

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 145

Senators Huffman, Wilson

Cosponsors: Senators Uecker, Lehner, Jordan, Terhar, Hottinger, Hackett, LaRose

A BILL

To amend sections 2305.114, 2307.53, 2901.01, 1
2903.09, 2919.123, 2919.151, and 2967.193 and to 2
enact section 2919.15 of the Revised Code to 3
criminalize and create a civil action for 4
dismemberment abortions. 5

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

Section 1. That sections 2305.114, 2307.53, 2901.01, 6
2903.09, 2919.123, 2919.151, and 2967.193 be amended and section 7
2919.15 of the Revised Code be enacted to read as follows: 8

Sec. 2305.114. A civil action pursuant to section 2307.53 9
of the Revised Code for partial birth feticide or dismemberment 10
feticide shall be commenced within one year after the commission 11
of ~~that~~ the offense. 12

Sec. 2307.53. (A) As used in this section: 13

(1) "Dismemberment abortion" has the same meaning as in 14
section 2919.15 of the Revised Code. 15

(2) "Frivolous conduct" has the same meaning as in section 16
2323.51 of the Revised Code. 17

~~(2)~~(3) "Partial birth procedure" has the same meaning as 18
in section 2919.151 of the Revised Code. 19

(B) A woman upon whom a partial birth procedure is 20
performed in violation of division (B) or (C) of section 21
2919.151 of the Revised Code, a woman upon whom a dismemberment 22
abortion is performed in violation of division (B) of section 23
2919.15 of the Revised Code, the father of the child if the 24
child was not conceived by rape, or the parent of the woman if 25
the woman is not eighteen years of age or older at the time of 26
the violation has and may commence a civil action for 27
compensatory damages, punitive or exemplary damages if 28
authorized by section 2315.21 of the Revised Code, and court 29
costs and reasonable attorney's fees against the person who 30
committed the violation. 31

(C) If a judgment is rendered in favor of the defendant in 32
a civil action commenced pursuant to division (B) of this 33
section and the court finds, upon the filing of a motion under 34
section 2323.51 of the Revised Code, that the commencement of 35
the civil action constitutes frivolous conduct and that the 36
defendant was adversely affected by the frivolous conduct, the 37
court shall award in accordance with section 2323.51 of the 38
Revised Code reasonable attorney's fees to the defendant. 39

Sec. 2901.01. (A) As used in the Revised Code: 40

(1) "Force" means any violence, compulsion, or constraint 41
physically exerted by any means upon or against a person or 42
thing. 43

(2) "Deadly force" means any force that carries a 44
substantial risk that it will proximately result in the death of 45
any person. 46

(3) "Physical harm to persons" means any injury, illness, 47
or other physiological impairment, regardless of its gravity or 48
duration. 49

(4) "Physical harm to property" means any tangible or 50
intangible damage to property that, in any degree, results in 51
loss to its value or interferes with its use or enjoyment. 52
"Physical harm to property" does not include wear and tear 53
occasioned by normal use. 54

(5) "Serious physical harm to persons" means any of the 55
following: 56

(a) Any mental illness or condition of such gravity as 57
would normally require hospitalization or prolonged psychiatric 58
treatment; 59

(b) Any physical harm that carries a substantial risk of 60
death; 61

(c) Any physical harm that involves some permanent 62
incapacity, whether partial or total, or that involves some 63
temporary, substantial incapacity; 64

(d) Any physical harm that involves some permanent 65
disfigurement or that involves some temporary, serious 66
disfigurement; 67

(e) Any physical harm that involves acute pain of such 68
duration as to result in substantial suffering or that involves 69
any degree of prolonged or intractable pain. 70

(6) "Serious physical harm to property" means any physical 71
harm to property that does either of the following: 72

