

**As Reported by the House Health Committee**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. S. B. No. 28**

**Senator Uecker**

**Cosponsors: Senators Obhof, Huffman, Hottinger, Hite, Eklund, LaRose, Coley, Hoagland, Jordan, Bacon, Balderson, Burke, Hackett, Lehner, McColley, Oelslager, Peterson, Terhar, Wilson Representatives Antani, Butler, Ginter, Johnson, Kick, Merrin**

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

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

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

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

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

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

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

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 and she desires to exercise the rights under section 88  
3726.03 of the Revised Code, she has completed the disposition 89  
determination under section 3726.04 or 3726.041 of the Revised 90  
Code. 91

A form shall be completed for each zygote, blastocyte, 92  
embryo, or fetus to be aborted. If a pregnant woman is carrying 93  
more than one zygote, blastocyte, embryo, or fetus, she shall 94  
sign a form for each zygote, blastocyte, embryo, or fetus to be 95  
aborted. 96

The form shall contain the name and contact information of 97  
the physician who provided to the pregnant woman the information 98  
described in division (B) (1) of this section. 99

(5) Prior to the performance or inducement of the 100  
abortion, the physician who is scheduled to perform or induce 101  
the abortion or the physician's agent receives a copy of the 102  
pregnant woman's signed form on which she consents to the 103

abortion and that includes the certification required by 104  
division (B) (4) of this section. 105

(C) The department of health shall publish in English and 106  
in Spanish, in a typeface large enough to be clearly legible, 107  
and in an easily comprehensible format, the following materials 108  
on the department's web site: 109

(1) Materials that inform the pregnant woman about family 110  
planning information, of publicly funded agencies that are 111  
available to assist in family planning, and of public and 112  
private agencies and services that are available to assist her 113  
through the pregnancy, upon childbirth, and while the child is 114  
dependent, including, but not limited to, adoption agencies. The 115  
materials shall be geographically indexed; include a 116  
comprehensive list of the available agencies, a description of 117  
the services offered by the agencies, and the telephone numbers 118  
and addresses of the agencies; and inform the pregnant woman 119  
about available medical assistance benefits for prenatal care, 120  
childbirth, and neonatal care and about the support obligations 121  
of the father of a child who is born alive. The department shall 122  
ensure that the materials described in division (C) (1) of this 123  
section are comprehensive and do not directly or indirectly 124  
promote, exclude, or discourage the use of any agency or service 125  
described in this division. 126

(2) Materials that inform the pregnant woman of the 127  
probable anatomical and physiological characteristics of the 128  
zygote, blastocyte, embryo, or fetus at two-week gestational 129  
increments for the first sixteen weeks of pregnancy and at four- 130  
week gestational increments from the seventeenth week of 131  
pregnancy to full term, including any relevant information 132  
regarding the time at which the fetus possibly would be viable. 133

The department shall cause these materials to be published only 134  
after it consults with the Ohio state medical association and 135  
the Ohio section of the American college of obstetricians and 136  
gynecologists relative to the probable anatomical and 137  
physiological characteristics of a zygote, blastocyte, embryo, 138  
or fetus at the various gestational increments. The materials 139  
shall use language that is understandable by the average person 140  
who is not medically trained, shall be objective and 141  
nonjudgmental, and shall include only accurate scientific 142  
information about the zygote, blastocyte, embryo, or fetus at 143  
the various gestational increments. If the materials use a 144  
pictorial, photographic, or other depiction to provide 145  
information regarding the zygote, blastocyte, embryo, or fetus, 146  
the materials shall include, in a conspicuous manner, a scale or 147  
other explanation that is understandable by the average person 148  
and that can be used to determine the actual size of the zygote, 149  
blastocyte, embryo, or fetus at a particular gestational 150  
increment as contrasted with the depicted size of the zygote, 151  
blastocyte, embryo, or fetus at that gestational increment. 152

(D) Upon the submission of a request to the department of 153  
health by any person, hospital, physician, or medical facility 154  
for one copy of the materials published in accordance with 155  
division (C) of this section, the department shall make the 156  
requested copy of the materials available to the person, 157  
hospital, physician, or medical facility that requested the 158  
copy. 159

