremated fetal remains 582
by a means other than one described in division (A) (2) of this 583
section; 584

(4) Arrange for the transfer of the cremated fetal remains 585
for disposal by a means other than one described in division (A) 586
(2) of this section. 587

(B) A crematory operator is not required to secure a death 588
certificate, a burial or burial-transit permit, or a cremation 589
authorization form to cremate fetal remains. 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