(a) Results in substantial loss to the value of the 73
property or requires a substantial amount of time, effort, or 74

money to repair or replace;	75
(b) Temporarily prevents the use or enjoyment of the	76
property or substantially interferes with its use or enjoyment	77
for an extended period of time.	78
(7) "Risk" means a significant possibility, as contrasted	79
with a remote possibility, that a certain result may occur or	80
that certain circumstances may exist.	81
(8) "Substantial risk" means a strong possibility, as	82
contrasted with a remote or significant possibility, that a	83
certain result may occur or that certain circumstances may	84
exist.	85
(9) "Offense of violence" means any of the following:	86
(a) A violation of section 2903.01, 2903.02, 2903.03,	87
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211,	88
2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03,	89
2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11,	90
2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04,	91
2921.34, or 2923.161, of division (A) (1) of section 2903.34, of	92
division (A) (1), (2), or (3) of section 2911.12, or of division	93
(B) (1), (2), (3), or (4) of section 2919.22 of the Revised Code	94
or felonious sexual penetration in violation of former section	95
2907.12 of the Revised Code;	96
(b) A violation of an existing or former municipal	97
ordinance or law of this or any other state or the United	98
States, substantially equivalent to any section, division, or	99
offense listed in division (A) (9) (a) of this section;	100
(c) An offense, other than a traffic offense, under an	101
existing or former municipal ordinance or law of this or any	102
other state or the United States, committed purposely or	103

knowingly, and involving physical harm to persons or a risk of 104
serious physical harm to persons; 105

(d) A conspiracy or attempt to commit, or complicity in 106
committing, any offense under division (A) (9) (a), (b), or (c) of 107
this section. 108

(10) (a) "Property" means any property, real or personal, 109
tangible or intangible, and any interest or license in that 110
property. "Property" includes, but is not limited to, cable 111
television service, other telecommunications service, 112
telecommunications devices, information service, computers, 113
data, computer software, financial instruments associated with 114
computers, other documents associated with computers, or copies 115
of the documents, whether in machine or human readable form, 116
trade secrets, trademarks, copyrights, patents, and property 117
protected by a trademark, copyright, or patent. "Financial 118
instruments associated with computers" include, but are not 119
limited to, checks, drafts, warrants, money orders, notes of 120
indebtedness, certificates of deposit, letters of credit, bills 121
of credit or debit cards, financial transaction authorization 122
mechanisms, marketable securities, or any computer system 123
representations of any of them. 124

(b) As used in division (A) (10) of this section, "trade 125
secret" has the same meaning as in section 1333.61 of the 126
Revised Code, and "telecommunications service" and "information 127
service" have the same meanings as in section 2913.01 of the 128
Revised Code. 129

(c) As used in divisions (A) (10) and (13) of this section, 130
"cable television service," "computer," "computer software," 131
"computer system," "computer network," "data," and 132
"telecommunications device" have the same meanings as in section 133

2913.01 of the Revised Code.	134
(11) "Law enforcement officer" means any of the following:	135
(a) A sheriff, deputy sheriff, constable, police officer	136
of a township or joint police district, marshal, deputy marshal,	137
municipal police officer, member of a police force employed by a	138
metropolitan housing authority under division (D) of section	139
3735.31 of the Revised Code, or state highway patrol trooper;	140
(b) An officer, agent, or employee of the state or any of	141
its agencies, instrumentalities, or political subdivisions, upon	142
whom, by statute, a duty to conserve the peace or to enforce all	143
or certain laws is imposed and the authority to arrest violators	144
is conferred, within the limits of that statutory duty and	145
authority;	146
(c) A mayor, in the mayor's capacity as chief conservator	147
of the peace within the mayor's municipal corporation;	148
(d) A member of an auxiliary police force organized by	149
county, township, or municipal law enforcement authorities,	150
within the scope of the member's appointment or commission;	151
(e) A person lawfully called pursuant to section 311.07 of	152
the Revised Code to aid a sheriff in keeping the peace, for the	153
purposes and during the time when the person is called;	154
(f) A person appointed by a mayor pursuant to section	155
737.01 of the Revised Code as a special patrolling officer	156
during riot or emergency, for the purposes and during the time	157
when the person is appointed;	158
(g) A member of the organized militia of this state or the	159
armed forces of the United States, lawfully called to duty to	160
aid civil authorities in keeping the peace or protect against	161

domestic violence;	162
(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;	163 164
(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code;	165 166
(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;	167 168 169
(k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;	170 171
(l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms;	172 173 174 175
(m) The senate sergeant at arms and an assistant senate sergeant at arms;	176 177
(n) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended.	178 179 180 181 182 183 184 185 186 187
(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising	188 189

out of status, position, office, or relationship, or growing out 190
of necessity. 191