(E) If a medical emergency or medical necessity compels 160  
the performance or inducement of an abortion, the physician who 161  
will perform or induce the abortion, prior to its performance or 162  
inducement if possible, shall inform the pregnant woman of the 163  
medical indications supporting the physician's judgment that an 164

immediate abortion is necessary. Any physician who performs or 165  
induces an abortion without the prior satisfaction of the 166  
conditions specified in division (B) of this section because of 167  
a medical emergency or medical necessity shall enter the reasons 168  
for the conclusion that a medical emergency or medical necessity 169  
exists in the medical record of the pregnant woman. 170

(F) If the conditions specified in division (B) of this 171  
section are satisfied, consent to an abortion shall be presumed 172  
to be valid and effective. 173

(G) The performance or inducement of an abortion without 174  
the prior satisfaction of the conditions specified in division 175  
(B) of this section does not constitute, and shall not be 176  
construed as constituting, a violation of division (A) of 177  
section 2919.12 of the Revised Code. The failure of a physician 178  
to satisfy the conditions of division (B) of this section prior 179  
to performing or inducing an abortion upon a pregnant woman may 180  
be the basis of both of the following: 181

(1) A civil action for compensatory and exemplary damages 182  
as described in division (H) of this section; 183

(2) Disciplinary action under section 4731.22 of the 184  
Revised Code. 185

(H) (1) Subject to divisions (H) (2) and (3) of this 186  
section, any physician who performs or induces an abortion with 187  
actual knowledge that the conditions specified in division (B) 188  
of this section have not been satisfied or with a heedless 189  
indifference as to whether those conditions have been satisfied 190  
is liable in compensatory and exemplary damages in a civil 191  
action to any person, or the representative of the estate of any 192  
person, who sustains injury, death, or loss to person or 193

property as a result of the failure to satisfy those conditions. 194  
In the civil action, the court additionally may enter any 195  
injunctive or other equitable relief that it considers 196  
appropriate. 197

(2) The following shall be affirmative defenses in a civil 198  
action authorized by division (H)(1) of this section: 199

(a) The physician performed or induced the abortion under 200  
the circumstances described in division (E) of this section. 201

(b) The physician made a good faith effort to satisfy the 202  
conditions specified in division (B) of this section. 203

(3) An employer or other principal is not liable in 204  
damages in a civil action authorized by division (H)(1) of this 205  
section on the basis of the doctrine of respondeat superior 206  
unless either of the following applies: 207

(a) The employer or other principal had actual knowledge 208  
or, by the exercise of reasonable diligence, should have known 209  
that an employee or agent performed or induced an abortion with 210  
actual knowledge that the conditions specified in division (B) 211  
of this section had not been satisfied or with a heedless 212  
indifference as to whether those conditions had been satisfied. 213

(b) The employer or other principal negligently failed to 214  
secure the compliance of an employee or agent with division (B) 215  
of this section. 216

(4) Notwithstanding division (E) of section 2919.12 of the 217  
Revised Code, the civil action authorized by division (H)(1) of 218  
this section shall be the exclusive civil remedy for persons, or 219  
the representatives of estates of persons, who allegedly sustain 220  
injury, death, or loss to person or property as a result of a 221  
failure to satisfy the conditions specified in division (B) of 222

this section.	223
(I) The department of job and family services shall	224
prepare and conduct a public information program to inform women	225
of all available governmental programs and agencies that provide	226
services or assistance for family planning, prenatal care, child	227
care, or alternatives to abortion.	228
<b>Sec. 3701.341.</b> (A) The director of health, pursuant to	229
Chapter 119. and consistent with <u>Chapter 3726. and section</u>	230
2317.56 of the Revised Code, shall adopt rules relating to	231
abortions and the following subjects:	232
(1) Post-abortion procedures to protect the health of the	233
pregnant woman;	234
(2) Pathological reports;	235
(3) Humane disposition of the product of human conception;	236
(4) Counseling.	237
(B) The director of health shall implement the rules and	238
shall apply to the court of common pleas for temporary or	239
permanent injunctions restraining a violation or threatened	240
violation of the rules. This action is an additional remedy not	241
dependent on the adequacy of the remedy at law.	242
<b>Sec. 3701.79.</b> (A) As used in this section:	243
(1) "Abortion" has the same meaning as in section 2919.11	244
of the Revised Code.	245
(2) "Abortion report" means a form completed pursuant to	246
division (C) of this section.	247
(3) "Ambulatory surgical facility" has the same meaning as	248
in section 3702.30 of the Revised Code.	249

