

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 357**

**Representatives Johnson, G., Smith, K.**

**Cosponsors: Representatives Slesnick, Howse, Lepore-Hagan, Fedor, Bishoff,  
Celebrezze**

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**A BILL**

To amend sections 2317.56, 2919.12, and 2919.192 1  
and to repeal section 2919.122 of the Revised 2  
Code to remove waiting-period restrictions on 3  
when a woman can obtain an abortion and to 4  
repeal requirements governing the provision of 5  
notice to a woman's relative, custodian, or 6  
guardian, if the woman is seeking an abortion 7  
and is pregnant, unmarried, a minor, and 8  
unemancipated. 9

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

**Section 1.** That sections 2317.56, 2919.12, and 2919.192 of 10  
the Revised Code be amended to read as follows: 11

**Sec. 2317.56.** (A) As used in this section: 12

(1) "Medical emergency" has the same meaning as in section 13  
2919.16 of the Revised Code. 14

(2) "Medical necessity" means a medical condition of a 15  
pregnant woman that, in the reasonable judgment of the physician 16  
who is attending the woman, so complicates the pregnancy that it 17

necessitates the immediate performance or inducement of an 18  
abortion. 19

(3) "Probable gestational age of the embryo or fetus" 20  
means the gestational age that, in the judgment of a physician, 21  
is, with reasonable probability, the gestational age of the 22  
embryo or fetus at the time that the physician informs a 23  
pregnant woman pursuant to division (B) (1) (b) of this section. 24

(B) Except when there is a medical emergency or medical 25  
necessity, an abortion shall be performed or induced only if all 26  
of the following conditions are satisfied: 27

(1) ~~At least twenty-four hours prior~~ Prior to the 28  
performance or inducement of the abortion, a physician meets 29  
with the pregnant woman in person in an individual, private 30  
setting and gives her an adequate opportunity to ask questions 31  
about the abortion that will be performed or induced. At this 32  
meeting, the physician shall inform the pregnant woman, verbally 33  
or, if she is hearing impaired, by other means of communication, 34  
of all of the following: 35

(a) The nature and purpose of the particular abortion 36  
procedure to be used and the medical risks associated with that 37  
procedure; 38

(b) The probable gestational age of the embryo or fetus; 39

(c) The medical risks associated with the pregnant woman 40  
carrying the pregnancy to term. 41

The meeting need not occur at the facility where the 42  
abortion is to be performed or induced, and the physician 43  
involved in the meeting need not be affiliated with that 44  
facility or with the physician who is scheduled to perform or 45  
induce the abortion. 46

(2) ~~At least twenty four hours prior~~ Prior to the 47  
performance or inducement of the abortion, the physician who is 48  
to perform or induce the abortion or the physician's agent does 49  
each of the following in person, by telephone, by certified 50  
mail, return receipt requested, or by regular mail evidenced by 51  
a certificate of mailing: 52

(a) Inform the pregnant woman of the name of the physician 53  
who is scheduled to perform or induce the abortion; 54

(b) Give the pregnant woman copies of the published 55  
materials described in division (C) of this section; 56

(c) Inform the pregnant woman that the materials given 57  
pursuant to division (B) (2) (b) of this section are published by 58  
the state and that they describe the embryo or fetus and list 59  
agencies that offer alternatives to abortion. The pregnant woman 60  
may choose to examine or not to examine the materials. A 61  
physician or an agent of a physician may choose to be 62  
disassociated from the materials and may choose to comment or 63  
not comment on the materials. 64

(3) If it has been determined that the unborn human 65  
individual the pregnant woman is carrying has a detectable 66  
heartbeat, the physician who is to perform or induce the 67  
abortion shall comply with the informed consent requirements in 68  
section 2919.192 of the Revised Code in addition to complying 69  
with the informed consent requirements in divisions (B) (1), (2), 70  
(4), and (5) of this section. 71

(4) Prior to the performance or inducement of the 72  
abortion, the pregnant woman signs a form consenting to the 73  
abortion and certifies both of the following on that form: 74

(a) She has received the information and materials 75

described in divisions (B) (1) and (2) of this section, and her 76  
questions about the abortion that will be performed or induced 77  
have been answered in a satisfactory manner. 78

(b) She consents to the particular abortion voluntarily, 79  
knowingly, intelligently, and without coercion by any person, 80  
and she is not under the influence of any drug of abuse or 81  
alcohol. 82

The form shall contain the name and contact information of 83  
the physician who provided to the pregnant woman the information 84  
described in division (B) (1) of this section. 85

