

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 254**

**Senator Uecker**

**Cosponsors: Senators Hite, Jordan, Burke, Beagle, Coley, Faber**

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**A BILL**

To amend section 3701.341 and to enact sections 1  
3728.01, 3728.02, 3728.03, 3728.04, 3728.05, 2  
3728.08, 3728.09, 3728.10, 3728.11, 3728.12, 3  
3728.14, and 3728.99 of the Revised Code 4  
regarding final disposition of fetal remains 5  
from abortions. 6

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

**Section 1.** That section 3701.341 be amended and sections 7  
3728.01, 3728.02, 3728.03, 3728.04, 3728.05, 3728.08, 3728.09, 8  
3728.10, 3728.11, 3728.12, 3728.14, and 3728.99 of the Revised 9  
Code be enacted to read as follows: 10

**Sec. 3701.341.** (A) The director of health, pursuant to 11  
Chapter 119. and consistent with Chapter 3728. and section 12  
2317.56 of the Revised Code, shall adopt rules relating to 13  
abortions and the following subjects: 14

(1) Post-abortion procedures to protect the health of the 15  
pregnant woman; 16

(2) Pathological reports; 17

(3) Humane disposition of the product of human conception; 18

(4) Counseling. 19

(B) The director of health shall implement the rules and 20  
shall apply to the court of common pleas for temporary or 21  
permanent injunctions restraining a violation or threatened 22  
violation of the rules. This action is an additional remedy not 23  
dependent on the adequacy of the remedy at law. 24

Sec. 3728.01. As used in this chapter: 25

(A) "Abortion facility" means any of the following in 26  
which abortions are induced or performed: 27

(1) Ambulatory surgical facility as defined in section 28  
3702.30 of the Revised Code; 29

(2) Any other facility in which abortion is legally 30  
provided. 31

(B) "Cremation" has the same meaning as in section 4717.01 32  
of the Revised Code. 33

(C) "Fetal remains" means the entire fetus or any of its 34  
parts removed from the pregnant woman's uterus by an abortion. 35

(D) "Interment" means the burial or entombment of fetal 36  
remains. 37

Sec. 3728.02. Final disposition of fetal remains from an 38  
abortion shall be by cremation or interment. 39

Sec. 3728.03. A pregnant woman who has an abortion has the 40  
right to determine whether disposition of the fetal remains 41  
shall be by cremation or interment. 42

Sec. 3728.04. (A) A pregnant woman shall exercise the right under section 3728.03 of the Revised Code by making the determination in writing using a form prescribed by the director of health. 44  
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(B) (1) A pregnant woman who is under eighteen years of age, unmarried, and unemancipated shall obtain parental consent to the final disposition determination she makes under division (A) of this section. Parental consent shall be made in writing using a form prescribed by the director. 48  
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(2) Parental consent is not required if an order authorizing consent to the abortion was issued under section 2151.85 of the Revised Code. 53  
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Sec. 3728.05. Except as provided in division (B) of section 3728.08 of the Revised Code, an abortion facility may not release fetal remains until it obtains a final disposition determination made, and if applicable, the parental consent made, under section 3728.04 of the Revised Code. 56  
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Sec. 3728.08. An abortion facility shall not arrange for the cremation or interment of fetal remains unless one of the following applies: 61  
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(A) The final disposition determination made, and if applicable, consented to, under section 3728.04 of the Revised Code directs the cremation or interment of the fetal remains. 64  
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(B) No final disposition determination is made, and if applicable, consented to, under section 3728.04 of the Revised Code within a reasonable time after the abortion was induced or performed. 67  
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Sec. 3728.09. An abortion facility shall pay the costs of the cremation or interment of fetal remains, unless the final disposition determination indicates a method or process of cremation or interment that involves extraordinary expense. Any extraordinary expenses shall be paid by the pregnant woman. 72  
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Sec. 3728.10. An abortion facility shall document in the pregnant woman's medical record the final disposition determination made, and if applicable, the parental consent made, under section 3728.04 of the Revised Code. 77  
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Sec. 3728.11. An abortion facility shall maintain evidentiary documentation demonstrating the date and method of the disposition of all fetal remains from abortions performed or induced in the facility. 81  
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Sec. 3728.12. An abortion facility shall have written policies and procedures regarding cremation or interment of fetal remains from abortions performed or induced in the facility. 85  
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Sec. 3728.14. The director of health, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to carry out sections 3728.01 to 3728.12 of the Revised Code, including rules that prescribe the following: 89  
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(A) The method in which pregnant women who seek abortions are informed of the following: 93  
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(1) The right to determine final disposition of fetal remains under section 3728.03 of the Revised Code; 95  
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(2) The available options for disposition of fetal remains. 97  
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(B) The notification form for final disposition 99

determinations and the parental consent form for purposes of 100  
section 3728.04 of the Revised Code. 101

**Sec. 3728.99.** (A) No person shall fail to comply with 102  
sections 3728.02, 3728.05, 3728.08, 3728.10, or 3728.11 of the 103  
Revised Code. 104

(B) Whoever knowingly violates division (A) of this 105  
section is guilty of failure to dispose of fetal remains 106  
humanely, a misdemeanor of the first degree. 107

**Section 2.** That existing section 3701.341 of the Revised 108  
Code is hereby repealed. 109