(4) "Department" means the department of health.	250
(5) "Hospital" means any building, structure, institution, or place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, and medical or surgical care for three or more unrelated individuals suffering from illness, disease, injury, or deformity, and regularly making available at least clinical laboratory services, diagnostic x- ray services, treatment facilities for surgery or obstetrical care, or other definitive medical treatment. "Hospital" does not include a "home" as defined in section 3721.01 of the Revised Code.	251 252 253 254 255 256 257 258 259 260
(6) "Physician's office" means an office or portion of an office that is used to provide medical or surgical services to the physician's patients. "Physician's office" does not mean an ambulatory surgical facility, a hospital, or a hospital emergency department.	261 262 263 264 265
(7) "Postabortion care" means care given after the uterus has been evacuated by abortion.	266 267
(B) The department shall be responsible for collecting and collating abortion data reported to the department as required by this section.	268 269 270
(C) The attending physician shall complete an individual abortion report for <del>each</del> <u>the abortion of each zygote,</u> <u>blastocyte, embryo, or fetus</u> <del>the physician performs upon a</del> <del>woman</del> . The report shall be confidential and shall not contain the woman's name. The report shall include, but is not limited to, all of the following, insofar as the patient makes the data available that is not within the physician's knowledge:	271 272 273 274 275 276 277
(1) Patient number;	278

(2) The name and address of the facility in which the abortion was performed, and whether the facility is a hospital, ambulatory surgical facility, physician's office, or other facility;	279 280 281 282
(3) The date of the abortion;	283
(4) <u>If a surgical abortion, the method of final disposition of the fetal remains under Chapter 3726. of the Revised Code;</u>	284 285 286
<u>(5) All of the following regarding the woman on whom the abortion was performed:</u>	287 288
(a) Zip code of residence;	289
(b) Age;	290
(c) Race;	291
(d) Marital status;	292
(e) Number of previous pregnancies;	293
(f) Years of education;	294
(g) Number of living children;	295
(h) Number of <u>zygotes, blastocytes, embryos, or fetuses</u> previously <del>induced abortions</del> <u>aborted</u> ;	296 297
(i) Date of last induced abortion;	298
(j) Date of last live birth;	299
(k) Method of contraception at the time of conception;	300
(l) Date of the first day of the last menstrual period;	301
(m) Medical condition at the time of the abortion;	302

(n) Rh-type;	303
(o) The number of weeks of gestation at the time of the abortion.	304 305
<del>(5)</del> <u>(6)</u> The type of abortion procedure performed;	306
<del>(6)</del> <u>(7)</u> Complications by type;	307
<del>(7)</del> <u>(8)</u> Type of procedure performed after the abortion;	308
<del>(8)</del> <u>(9)</u> Type of family planning recommended;	309
<del>(9)</del> <u>(10)</u> Type of additional counseling given;	310
<del>(10)</del> <u>(11)</u> Signature of attending physician.	311
(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.	312 313 314 315
(E) The appropriate vital records report or certificate shall be made out after the twentieth week of gestation.	316 317
(F) A copy of the abortion report shall be made part of the medical record of the patient of the facility in which the abortion was performed.	318 319 320
(G) Each hospital shall file monthly and annual reports listing the total number of women who have undergone a post-twelve-week-gestation abortion and received postabortion care. The annual report shall be filed following the conclusion of the state's fiscal year. Each report shall be filed within thirty days after the end of the applicable reporting period.	321 322 323 324 325 326
(H) Each case in which a physician treats a post abortion complication shall be reported on a postabortion complication form. The report shall be made upon a form prescribed by the	327 328 329

department, shall be signed by the attending physician, and 330  
shall be confidential. 331

(I) (1) Not later than the first day of October of each 332  
year, the department shall issue an annual report of the 333  
abortion data reported to the department for the previous 334  
calendar year as required by this section. The annual report 335  
shall include at least the following information: 336

(a) The total number of ~~induced abortions~~ zygotes, 337  
blastocytes, embryos, or fetuses that were aborted; 338

(b) The number of abortions performed on Ohio and out-of- 339  
state residents; 340

(c) The number of abortions performed, sorted by each of 341  
the following: 342