(5) Prior to the performance or inducement of the 86  
abortion, the physician who is scheduled to perform or induce 87  
the abortion or the physician's agent receives a copy of the 88  
pregnant woman's signed form on which she consents to the 89  
abortion and that includes the certification required by 90  
division (B) (4) of this section. 91

(C) The department of health shall publish in English and 92  
in Spanish, in a typeface large enough to be clearly legible, 93  
and in an easily comprehensible format, the following materials 94  
on the department's web site: 95

(1) Materials that inform the pregnant woman about family 96  
planning information, of publicly funded agencies that are 97  
available to assist in family planning, and of public and 98  
private agencies and services that are available to assist her 99  
through the pregnancy, upon childbirth, and while the child is 100  
dependent, including, but not limited to, adoption agencies. The 101  
materials shall be geographically indexed; include a 102  
comprehensive list of the available agencies, a description of 103  
the services offered by the agencies, and the telephone numbers 104

and addresses of the agencies; and inform the pregnant woman 105  
about available medical assistance benefits for prenatal care, 106  
childbirth, and neonatal care and about the support obligations 107  
of the father of a child who is born alive. The department shall 108  
ensure that the materials described in division (C)(1) of this 109  
section are comprehensive and do not directly or indirectly 110  
promote, exclude, or discourage the use of any agency or service 111  
described in this division. 112

(2) Materials that inform the pregnant woman of the 113  
probable anatomical and physiological characteristics of the 114  
zygote, blastocyte, embryo, or fetus at two-week gestational 115  
increments for the first sixteen weeks of pregnancy and at four- 116  
week gestational increments from the seventeenth week of 117  
pregnancy to full term, including any relevant information 118  
regarding the time at which the fetus possibly would be viable. 119  
The department shall cause these materials to be published only 120  
after it consults with the Ohio state medical association and 121  
the Ohio section of the American college of obstetricians and 122  
gynecologists relative to the probable anatomical and 123  
physiological characteristics of a zygote, blastocyte, embryo, 124  
or fetus at the various gestational increments. The materials 125  
shall use language that is understandable by the average person 126  
who is not medically trained, shall be objective and 127  
nonjudgmental, and shall include only accurate scientific 128  
information about the zygote, blastocyte, embryo, or fetus at 129  
the various gestational increments. If the materials use a 130  
pictorial, photographic, or other depiction to provide 131  
information regarding the zygote, blastocyte, embryo, or fetus, 132  
the materials shall include, in a conspicuous manner, a scale or 133  
other explanation that is understandable by the average person 134  
and that can be used to determine the actual size of the zygote, 135

blastocyte, embryo, or fetus at a particular gestational 136  
increment as contrasted with the depicted size of the zygote, 137  
blastocyte, embryo, or fetus at that gestational increment. 138

(D) Upon the submission of a request to the department of 139  
health by any person, hospital, physician, or medical facility 140  
for one copy of the materials published in accordance with 141  
division (C) of this section, the department shall make the 142  
requested copy of the materials available to the person, 143  
hospital, physician, or medical facility that requested the 144  
copy. 145

(E) If a medical emergency or medical necessity compels 146  
the performance or inducement of an abortion, the physician who 147  
will perform or induce the abortion, prior to its performance or 148  
inducement if possible, shall inform the pregnant woman of the 149  
medical indications supporting the physician's judgment that an 150  
immediate abortion is necessary. Any physician who performs or 151  
induces an abortion without the prior satisfaction of the 152  
conditions specified in division (B) of this section because of 153  
a medical emergency or medical necessity shall enter the reasons 154  
for the conclusion that a medical emergency or medical necessity 155  
exists in the medical record of the pregnant woman. 156

(F) If the conditions specified in division (B) of this 157  
section are satisfied, consent to an abortion shall be presumed 158  
to be valid and effective. 159

(G) The performance or inducement of an abortion without 160  
the prior satisfaction of the conditions specified in division 161  
(B) of this section does not constitute, and shall not be 162  
construed as constituting, a violation of division (A) of 163  
section 2919.12 of the Revised Code. The failure of a physician 164  
to satisfy the conditions of division (B) of this section prior 165

