

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 417

Representatives McColley, Koehler

**Cosponsors: Representatives Antani, Becker, Burkley, Conditt, Retherford,
Terhar, Vitale, Young, Patmon, Brinkman**

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 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.	20 21 22 23 24
<u>Sec. 3728.01. As used in this chapter:</u>	25
<u>(A) "Abortion facility" means any of the following in which abortions are induced or performed:</u>	26 27
<u>(1) Ambulatory surgical facility as defined in section 3702.30 of the Revised Code;</u>	28 29
<u>(2) Any other facility in which abortion is legally provided.</u>	30 31
<u>(B) "Cremation" has the same meaning as in section 4717.01 of the Revised Code.</u>	32 33
<u>(C) "Fetal remains" means the entire fetus or any of its parts removed from the pregnant woman's uterus by an abortion.</u>	34 35
<u>(D) "Interment" means the burial or entombment of fetal remains.</u>	36 37
<u>Sec. 3728.02. Final disposition of fetal remains from an abortion shall be by cremation or interment.</u>	38 39
<u>Sec. 3728.03. A pregnant woman who has an abortion has the right to determine whether disposition of the fetal remains shall be by cremation or interment.</u>	40 41 42
<u>Sec. 3728.04. (A) A pregnant woman shall exercise the right under section 3728.03 of the Revised Code by making the</u>	43 44

determination in writing using a form prescribed by the director 45
of health. 46

(B) (1) A pregnant woman who is under eighteen years of 47
age, unmarried, and unemancipated shall obtain parental consent 48
to the final disposition determination she makes under division 49
(A) of this section. Parental consent shall be made in writing 50
using a form prescribed by the director. 51

(2) Parental consent is not required if an order 52
authorizing consent to the abortion was issued under section 53
2151.85 of the Revised Code. 54

Sec. 3728.05. Except as provided in division (B) of 55
section 3728.08 of the Revised Code, an abortion facility may 56
not release fetal remains until it obtains a final disposition 57
determination made, and if applicable, the parental consent 58
made, under section 3728.04 of the Revised Code. 59

Sec. 3728.08. An abortion facility shall not arrange for 60
the cremation or interment of fetal remains unless one of the 61
following applies: 62

(A) The final disposition determination made, and if 63
applicable, consented to, under section 3728.04 of the Revised 64
Code directs the cremation or interment of the fetal remains. 65

(B) No final disposition determination is made, and if 66
applicable, consented to, under section 3728.04 of the Revised 67
Code within a reasonable time after the abortion was induced or 68
performed. 69

Sec. 3728.09. An abortion facility shall pay the costs of 70
the cremation or interment of fetal remains, unless the final 71
disposition determination indicates a method or process of 72
cremation or interment that involves extraordinary expense. Any 73

extraordinary expenses shall be paid by the pregnant woman. 74

Sec. 3728.10. An abortion facility shall document in the 75
pregnant woman's medical record the final disposition 76
determination made, and if applicable, the parental consent 77
made, under section 3728.04 of the Revised Code. 78

Sec. 3728.11. An abortion facility shall maintain 79
evidentiary documentation demonstrating the date and method of 80
the disposition of all fetal remains from abortions performed or 81
induced in the facility. 82

Sec. 3728.12. An abortion facility shall have written 83
policies and procedures regarding cremation or interment of 84
fetal remains from abortions performed or induced in the 85
facility. 86

Sec. 3728.14. The director of health, in accordance with 87
Chapter 119. of the Revised Code, shall adopt rules necessary to 88
carry out sections 3728.01 to 3728.12 of the Revised Code, 89
including rules that prescribe the following: 90

(A) The method in which pregnant women who seek abortions 91
are informed of the following: 92

(1) The right to determine final disposition of fetal 93
remains under section 3728.03 of the Revised Code; 94

(2) The available options for disposition of fetal 95
remains. 96

(B) The notification form for final disposition 97
determinations and the parental consent form for purposes of 98
section 3728.04 of the Revised Code. 99

Sec. 3728.99. (A) No person shall fail to comply with 100
sections 3728.02, 3728.05, 3728.08, 3728.10, or 3728.11 of the 101

<u>Revised Code.</u>	102
<u>(B) Whoever knowingly violates division (A) of this</u>	103
<u>section is guilty of failure to dispose of fetal remains</u>	104
<u>humanely, a misdemeanor of the first degree.</u>	105
Section 2. That existing section 3701.341 of the Revised	106
Code is hereby repealed.	107