(13) "Contraband" means any property that is illegal for a 192
person to acquire or possess under a statute, ordinance, or 193
rule, or that a trier of fact lawfully determines to be illegal 194
to possess by reason of the property's involvement in an 195
offense. "Contraband" includes, but is not limited to, all of 196
the following: 197

(a) Any controlled substance, as defined in section 198
3719.01 of the Revised Code, or any device or paraphernalia; 199

(b) Any unlawful gambling device or paraphernalia; 200

(c) Any dangerous ordnance or obscene material. 201

(14) A person is "not guilty by reason of insanity" 202
relative to a charge of an offense only if the person proves, in 203
the manner specified in section 2901.05 of the Revised Code, 204
that at the time of the commission of the offense, the person 205
did not know, as a result of a severe mental disease or defect, 206
the wrongfulness of the person's acts. 207

(B) (1) (a) Subject to division (B) (2) of this section, as 208
used in any section contained in Title XXIX of the Revised Code 209
that sets forth a criminal offense, "person" includes all of the 210
following: 211

(i) An individual, corporation, business trust, estate, 212
trust, partnership, and association; 213

(ii) An unborn human who is viable. 214

(b) As used in any section contained in Title XXIX of the 215
Revised Code that does not set forth a criminal offense, 216
"person" includes an individual, corporation, business trust, 217

estate, trust, partnership, and association.	218
(c) As used in division (B) (1) (a) of this section:	219
(i) "Unborn human" means an individual organism of the species Homo sapiens from fertilization until live birth.	220 221
(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.	222 223 224 225
(2) Notwithstanding division (B) (1) (a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B) (1) (a) (ii) of this section be applied or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:	226 227 228 229 230 231
(a) Except as otherwise provided in division (B) (2) (a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, or section	232 233 234 235 236 237 238 239 240 241 242 243 244 245 246

2919.15, 2919.151, 2919.17, or 2919.18 of the Revised Code, may 247
be punished as a violation of section 2919.12, division (B) of 248
section 2919.13, or section 2919.15, 2919.151, 2919.17, or 249
2919.18 of the Revised Code, as applicable. Consent is 250
sufficient under this division if it is of the type otherwise 251
adequate to permit medical treatment to the pregnant woman, even 252
if it does not comply with section 2919.12 of the Revised Code. 253

(b) In a manner so that the offense is applied or is 254
construed as applying to a woman based on an act or omission of 255
the woman that occurs while she is or was pregnant and that 256
results in any of the following: 257

(i) Her delivery of a stillborn baby; 258

(ii) Her causing, in any other manner, the death in utero 259
of a viable, unborn human that she is carrying; 260

(iii) Her causing the death of her child who is born alive 261
but who dies from one or more injuries that are sustained while 262
the child is a viable, unborn human; 263

(iv) Her causing her child who is born alive to sustain 264
one or more injuries while the child is a viable, unborn human; 265

(v) Her causing, threatening to cause, or attempting to 266
cause, in any other manner, an injury, illness, or other 267
physiological impairment, regardless of its duration or gravity, 268
or a mental illness or condition, regardless of its duration or 269
gravity, to a viable, unborn human that she is carrying. 270

(C) As used in Title XXIX of the Revised Code: 271

(1) "School safety zone" consists of a school, school 272
building, school premises, school activity, and school bus. 273