to performing or inducing an abortion upon a pregnant woman may	166
be the basis of both of the following:	167
(1) A civil action for compensatory and exemplary damages	168
as described in division (H) of this section;	169
(2) Disciplinary action under section 4731.22 of the	170
Revised Code.	171
(H) (1) Subject to divisions (H) (2) and (3) of this	172
section, any physician who performs or induces an abortion with	173
actual knowledge that the conditions specified in division (B)	174
of this section have not been satisfied or with a heedless	175
indifference as to whether those conditions have been satisfied	176
is liable in compensatory and exemplary damages in a civil	177
action to any person, or the representative of the estate of any	178
person, who sustains injury, death, or loss to person or	179
property as a result of the failure to satisfy those conditions.	180
In the civil action, the court additionally may enter any	181
injunctive or other equitable relief that it considers	182
appropriate.	183
(2) The following shall be affirmative defenses in a civil	184
action authorized by division (H) (1) of this section:	185
(a) The physician performed or induced the abortion under	186
the circumstances described in division (E) of this section.	187
(b) The physician made a good faith effort to satisfy the	188
conditions specified in division (B) of this section.	189
(3) An employer or other principal is not liable in	190
damages in a civil action authorized by division (H) (1) of this	191
section on the basis of the doctrine of respondeat superior	192
unless either of the following applies:	193

(a) The employer or other principal had actual knowledge 194  
or, by the exercise of reasonable diligence, should have known 195  
that an employee or agent performed or induced an abortion with 196  
actual knowledge that the conditions specified in division (B) 197  
of this section had not been satisfied or with a heedless 198  
indifference as to whether those conditions had been satisfied. 199

(b) The employer or other principal negligently failed to 200  
secure the compliance of an employee or agent with division (B) 201  
of this section. 202

(4) Notwithstanding division ~~(E)~~ (C) of section 2919.12 of 203  
the Revised Code, the civil action authorized by division (H) (1) 204  
of this section shall be the exclusive civil remedy for persons, 205  
or the representatives of estates of persons, who allegedly 206  
sustain injury, death, or loss to person or property as a result 207  
of a failure to satisfy the conditions specified in division (B) 208  
of this section. 209

(I) The department of job and family services shall 210  
prepare and conduct a public information program to inform women 211  
of all available governmental programs and agencies that provide 212  
services or assistance for family planning, prenatal care, child 213  
care, or alternatives to abortion. 214

**Sec. 2919.12.** (A) No person shall perform or induce an 215  
abortion without the informed consent of the pregnant woman. 216

~~(B) (1) (a) No person shall knowingly perform or induce an~~ 217  
~~abortion upon a woman who is pregnant, unmarried, under eighteen~~ 218  
~~years of age, and unemancipated unless at least one of the~~ 219  
~~following applies:~~ 220

~~(i) Subject to division (B) (2) of this section, the person~~ 221  
~~has given at least twenty four hours actual notice, in person or~~ 222

~~by telephone, to one of the woman's parents, her guardian, or  
her custodian as to the intention to perform or induce the  
abortion, provided that if the woman has requested, in  
accordance with division (B) (1) (b) of this section, that notice  
be given to a specified brother or sister of the woman who is  
twenty one years of age or older or to a specified stepparent or  
grandparent of the woman instead of to one of her parents, her  
guardian, or her custodian, and if the person is notified by a  
juvenile court that affidavits of the type described in that  
division have been filed with that court, the twenty four hours  
actual notice described in this division as to the intention to  
perform or induce the abortion shall be given, in person or by  
telephone, to the specified brother, sister, stepparent, or  
grandparent instead of to the parent, guardian, or custodian;~~

~~(ii) One of the woman's parents, her guardian, or her  
custodian has consented in writing to the performance or  
inducement of the abortion;~~

~~(iii) A juvenile court pursuant to section 2151.85 of the  
Revised Code issues an order authorizing the woman to consent to  
the abortion without notification of one of her parents, her  
guardian, or her custodian;~~

~~(iv) A juvenile court or a court of appeals, by its  
inaction, constructively has authorized the woman to consent to  
the abortion without notification of one of her parents, her  
guardian, or her custodian under division (B) (1) of section  
2151.85 or division (A) of section 2505.073 of the Revised Code.~~

~~(b) If a woman who is pregnant, unmarried, under eighteen  
years of age, and unemancipated desires notification as to a  
person's intention to perform or induce an abortion on the woman  
to be given to a specified brother or sister of the woman who is~~