(i) The age of the woman on whom the abortion was 343  
performed, using the following categories: under fifteen years 344  
of age, fifteen to nineteen years of age, twenty to twenty-four 345  
years of age, twenty-five to twenty-nine years of age, thirty to 346  
thirty-four years of age, thirty-five to thirty-nine years of 347  
age, forty to forty-four years of age, forty-five years of age 348  
or older; 349

(ii) The race and Hispanic ethnicity of the woman on whom 350  
the abortion was performed; 351

(iii) The education level of the woman on whom the 352  
abortion was performed, using the following categories or their 353  
equivalents: less than ninth grade, ninth through twelfth grade, 354  
one or more years of college; 355

(iv) The marital status of the woman on whom the abortion 356  
was performed; 357

(v) The number of living children of the woman on whom the 358  
abortion was performed, using the following categories: none, 359  
one, or two or more; 360

(vi) The number of weeks of gestation of the woman at the 361  
time the abortion was performed, using the following categories: 362  
less than nine weeks, nine to twelve weeks, thirteen to nineteen 363  
weeks, or twenty weeks or more; 364

(vii) The county in which the abortion was performed; 365

(viii) The type of abortion procedure performed; 366

(ix) The number of ~~abortions~~ zygotes, blastocytes, 367  
embryos, or fetuses previously performed on ~~aborted by~~ the woman 368  
on whom the abortion was performed; 369

(x) The type of facility in which the abortion was 370  
performed; 371

(xi) For Ohio residents, the county of residence of the 372  
woman on whom the abortion was performed. 373

(2) The report also shall indicate the number and type of 374  
the abortion complications reported to the department either on 375  
the abortion report required under division (C) of this section 376  
or the postabortion complication report required under division 377  
(H) of this section. 378

(3) In addition to the annual report required under 379  
division (I)(1) of this section, the department shall make 380  
available, on request, the number of abortions performed by zip 381  
code of residence. 382

(J) The director of health shall implement this section 383  
and shall apply to the court of common pleas for temporary or 384  
permanent injunctions restraining a violation or threatened 385

violation of its requirements. This action is an additional 386  
remedy not dependent on the adequacy of the remedy at law. 387

Sec. 3726.01. As used in this chapter: 388

(A) "Abortion facility" means any of the following in 389  
which abortions are induced or performed: 390

(1) Ambulatory surgical facility as defined in section 391  
3702.30 of the Revised Code; 392

(2) Any other facility in which abortion is legally 393  
provided. 394

(B) "Cremation" has the same meaning as in section 4717.01 395  
of the Revised Code. 396

(C) "Fetal remains" means the product of human conception 397  
that has been aborted. If a woman is carrying more than one 398  
zygote, blastocyte, embryo, or fetus, such as in the incidence 399  
of twins or triplets, each zygote, blastocyte, embryo, or fetus 400  
or any of its parts that is aborted is a separate product of 401  
human conception that has been aborted. 402

(D) "Interment" means the burial or entombment of fetal 403  
remains. 404

Sec. 3726.02. (A) Final disposition of fetal remains from 405  
a surgical abortion at an abortion facility shall be by 406  
cremation or interment. 407

(B) The cremation of fetal remains under division (A) of 408  
this section shall be in a crematory facility, in compliance 409  
with Chapter 4717. of the Revised Code. 410

(C) As used in this section, "crematory facility" has the 411  
same meaning as in section 4717.01 of the Revised Code. 412

Sec. 3726.03. A pregnant woman who has a surgical abortion 413  
has the right to determine both of the following regarding the 414  
fetal remains: 415

(A) Whether the final disposition shall be by cremation or 416  
interment; 417

(B) The location for the final disposition. 418

Sec. 3726.04. (A) (1) If a pregnant woman desires to 419  
exercise the rights under section 3726.03 of the Revised Code, 420  
she shall make the determination in writing using a form 421  
prescribed by the director of health under division (C) of 422  
section 3726.14 of the Revised Code. The determination must 423  
clearly indicate both of the following: 424

(a) Whether the final disposition will be by cremation or 425  
interment; 426

(b) Whether the final disposition will be at a location 427  
other than one provided by the abortion facility. 428

(2) If a pregnant woman does not desire to exercise the 429  
rights under section 3726.03 of the Revised Code, the abortion 430  
facility shall determine whether final disposition shall be by 431  
cremation or interment. 432