(2) "School," "school building," and "school premises" 274

have the same meanings as in section 2925.01 of the Revised Code.	275 276
(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314. of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code.	277 278 279 280 281 282 283 284
(4) "School bus" has the same meaning as in section 4511.01 of the Revised Code.	285 286
Sec. 2903.09. As used in sections 2903.01 to 2903.08, 2903.11 to 2903.14, 2903.21, and 2903.22 of the Revised Code:	287 288
(A) "Unlawful termination of another's pregnancy" means causing the death of an unborn member of the species homo sapiens, who is or was carried in the womb of another, as a result of injuries inflicted during the period that begins with fertilization and that continues unless and until live birth occurs.	289 290 291 292 293 294
(B) "Another's unborn" or "such other person's unborn" means a member of the species homo sapiens, who is or was carried in the womb of another, during a period that begins with fertilization and that continues unless and until live birth occurs.	295 296 297 298 299
(C) Notwithstanding divisions (A) and (B) of this section, in no case shall the definitions of the terms "unlawful termination of another's pregnancy," "another's unborn," and "such other person's unborn" that are set forth in division (A)	300 301 302 303

of this section be applied or construed in any of the following 304
manners: 305

(1) Except as otherwise provided in division (C) (1) of 306
this section, in a manner so that the offense prohibits or is 307
construed as prohibiting any pregnant woman or her physician 308
from performing an abortion with the actual consent of the 309
pregnant woman, with the consent of the pregnant woman implied 310
by law in a medical emergency, or with the approval of one 311
otherwise authorized by law to consent to medical treatment on 312
behalf of the pregnant woman. An abortion that violates the 313
conditions described in the immediately preceding sentence may 314
be punished as a violation of section 2903.01, 2903.02, 2903.03, 315
2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 316
2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. 317
An abortion that does not violate the conditions described in 318
the second immediately preceding sentence, but that does violate 319
section 2919.12, division (B) of section 2919.13, or section 320
2919.15, 2919.151, 2919.17, or 2919.18 of the Revised Code, may 321
be punished as a violation of section 2919.12, division (B) of 322
section 2919.13, or section 2919.15, 2919.151, 2919.17, or 323
2919.18 of the Revised Code, as applicable. 324

(2) In a manner so that the offense is applied or is 325
construed as applying to a woman based on an act or omission of 326
the woman that occurs while she is or was pregnant and that 327
results in any of the following: 328

(a) Her delivery of a stillborn baby; 329

(b) Her causing, in any other manner, the death in utero 330
of an unborn that she is carrying; 331

(c) Her causing the death of her child who is born alive 332

but who dies from one or more injuries that are sustained while 333
the child is an unborn; 334

(d) Her causing her child who is born alive to sustain one 335
or more injuries while the child is an unborn; 336

(e) Her causing, threatening to cause, or attempting to 337
cause, in any other manner, an injury, illness, or other 338
physiological impairment, regardless of its duration or gravity, 339
or a mental illness or condition, regardless of its duration or 340
gravity, to an unborn that she is carrying. 341

Sec. 2919.123. (A) No person shall knowingly give, sell, 342
dispense, administer, otherwise provide, or prescribe RU-486 343
(mifepristone) to another for the purpose of inducing an 344
abortion in any person or enabling the other person to induce an 345
abortion in any person, unless the person who gives, sells, 346
dispenses, administers, or otherwise provides or prescribes the 347
RU-486 (mifepristone) is a physician, the physician satisfies 348
all the criteria established by federal law that a physician 349
must satisfy in order to provide RU-486 (mifepristone) for 350
inducing abortions, and the physician provides the RU-486 351
(mifepristone) to the other person for the purpose of inducing 352
an abortion in accordance with all provisions of federal law 353
that govern the use of RU-486 (mifepristone) for inducing 354
abortions. A person who gives, sells, dispenses, administers, 355
otherwise provides, or prescribes RU-486 (mifepristone) to 356
another as described in division (A) of this section shall not 357
be prosecuted based on a violation of the criteria contained in 358
this division unless the person knows that the person is not a 359
physician, that the person did not satisfy all the specified 360
criteria established by federal law, or that the person did not 361
provide the RU-486 (mifepristone) in accordance with the 362

specified provisions of federal law, whichever is applicable. 363

(B) No physician who provides RU-486 (mifepristone) to 364
another for the purpose of inducing an abortion as authorized 365
under division (A) of this section shall knowingly fail to 366
comply with the applicable requirements of any federal law that 367
pertain to follow-up examinations or care for persons to whom or 368
for whom RU-486 (mifepristone) is provided for the purpose of 369
inducing an abortion. 370