~~twenty one years of age or older or to a specified stepparent or  
grandparent of the woman instead of to one of her parents, her  
guardian, or her custodian, the person who intends to perform or  
induce the abortion shall notify the specified brother, sister,  
stepparent, or grandparent instead of the parent, guardian, or  
custodian for purposes of division (B) (1) (a) (i) of this section  
if all of the following apply:~~ 253  
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~~(i) The woman has requested the person to provide the  
notification to the specified brother, sister, stepparent, or  
grandparent, clearly has identified the specified brother,  
sister, stepparent, or grandparent and her relation to that  
person, and, if the specified relative is a brother or sister,  
has indicated the age of the brother or sister;~~ 260  
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~~(ii) The woman has executed an affidavit stating that she  
is in fear of physical, sexual, or severe emotional abuse from  
the parent, guardian, or custodian who otherwise would be  
notified under division (B) (1) (a) (i) of this section, and that  
the fear is based on a pattern of physical, sexual, or severe  
emotional abuse of her exhibited by that parent, guardian, or  
custodian, has filed the affidavit with the juvenile court of  
the county in which the woman has a residence or legal  
settlement, the juvenile court of any county that borders to any  
extent the county in which she has a residence or legal  
settlement, or the juvenile court of the county in which the  
hospital, clinic, or other facility in which the abortion would  
be performed or induced is located, and has given the court  
written notice of the name and address of the person who intends  
to perform or induce the abortion;~~ 266  
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~~(iii) The specified brother, sister, stepparent, or  
grandparent has executed an affidavit stating that the woman has~~ 281  
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~~reason to fear physical, sexual, or severe emotional abuse from 283  
the parent, guardian, or custodian who otherwise would be 284  
notified under division (B) (1) (a) (i) of this section, based on a 285  
pattern of physical, sexual, or severe emotional abuse of her by 286  
that parent, guardian, or custodian, and the woman or the 287  
specified brother, sister, stepparent, or grandparent has filed 288  
the affidavit with the juvenile court in which the affidavit 289  
described in division (B) (1) (b) (ii) of this section was filed; 290~~

~~(iv) The juvenile court in which the affidavits described 291  
in divisions (B) (1) (b) (ii) and (iii) of this section were filed 292  
has notified the person that both of those affidavits have been 293  
filed with the court. 294~~

~~(c) If an affidavit of the type described in division (B) 295  
(1) (b) (ii) of this section and an affidavit of the type 296  
described in division (B) (1) (b) (iii) of this section are filed 297  
with a juvenile court and the court has been provided with 298  
written notice of the name and address of the person who intends 299  
to perform or induce an abortion upon the woman to whom the 300  
affidavits pertain, the court promptly shall notify the person 301  
who intends to perform or induce the abortion that the 302  
affidavits have been filed. If possible, the notice to the 303  
person shall be given in person or by telephone. 304~~

~~(2) If division (B) (1) (a) (ii), (iii), or (iv) of this 305  
section does not apply, and if no parent, guardian, or custodian 306  
can be reached for purposes of division (B) (1) (a) (i) of this 307  
section after a reasonable effort, or if notification is to be 308  
given to a specified brother, sister, stepparent, or grandparent 309  
under that division and the specified brother, sister, 310  
stepparent, or grandparent cannot be reached for purposes of 311  
that division after a reasonable effort, no person shall perform 312~~

~~or induce such an abortion without giving at least forty eight-~~ 313  
~~hours constructive notice to one of the woman's parents, her-~~ 314  
~~guardian, or her custodian, by both certified and ordinary mail-~~ 315  
~~sent to the last known address of the parent, guardian, or-~~ 316  
~~custodian, or if notification for purposes of division (B)(1)(a)~~ 317  
~~(i) of this section is to be given to a specified brother,~~ 318  
~~sister, stepparent, or grandparent, without giving at least-~~ 319  
~~forty eight hours constructive notice to that specified brother,~~ 320  
~~sister, stepparent, or grandparent by both certified and-~~ 321  
~~ordinary mail sent to the last known address of that specified-~~ 322  
~~brother, sister, stepparent, or grandparent. The forty eight-~~ 323  
~~hour period under this division begins when the certified mail-~~ 324  
~~notice is mailed. If a parent, guardian, or custodian of the-~~ 325  
~~woman, or if notification under division (B)(1)(a)(i) of this-~~ 326  
~~section is to be given to a specified brother, sister,~~ 327  
~~stepparent, or grandparent, the specified brother, sister,~~ 328  
~~stepparent, or grandparent, is not reached within the forty-~~ 329  
~~eight hour period, the abortion may proceed even if the-~~ 330  
~~certified mail notice is not received.~~ 331

~~(3) If a parent, guardian, custodian, or specified-~~ 332  
~~brother, sister, stepparent, or grandparent who has been-~~ 333  
~~notified in accordance with division (B)(1) or (2) of this-~~ 334  
~~section clearly and unequivocally expresses that he or she does-~~ 335  
~~not wish to consult with a pregnant woman prior to her abortion,~~ 336  
~~then the abortion may proceed without any further waiting-~~ 337  
~~period.~~ 338

~~(4) For purposes of prosecutions for a violation of-~~ 339  
~~division (B)(1) or (2) of this section, it shall be a rebuttable-~~ 340  
~~presumption that a woman who is unmarried and under eighteen-~~ 341  
~~years of age is unemancipated.~~ 342