(B) (1) A pregnant woman who is under eighteen years of 433  
age, unmarried, and unemancipated shall obtain parental consent 434  
from one of the person's parents, guardian, or custodian to the 435  
final disposition determination she makes under division (A) (1) 436  
of this section. The consent shall be made in writing using a 437  
form prescribed by the director under division (B) of section 438  
3726.14 of the Revised Code. 439

(2) The consent under division (B) (1) of this section is 440

not required for a pregnant woman exercising her rights under 441  
section 3726.03 of the Revised Code if an order authorizing 442  
consent to the abortion was issued under section 2151.85 of the 443  
Revised Code. 444

**Sec. 3726.041.** (A) A pregnant woman who is carrying more 445  
than one zygote, blastocyte, embryo, or fetus, who desires to 446  
exercise the rights under section 3726.03 of the Revised Code, 447  
shall complete one form under division (A) (1) of section 3726.04 448  
of the Revised Code for each zygote, blastocyte, embryo, or 449  
fetus that will be aborted. 450

(B) A pregnant woman who obtains parental consent under 451  
division (B) (1) of section 3726.04 of the Revised Code shall use 452  
one consent form for each zygote, blastocyte, embryo, or fetus 453  
that will be aborted. 454

**Sec. 3726.042.** A form used under section 3726.04 of the 455  
Revised Code that covers more than one zygote, blastocyte, 456  
embryo, or fetus that will be aborted is invalid. 457

**Sec. 3726.05.** An abortion facility may not release fetal 458  
remains from a surgical abortion, or arrange for the cremation 459  
or interment of such fetal remains, until it obtains a final 460  
disposition determination made, and if applicable, the consent 461  
made, under section 3726.04 or 3726.041 of the Revised Code. 462

**Sec. 3726.09.** (A) Except as provided in division (B) of 463  
this section, an abortion facility shall pay for and provide for 464  
the cremation or interment of the fetal remains from a surgical 465  
abortion performed at that facility. 466

(B) If the disposition determination made under division 467  
(A) (1) of section 3726.04 or 3726.041 of the Revised Code 468  
identifies a location for final disposition other than one 469

provided by the abortion facility, the pregnant woman is 470  
responsible for the costs related to the final disposition of 471  
the fetal remains at the chosen location. 472

Sec. 3726.10. An abortion facility shall document in the 473  
pregnant woman's medical record the final disposition 474  
determination made, and if applicable, the consent made, under 475  
section 3726.04 or 3726.041 of the Revised Code. 476

Sec. 3726.11. An abortion facility shall maintain 477  
evidentiary documentation demonstrating the date and method of 478  
the disposition of fetal remains from surgical abortions 479  
performed or induced in the facility. 480

Sec. 3726.12. An abortion facility shall have written 481  
policies and procedures regarding cremation or interment of 482  
fetal remains from surgical abortions performed or induced in 483  
the facility. 484

Sec. 3726.13. An abortion facility shall develop and 485  
maintain a written list of locations at which it provides or 486  
arranges for the final disposition of fetal remains from 487  
surgical abortions. 488

Sec. 3726.14. Not later than ninety days after the 489  
effective date of this section, the director of health, in 490  
accordance with Chapter 119. of the Revised Code, shall adopt 491  
rules necessary to carry out sections 3726.01 to 3726.13 of the 492  
Revised Code, including rules that prescribe the following: 493

(A) The method in which pregnant women who seek surgical 494  
abortions are informed of the following: 495

(1) The right to determine final disposition of fetal 496  
remains under section 3726.03 of the Revised Code; 497

<u>(2) The available options for locations and methods for</u>	498
<u>the disposition of fetal remains.</u>	499
<u>(B) The notification form for final disposition</u>	500
<u>determinations and the consent form for purposes of section</u>	501
<u>3726.04 or 3726.041 of the Revised Code;</u>	502
<u>(C) (1) A detachable supplemental form to the form</u>	503
<u>described in division (B) (4) of section 2317.56 of the Revised</u>	504
<u>Code that meets the following requirements:</u>	505
<u>(a) Indicates whether the pregnant woman has indicated a</u>	506
<u>preference as to the method of disposition of the fetal remains</u>	507
<u>and the preferred method selected;</u>	508
<u>(b) Indicates whether the pregnant woman has indicated a</u>	509
<u>preference as to the location of disposition of the fetal</u>	510
<u>remains;</u>	511
<u>(c) Provides for the signature of the physician who is to</u>	512
<u>perform or induce the abortion;</u>	513
<u>(d) Provides for a medical identification number for the</u>	514
<u>pregnant woman but does not provide for the pregnant woman's</u>	515
<u>printed name or signature.</u>	516
<u>(2) If a medical emergency or medical necessity prevents</u>	517
<u>the pregnant woman from completing the detachable supplemental</u>	518
<u>form, procedures to complete that form a reasonable time after</u>	519
<u>the medical emergency or medical necessity has ended.</u>	520
<u>Sec. 3726.15. A person who buries or cremates fetal</u>	521
<u>remains from a surgical abortion is not liable for or subject to</u>	522
<u>damages in any civil action, prosecution in any criminal</u>	523
<u>proceeding, or professional disciplinary action related to the</u>	524
<u>disposal of fetal remains, if that person does all of the</u>	525