(C) (1) If a physician provides RU-486 (mifepristone) to 371
another for the purpose of inducing an abortion as authorized 372
under division (A) of this section and if the physician knows 373
that the person who uses the RU-486 (mifepristone) for the 374
purpose of inducing an abortion experiences during or after the 375
use an incomplete abortion, severe bleeding, or an adverse 376
reaction to the RU-486 (mifepristone) or is hospitalized, 377
receives a transfusion, or experiences any other serious event, 378
the physician promptly must provide a written report of the 379
incomplete abortion, severe bleeding, adverse reaction, 380
hospitalization, transfusion, or serious event to the state 381
medical board. The board shall compile and retain all reports it 382
receives under this division. Except as otherwise provided in 383
this division, all reports the board receives under this 384
division are public records open to inspection under section 385
149.43 of the Revised Code. In no case shall the board release 386
to any person the name or any other personal identifying 387
information regarding a person who uses RU-486 (mifepristone) 388
for the purpose of inducing an abortion and who is the subject 389
of a report the board receives under this division. 390

(2) No physician who provides RU-486 (mifepristone) to 391
another for the purpose of inducing an abortion as authorized 392

under division (A) of this section shall knowingly fail to file 393
a report required under division (C) (1) of this section. 394

(D) Division (A) of this section does not apply to any of 395
the following: 396

(1) A pregnant woman who obtains or possesses RU-486 397
(mifepristone) for the purpose of inducing an abortion to 398
terminate her own pregnancy; 399

(2) The legal transport of RU-486 (mifepristone) by any 400
person or entity and the legal delivery of the RU-486 401
(mifepristone) by any person to the recipient, provided that 402
this division does not apply regarding any conduct related to 403
the RU-486 (mifepristone) other than its transport and delivery 404
to the recipient; 405

(3) The distribution, provision, or sale of RU-486 406
(mifepristone) by any legal manufacturer or distributor of RU- 407
486 (mifepristone), provided the manufacturer or distributor 408
made a good faith effort to comply with any applicable 409
requirements of federal law regarding the distribution, 410
provision, or sale. 411

(E) Whoever violates this section is guilty of unlawful 412
distribution of an abortion-inducing drug, a felony of the 413
fourth degree. If the offender previously has been convicted of 414
or pleaded guilty to a violation of this section or of section 415
2919.12, 2919.121, 2919.13, 2919.14, 2919.15, 2919.151, 2919.17, 416
or 2919.18 of the Revised Code, unlawful distribution of an 417
abortion-inducing drug is a felony of the third degree. 418

If the offender is a professionally licensed person, in 419
addition to any other sanction imposed by law for the offense, 420
the offender is subject to sanctioning as provided by law by the 421

regulatory or licensing board or agency that has the 422
administrative authority to suspend or revoke the offender's 423
professional license, including the sanctioning provided in 424
section 4731.22 of the Revised Code for offenders who have a 425
certificate to practice or certificate of registration issued 426
under that chapter. 427

(F) As used in this section: 428

(1) "Federal law" means any law, rule, or regulation of 429
the United States or any drug approval letter of the food and 430
drug administration of the United States that governs or 431
regulates the use of RU-486 (mifepristone) for the purpose of 432
inducing abortions. 433

(2) "Personal identifying information" has the same 434
meaning as in section 2913.49 of the Revised Code. 435

(3) "Physician" has the same meaning as in section 436
2305.113 of the Revised Code. 437

(4) "Professionally licensed person" has the same meaning 438
as in section 2925.01 of the Revised Code. 439