~~(C) (1) It is an affirmative defense to a charge under 343  
division (B) (1) or (2) of this section that the pregnant woman 344  
provided the person who performed or induced the abortion with 345  
false, misleading, or incorrect information about her age, 346  
marital status, or emancipation, about the age of a brother or 347  
sister to whom she requested notice be given as a specified 348  
relative instead of to one of her parents, her guardian, or her 349  
custodian, or about the last known address of either of her 350  
parents, her guardian, her custodian, or a specified brother, 351  
sister, stepparent, or grandparent to whom she requested notice 352  
be given and the person who performed or induced the abortion 353  
did not otherwise have reasonable cause to believe the pregnant 354  
woman was under eighteen years of age, unmarried, or 355  
unemancipated, to believe that the age of a brother or sister to 356  
whom she requested notice be given as a specified relative 357  
instead of to one of her parents, her guardian, or her custodian 358  
was not twenty-one years of age, or to believe that the last 359  
known address of either of her parents, her guardian, her 360  
custodian, or a specified brother, sister, stepparent, or 361  
grandparent to whom she requested notice be given was incorrect. 362~~

~~(2) It is an affirmative defense to a charge under this 363  
section that compliance with the requirements of this section 364  
was not possible because an immediate threat of serious risk to 365  
the life or physical health of the pregnant woman from the 366  
continuation of her pregnancy created an emergency necessitating 367  
the immediate performance or inducement of an abortion. 368~~

~~(D) Whoever violates this section is guilty of unlawful 369  
abortion. A violation of division (A) of this section is, a 370  
misdemeanor of the first degree on the first offense and a 371  
felony of the fourth degree on each subsequent offense. A 372  
violation of division (B) of this section is a misdemeanor of 373~~

~~the first degree on a first offense and a felony of the fifth- 374  
degree on each subsequent offense. 375~~

~~(E) (C) Whoever violates this section is liable to the 376  
pregnant woman and her parents, guardian, or custodian for civil 377  
compensatory and exemplary damages. 378~~

~~(F) As used in this section "unemancipated" means that a 379  
woman who is unmarried and under eighteen years of age has not 380  
entered the armed services of the United States, has not become 381  
employed and self-sustaining, or has not otherwise become 382  
independent from the care and control of her parent, guardian, 383  
or custodian. 384~~

**Sec. 2919.192.** (A) If a person who intends to perform or 385  
induce an abortion on a pregnant woman has determined, under 386  
section 2919.191 of the Revised Code, that the unborn human 387  
individual the pregnant woman is carrying has a detectable 388  
heartbeat, the person shall not, except as provided in division 389  
(B) of this section, perform or induce the abortion until all of 390  
the following requirements have been met ~~and at least twenty- 391  
four hours have elapsed after the last of the requirements is 392  
met:~~ 393

(1) The person intending to perform or induce the abortion 394  
shall inform the pregnant woman in writing that the unborn human 395  
individual the pregnant woman is carrying has a fetal heartbeat. 396

(2) The person intending to perform or induce the abortion 397  
shall inform the pregnant woman, to the best of the person's 398  
knowledge, of the statistical probability of bringing the unborn 399  
human individual possessing a detectable fetal heartbeat to term 400  
based on the gestational age of the unborn human individual or, 401  
if the director of health has specified statistical probability 402

information pursuant to rules adopted under division (C) of this 403  
section, shall provide to the pregnant woman that information. 404

(B) Division (A) of this section does not apply if the 405  
person who intends to perform or induce the abortion believes 406  
that a medical emergency exists that prevents compliance with 407  
that division. 408

(C) The director of health may adopt rules that specify 409  
information regarding the statistical probability of bringing an 410  
unborn human individual possessing a detectable heartbeat to 411  
term based on the gestational age of the unborn human 412  
individual. The rules shall be based on available medical 413  
evidence and shall be adopted in accordance with section 111.15 414  
of the Revised Code. 415

(D) This section does not have the effect of repealing or 416  
limiting any other provision of the Revised Code relating to 417  
informed consent for an abortion, including the provisions in 418  
section 2317.56 of the Revised Code. 419

(E) Whoever violates division (A) of this section is 420  
guilty of performing or inducing an abortion without informed 421  
consent when there is a detectable fetal heartbeat, a 422  
misdemeanor of the first degree on a first offense and a felony 423  
of the fourth degree on each subsequent offense. 424

**Section 2.** That existing sections 2317.56, 2919.12, and 425  
2919.192 and section 2919.122 of the Revised Code are hereby 426  
repealed. 427