<u>following:</u>	526
<u>(A) Acts in good faith compliance with this chapter and,</u>	527
<u>if applicable, section 4717.271 of the Revised Code;</u>	528
<u>(B) Receives a copy of a properly executed detachable</u>	529
<u>supplemental form described in division (C) (1) of section</u>	530
<u>3726.14 of the Revised Code;</u>	531
<u>(C) Acts in furtherance of the final disposition of the</u>	532
<u>fetal remains.</u>	533
<u>Sec. 3726.16. Except for the requirements of section</u>	534
<u>3705.20 of the Revised Code, no conflicting provision of the</u>	535
<u>Revised Code or conflicting procedure of an agency or board</u>	536
<u>shall apply regarding a person who buries or cremates fetal</u>	537
<u>remains in accordance with section 3726.15 of the Revised Code.</u>	538
<u>Sec. 3726.95. A pregnant woman who has a surgical</u>	539
<u>abortion, the fetal remains from which are not disposed of in</u>	540
<u>compliance with this chapter, is not guilty of committing,</u>	541
<u>attempting to commit, complicity in the commission of, or</u>	542
<u>conspiracy in the commission of a violation of section 3726.99</u>	543
<u>of the Revised Code.</u>	544
<u>Sec. 3726.99. (A) No person shall fail to comply with</u>	545
<u>section 3726.02, 3726.05, 3726.10, or 3726.11 of the Revised</u>	546
<u>Code.</u>	547
<u>(B) Whoever knowingly violates division (A) of this</u>	548
<u>section is guilty of failure to dispose of fetal remains</u>	549
<u>humanely, a misdemeanor of the first degree.</u>	550
<u>Sec. 4717.271. The following applies to a crematory</u>	551
<u>operator that cremates fetal remains for an abortion facility</u>	552
<u>under Chapter 3726. of the Revised Code.</u>	553

<u>(A) A crematory operator shall not do any of the</u>	554
<u>following:</u>	555
<u>(1) Cremate fetal remains without receiving a copy of a</u>	556
<u>properly executed detachable supplemental form described in</u>	557
<u>division (C) (1) of section 3726.14 of the Revised Code;</u>	558
<u>(2) Dispose of the cremated fetal remains by a means other</u>	559
<u>than one of the following:</u>	560
<u>(a) Placing them in a grave, crypt, or niche;</u>	561
<u>(b) Scattering them in any dignified manner, including in</u>	562
<u>a memorial garden, at sea, by air, or at a scattering ground</u>	563
<u>described in section 1721.21 of the Revised Code;</u>	564
<u>(c) Any other lawful manner.</u>	565
<u>(3) Arrange for the disposal of the cremated fetal remains</u>	566
<u>by a means other than one described in division (A) (2) of this</u>	567
<u>section;</u>	568
<u>(4) Arrange for the transfer of the cremated fetal remains</u>	569
<u>for disposal by a means other than one described in division (A)</u>	570
<u>(2) of this section.</u>	571
<u>(B) A crematory operator is not required to secure a death</u>	572
<u>certificate, a burial or burial-transit permit, or a cremation</u>	573
<u>authorization form to cremate fetal remains.</u>	574
<b>Section 2.</b> That existing sections 2317.56, 3701.341, and	575
3701.79 of the Revised Code are hereby repealed.	576
<b>Section 3.</b> Neither of the following shall apply until	577
rules are adopted under section 3726.14 of the Revised Code:	578
(A) The prohibition under section 3726.99 of the Revised	579
Code;	580

(B) The prohibitions under division (A) of section	581
4717.271 of the Revised Code.	582