Sec. 2919.15. (A) As used in this section: 440

"Dismemberment abortion" means, with the purpose of 441
causing the death of an unborn child, to dismember a living 442
unborn child and extract the unborn child one piece at a time 443
from the uterus through use of clamps, grasping forceps, tongs, 444
scissors, or similar instruments that, through the convergence 445
of two rigid levers, slice, crush, or grasp a portion of the 446
unborn child's body to cut or rip it off. "Dismemberment 447
abortion" includes a dismemberment abortion during which a 448
suction is used after the death of the unborn child to extract 449
any remaining parts of the unborn child. 450

"Serious risk of the substantial and irreversible impairment of a major bodily function" has the same meaning as in section 2919.151 of the Revised Code. 451
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"Unborn child" has the same meaning as in section 2919.16 of the Revised Code. 454
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(B) No person shall knowingly perform or attempt to perform a dismemberment abortion when the dismemberment abortion is not necessary, in reasonable medical judgment, to preserve the life or physical health of the mother as a result of the mother's life or physical health being endangered by a serious risk of the substantial and irreversible physical impairment of a major bodily function. 456
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(C) Whoever violates division (B) of this section is guilty of dismemberment feticide, a felony of the fourth degree. 463
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(D) None of the following are guilty of committing, attempting to commit, complicity in the commission of, or conspiracy in the commission of a violation of division (B) of this section: 465
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(1) A pregnant woman upon whom a dismemberment abortion is performed in violation of division (B) of this section; 469
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(2) An individual who is employed by the person who violates division (B) of this section and who acts at the direction of the person who violates division (B) of this section; 471
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(3) A pharmacist or other individual who fills a prescription or provides instruments or materials used in violating division (B) of this section. 475
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(E) This section does not prohibit the suction curettage 478

<u>procedure of abortion or the suction aspiration procedure of</u>	479
<u>abortion.</u>	480
Sec. 2919.151. (A) As used in this section:	481
(1) "Dilation and evacuation procedure of abortion" does	482
not include the dilation and extraction procedure of abortion.	483
(2) "From the body of the mother" means that the portion	484
of the fetus' body in question is beyond the mother's vaginal	485
introitus in a vaginal delivery.	486
(3) <u>(2)</u> "Partial birth procedure" means the medical	487
procedure that includes all of the following elements in	488
sequence:	489
(a) Intentional dilation of the cervix of a pregnant	490
woman, usually over a sequence of days;	491
(b) In a breech presentation, intentional extraction of at	492
least the lower torso to the navel, but not the entire body, of	493
an intact fetus from the body of the mother, or in a cephalic	494
presentation, intentional extraction of at least the complete	495
head, but not the entire body, of an intact fetus from the body	496
of the mother;	497
(c) Intentional partial evacuation of the intracranial	498
contents of the fetus, which procedure the person performing the	499
procedure knows will cause the death of the fetus, intentional	500
compression of the head of the fetus, which procedure the person	501
performing the procedure knows will cause the death of the	502
fetus, or performance of another intentional act that the person	503
performing the procedure knows will cause the death of the	504
fetus;	505
(d) Completion of the vaginal delivery of the fetus.	506

~~(4)~~(3) "Partially born" means that the portion of the 507
body of an intact fetus described in division (A) (3) (b) of this 508
section has been intentionally extracted from the body of the 509
mother. 510

~~(5)~~(4) "Serious risk of the substantial and irreversible 511
impairment of a major bodily function" means any medically 512
diagnosed condition that so complicates the pregnancy of the 513
woman as to directly or indirectly cause the substantial and 514
irreversible impairment of a major bodily function. 515

~~(6)~~(5) "Viable" has the same meaning as in section 516
2901.01 of the Revised Code. 517

(B) When the fetus that is the subject of the procedure is 518
viable, no person shall knowingly perform a partial birth 519
procedure on a pregnant woman when the procedure is not 520
necessary, in reasonable medical judgment, to preserve the life 521
or health of the mother as a result of the mother's life or 522
health being endangered by a serious risk of the substantial and 523
irreversible impairment of a major bodily function. 524

(C) When the fetus that is the subject of the procedure is 525
not viable, no person shall knowingly perform a partial birth 526
procedure on a pregnant woman when the procedure is not 527
necessary, in reasonable medical judgment, to preserve the life 528
or health of the mother as a result of the mother's life or 529
health being endangered by a serious risk of the substantial and 530
irreversible impairment of a major bodily function. 531

