

**As Reported by the House Health and Aging Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. H. B. No. 419**

**Representatives Sears, Ginter**

**Cosponsor: Representative Sprague**

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**A BILL**

To amend sections 3701.341 and 3705.17 and to enact 1  
sections 3701.3410, 3701.3411, 3701.3412, 2  
3701.3413, and 3701.3414 of the Revised Code 3  
regarding the disposition of fetal remains from 4  
abortions. 5

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

**Section 1.** That sections 3701.341 and 3705.17 be amended 6  
and sections 3701.3410, 3701.3411, 3701.3412, 3701.3413, and 7  
3701.3414 of the Revised Code be enacted to read as follows: 8

**Sec. 3701.341.** (A) The director of health, pursuant to 9  
Chapter 119. and consistent with section 2317.56 of the Revised 10  
Code, shall adopt rules relating to abortions and the following 11  
subjects: 12

(1) Post-abortion procedures to protect the health of the 13  
pregnant woman; 14

(2) Pathological reports; 15

(3) ~~Humane disposition of the product of human conception;~~ 16

~~(4) Counseling.~~ 17

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

Sec. 3701.3410. As used in sections 3701.3411 and 3701.3413 of the Revised Code:

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

(B) "Fetal remains" means the entire fetus or any of its parts that are removed from the pregnant woman's uterus by abortion, irrespective of the duration of the pregnancy.

(C) "Interment" means the burial or entombment of fetal remains.

Sec. 3701.3411. The director of health, pursuant to Chapter 119. of the Revised Code, and consistent with section 2317.56 of the Revised Code, shall adopt rules that do the following:

(A) Require the following to dispose of fetal remains it possesses through interment, cremation, or incineration:

(1) Any facility authorized to perform abortions;

(2) Any person or entity that contracts with the facility to dispose of fetal remains.

(B) Establish guidelines for the incineration of fetal remains, including whether the person or entity incinerating the fetal remains shall incinerate a fetus individually or shall incinerate more than one fetus at a time.

(C) Create a detachable supplemental form to the form 45  
described in division (B) (4) of section 2317.56 of the Revised 46  
Code that meets the following requirements: 47

(1) Indicates whether the pregnant woman has indicated a 48  
preference as to the method of disposal of the fetal remains and 49  
the preferred method selected; 50

(2) Provides for the signature of the physician who is to 51  
perform or induce the abortion; 52

(3) Provides for a medical identification number for the 53  
pregnant woman but does not provide for the pregnant woman's 54  
printed name or signature. 55

(D) Provide that the health care facility shall file the 56  
form described in division (C) of this section with the local 57  
registrar or sub-registrar of vital statistics for purposes of 58  
obtaining a burial permit under section 3705.17 of the Revised 59  
Code, if the pregnant woman has indicated burial or cremation as 60  
the preferred method of disposal. 61

**Sec. 3701.3412.** (A) As used in this section, "government 62  
attorney" means: 63

(1) The attorney general; 64

(2) The county prosecuting attorney with proper 65  
jurisdiction; 66

(3) The city director of law, township director of law, or 67  
legal counsel for a village with proper jurisdiction. 68

(B) The director of health shall implement the rules 69  
adopted under section 3701.3411 of the Revised Code. Either the 70  
director or government attorney may apply to the court of common 71  
pleas for temporary or permanent injunctions restraining a 72

violation or threatened violation of the rules. This action is 73  
an additional remedy not dependent on the adequacy of the remedy 74  
at law. 75

**Sec. 3701.3413.** Nothing in sections 3701.3411 and 76  
3701.3412 of the Revised Code, or any rules adopted under 77  
section 3701.3411 of the Revised Code, shall prevent a pregnant 78  
woman from submitting tissue samples from fetal remains for 79  
pathological testing. Tissue samples that have undergone 80  
pathological testing shall be exempt from the rules regarding 81  
the disposition of fetal remains adopted under section 3701.3411 82  
of the Revised Code. 83