(D) Whoever violates division (B) or (C) of this section 532
is guilty of partial birth feticide, a felony of the second 533
degree. 534

(E) A pregnant woman upon whom a partial birth procedure 535

is performed in violation of division (B) or (C) of this section 536
is not guilty of committing, attempting to commit, complicity in 537
the commission of, or conspiracy in the commission of a 538
violation of those divisions. 539

(F) This section does not prohibit the suction curettage 540
procedure of abortion, or the suction aspiration procedure of 541
abortion, ~~or the dilation and evacuation procedure of abortion.~~ 542

(G) This section does not apply to any person who performs 543
or attempts to perform a legal abortion if the act that causes 544
the death of the fetus is performed prior to the fetus being 545
partially born even though the death of the fetus occurs after 546
it is partially born. 547

Sec. 2967.193. (A) (1) Except as provided in division (C) 548
of this section and subject to the maximum aggregate total 549
specified in division (A) (2) of this section, a person confined 550
in a state correctional institution or placed in the substance 551
use disorder treatment program may provisionally earn one day or 552
five days of credit, based on the category set forth in division 553
(D) (1), (2), (3), (4), or (5) of this section in which the 554
person is included, toward satisfaction of the person's stated 555
prison term for each completed month during which the person, if 556
confined in a state correctional institution, productively 557
participates in an education program, vocational training, 558
employment in prison industries, treatment for substance abuse, 559
or any other constructive program developed by the department 560
with specific standards for performance by prisoners or during 561
which the person, if placed in the substance use disorder 562
treatment program, productively participates in the program. 563
Except as provided in division (C) of this section and subject 564
to the maximum aggregate total specified in division (A) (2) of 565

this section, a person so confined in a state correctional 566
institution who successfully completes two programs or 567
activities of that type may, in addition, provisionally earn up 568
to five days of credit toward satisfaction of the person's 569
stated prison term for the successful completion of the second 570
program or activity. The person shall not be awarded any 571
provisional days of credit for the successful completion of the 572
first program or activity or for the successful completion of 573
any program or activity that is completed after the second 574
program or activity. At the end of each calendar month in which 575
a person productively participates in a program or activity 576
listed in this division or successfully completes a program or 577
activity listed in this division, the department of 578
rehabilitation and correction shall determine and record the 579
total number of days credit that the person provisionally earned 580
in that calendar month. If the person in a state correctional 581
institution violates prison rules or the person in the substance 582
use disorder treatment program violates program or department 583
rules, the department may deny the person a credit that 584
otherwise could have been provisionally awarded to the person or 585
may withdraw one or more credits previously provisionally earned 586
by the person. Days of credit provisionally earned by a person 587
shall be finalized and awarded by the department subject to 588
administrative review by the department of the person's conduct. 589

(2) The aggregate days of credit provisionally earned by a 590
person for program or activity participation and program and 591
activity completion under this section and the aggregate days of 592
credit finally credited to a person under this section shall not 593
exceed eight per cent of the total number of days in the 594
person's stated prison term. 595

(B) The department of rehabilitation and correction shall 596

adopt rules that specify the programs or activities for which 597
credit may be earned under this section, the criteria for 598
determining productive participation in, or completion of, the 599
programs or activities and the criteria for awarding credit, 600
including criteria for awarding additional credit for successful 601
program or activity completion, and the criteria for denying or 602
withdrawing previously provisionally earned credit as a result 603
of a violation of prison rules, or program or department rules, 604
whichever is applicable. 605

(C) No person confined in a state correctional institution 606
or placed in a substance use disorder treatment program to whom 607
any of the following applies shall be awarded any days of credit 608
under division (A) of this section: 609

(1) The person is serving a prison term that section 610
2929.13 or section 2929.14 of the Revised Code specifies cannot 611
be reduced pursuant to this section or this chapter or is 612
serving a sentence for which section 2967.13 or division (B) of 613
section 2929.143 of the Revised Code specifies that the person 614
is not entitled to any earned credit under this section. 615