**Sec. 3701.3414.** Nothing in sections 3701.3411, 3701.3412, 84  
and 3701.3413 of the Revised Code shall be construed to limit 85  
other laws, including the law governing fetal death certificates 86  
in section 3705.20 of the Revised Code. 87

**Sec. 3705.17.** The body of a person whose death occurs in 88  
this state shall not be interred, deposited in a vault or tomb, 89  
cremated, or otherwise disposed of by a funeral director until a 90  
burial permit is issued by a local registrar or sub-registrar of 91  
vital statistics. No such permit shall be issued by a local 92  
registrar or sub-registrar until a satisfactory death, fetal 93  
death, or provisional death certificate or a properly executed 94  
form created under division (C) of section 3701.3411 of the 95  
Revised Code is filed with the local registrar or sub-registrar. 96  
When the medical certification as to the cause of death cannot 97  
be provided by the attending physician or coroner prior to 98  
burial, for sufficient cause, as determined by rule of the 99  
director of health, the funeral director may file a provisional 100  
death certificate with the local registrar or sub-registrar for 101  
the purpose of securing a burial or burial-transit permit. When 102

the funeral director files a provisional death certificate to 103  
secure a burial or burial-transit permit, the funeral director 104  
shall file a satisfactory and complete death certificate within 105  
five days after the date of death. The director of health, by 106  
rule, may provide additional time for filing a satisfactory 107  
death certificate. A burial permit authorizing cremation shall 108  
not be issued upon the filing of a provisional certificate of 109  
death. 110

When a funeral director or other person obtains a burial 111  
permit from a local registrar or sub-registrar, the registrar or 112  
sub-registrar shall charge a fee of three dollars for the 113  
issuance of the burial permit. Two dollars and fifty cents of 114  
each fee collected for a burial permit shall be paid into the 115  
state treasury to the credit of the division of real estate in 116  
the department of commerce to be used by the division in 117  
discharging its duties prescribed in Chapter 4767. of the 118  
Revised Code and the Ohio cemetery dispute resolution commission 119  
created by section 4767.05 of the Revised Code. A local 120  
registrar or sub-registrar shall transmit payments of that 121  
portion of the amount of each fee collected under this section 122  
to the treasurer of state on a quarterly basis or more 123  
frequently, if possible. The director of health, by rule, shall 124  
provide for the issuance of a burial permit without the payment 125  
of the fee required by this section if the total cost of the 126  
burial will be paid by an agency or instrumentality of the 127  
United States, the state or a state agency, or a political 128  
subdivision of the state. 129

The director of commerce may by rule adopted in accordance 130  
with Chapter 119. of the Revised Code reduce the total amount of 131  
the fee required by this section and that portion of the amount 132  
of the fee required to be paid to the credit of the division of 133

real estate for the use of the division and the Ohio cemetery 134  
dispute resolution commission, if the director determines that 135  
the total amount of funds the fee is generating at the amount 136  
required by this section exceeds the amount of funds the 137  
division of real estate and the commission need to carry out 138  
their powers and duties prescribed in Chapter 4767. of the 139  
Revised Code. 140

No person in charge of any premises in which interments or 141  
cremations are made shall inter or cremate or otherwise dispose 142  
of a body, unless it is accompanied by a burial permit. Each 143  
person in charge of a cemetery, crematory, or other place of 144  
disposal shall indorse upon a burial permit the date of 145  
interment, cremation, or other disposal and shall retain such 146  
permits for a period of at least five years. The person in 147  
charge shall keep an accurate record of all interments, 148  
cremations, or other disposal of dead bodies, made in the 149  
premises under the person's charge, stating the name of the 150  
deceased person, place of death, date of burial, cremation, or 151  
other disposal, and name and address of the funeral director. 152  
Such record shall at all times be open to public inspection. 153

**Section 2.** That existing sections 3701.341 and 3705.17 of 154  
the Revised Code are hereby repealed. 155