(2) The person is sentenced to death or is serving a 616
prison term or a term of life imprisonment for aggravated 617
murder, murder, or a conspiracy or attempt to commit, or 618
complicity in committing, aggravated murder or murder. 619

(3) The person is serving a sentence of life imprisonment 620
without parole imposed pursuant to section 2929.03 or 2929.06 of 621
the Revised Code, a prison term or a term of life imprisonment 622
without parole imposed pursuant to section 2971.03 of the 623
Revised Code, or a sentence for a sexually oriented offense that 624
was committed on or after September 30, 2011. 625

(D) This division does not apply to a determination of 626
whether a person confined in a state correctional institution or 627
placed in a substance use disorder treatment program may earn 628
any days of credit under division (A) of this section for 629
successful completion of a second program or activity. The 630
determination of whether a person confined in a state 631
correctional institution may earn one day of credit or five days 632
of credit under division (A) of this section for each completed 633
month during which the person productively participates in a 634
program or activity specified under that division shall be made 635
in accordance with the following: 636

(1) The offender may earn one day of credit under division 637
(A) of this section, except as provided in division (C) of this 638
section, if the most serious offense for which the offender is 639
confined is any of the following that is a felony of the first 640
or second degree: 641

(a) A violation of division (A) of section 2903.04 or of 642
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 643
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 644
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.15, 2919.151, 645
2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, 646
or 2927.24 of the Revised Code; 647

(b) A conspiracy or attempt to commit, or complicity in 648
committing, any other offense for which the maximum penalty is 649
imprisonment for life or any offense listed in division (D)(1) 650
(a) of this section. 651

(2) The offender may earn one day of credit under division 652
(A) of this section, except as provided in division (C) of this 653
section, if the offender is serving a stated prison term that 654
includes a prison term imposed for a sexually oriented offense 655

that the offender committed prior to September 30, 2011. 656

(3) The offender may earn one day of credit under division 657
(A) of this section, except as provided in division (C) of this 658
section, if the offender is serving a stated prison term that 659
includes a prison term imposed for a felony other than carrying 660
a concealed weapon an essential element of which is any conduct 661
or failure to act expressly involving any deadly weapon or 662
dangerous ordnance. 663

(4) Except as provided in division (C) of this section, if 664
the most serious offense for which the offender is confined is a 665
felony of the first or second degree and divisions (D) (1), (2), 666
and (3) of this section do not apply to the offender, the 667
offender may earn one day of credit under division (A) of this 668
section if the offender committed that offense prior to 669
September 30, 2011, and the offender may earn five days of 670
credit under division (A) of this section if the offender 671
committed that offense on or after September 30, 2011. 672

(5) Except as provided in division (C) of this section, if 673
the most serious offense for which the offender is confined is a 674
felony of the third, fourth, or fifth degree or an unclassified 675
felony and neither division (D) (2) nor (3) of this section 676
applies to the offender, the offender may earn one day of credit 677
under division (A) of this section if the offender committed 678
that offense prior to September 30, 2011, and the offender may 679
earn five days of credit under division (A) of this section if 680
the offender committed that offense on or after September 30, 681
2011. 682

(E) The department annually shall seek and consider the 683
written feedback of the Ohio prosecuting attorneys association, 684
the Ohio judicial conference, the Ohio public defender, the Ohio 685

association of criminal defense lawyers, and other organizations 686
and associations that have an interest in the operation of the 687
corrections system and the earned credits program under this 688
section as part of its evaluation of the program and in 689
determining whether to modify the program. 690

(F) As used in this section: 691

(1) "Sexually oriented offense" has the same meaning as in 692
section 2950.01 of the Revised Code. 693

(2) "Substance use disorder treatment program" means the 694
substance use disorder treatment program established by the 695
department of rehabilitation and correction under section 696
5120.035 of the Revised Code. 697

Section 2. That existing sections 2305.114, 2307.53, 698
2901.01, 2903.09, 2919.123, 2919.151, and 2967.193 of the 699
Revised Code are hereby repealed. 700