

As Reported by the House Health Committee

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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**

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
abortion is to be performed or induced, and the physician
involved in the meeting need not be affiliated with that
facility or with the physician who is scheduled to perform or
induce the abortion.

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

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

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

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

(3) If it has been determined that the unborn human
individual the pregnant woman is carrying has a detectable
heartbeat, the physician who is to perform or induce the
abortion shall comply with the informed consent requirements in
section 2919.192 of the Revised Code in addition to complying
with the informed consent requirements in divisions (B) (1), (2),

(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

Sec. 3701.341. (A) The director of health, pursuant to 229
Chapter 119. and consistent with Chapter 3726. and section 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

Sec. 3701.79. (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, 251
or place devoted primarily to the maintenance and operation of 252
facilities for the diagnosis, treatment, and medical or surgical 253
care for three or more unrelated individuals suffering from 254
illness, disease, injury, or deformity, and regularly making 255
available at least clinical laboratory services, diagnostic x- 256
ray services, treatment facilities for surgery or obstetrical 257
care, or other definitive medical treatment. "Hospital" does not 258
include a "home" as defined in section 3721.01 of the Revised 259
Code. 260
- (6) "Physician's office" means an office or portion of an 261
office that is used to provide medical or surgical services to 262
the physician's patients. "Physician's office" does not mean an 263
ambulatory surgical facility, a hospital, or a hospital 264
emergency department. 265
- (7) "Postabortion care" means care given after the uterus 266
has been evacuated by abortion. 267
- (B) The department shall be responsible for collecting and 268
collating abortion data reported to the department as required 269
by this section. 270
- (C) The attending physician shall complete an individual 271
abortion report for ~~each the abortion of each zygote,~~ 272
~~blastocyte, embryo, or fetus the physician performs upon a~~ 273
~~woman.~~ The report shall be confidential and shall not contain 274
the woman's name. The report shall include, but is not limited 275
to, all of the following, insofar as the patient makes the data 276
available that is not within the physician's knowledge: 277
- (1) Patient number; 278

(2) The name and address of the facility in which the	279
abortion was performed, and whether the facility is a hospital,	280
ambulatory surgical facility, physician's office, or other	281
facility;	282
(3) The date of the abortion;	283
(4) <u>If a surgical abortion, the method of final</u>	284
<u>disposition of the fetal remains under Chapter 3726. of the</u>	285
<u>Revised Code;</u>	286
(5) All of the following regarding the woman on whom the	287
abortion was performed:	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>	296
<u>previously-induced abortions aborted;</u>	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
(5) <u>(6)</u> The type of abortion procedure performed;	306
(6) <u>(7)</u> Complications by type;	307
(7) <u>(8)</u> Type of procedure performed after the abortion;	308
(8) <u>(9)</u> Type of family planning recommended;	309
(9) <u>(10)</u> Type of additional counseling given;	310
(10) <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

(2) The available options for locations and methods for 498
the disposition of fetal remains. 499

(B) The notification form for final disposition 500
determinations and the consent form for purposes of section 501
3726.04 or 3726.041 of the Revised Code; 502

(C) (1) A detachable supplemental form to the form 503
described in division (B) (4) of section 2317.56 of the Revised 504
Code that meets the following requirements: 505

(a) Indicates whether the pregnant woman has indicated a 506
preference as to the method of disposition of the fetal remains 507
and the preferred method selected; 508

(b) Indicates whether the pregnant woman has indicated a 509
preference as to the location of disposition of the fetal 510
remains; 511

(c) Provides for the signature of the physician who is to 512
perform or induce the abortion; 513

(d) Provides for a medical identification number for the 514
pregnant woman but does not provide for the pregnant woman's 515
printed name or signature. 516

(2) If a medical emergency or medical necessity prevents 517
the pregnant woman from completing the detachable supplemental 518
form, procedures to complete that form a reasonable time after 519
the medical emergency or medical necessity has ended. 520

Sec. 3726.15. A person who buries or cremates fetal 521
remains from a surgical abortion is not liable for or subject to 522
damages in any civil action, prosecution in any criminal 523
proceeding, or professional disciplinary action related to the 524
disposal of fetal remains, if that person does all of the 525

following: 526

(A) Acts in good faith compliance with this chapter and, 527
if applicable, section 4717.271 of the Revised Code; 528

(B) Receives a copy of a properly executed detachable 529
supplemental form described in division (C) (1) of section 530
3726.14 of the Revised Code; 531

(C) Acts in furtherance of the final disposition of the 532
fetal remains. 533

Sec. 3726.16. Except for the requirements of section 534
3705.20 of the Revised Code, no conflicting provision of the 535
Revised Code or conflicting procedure of an agency or board 536
shall apply regarding a person who buries or cremates fetal 537
remains in accordance with section 3726.15 of the Revised Code. 538

Sec. 3726.95. A pregnant woman who has a surgical 539
abortion, the fetal remains from which are not disposed of in 540
compliance with this chapter, is not guilty of committing, 541
attempting to commit, complicity in the commission of, or 542
conspiracy in the commission of a violation of section 3726.99 543
of the Revised Code. 544

Sec. 3726.99. (A) No person shall fail to comply with 545
section 3726.02, 3726.05, 3726.10, or 3726.11 of the Revised 546
Code. 547

(B) Whoever knowingly violates division (A) of this 548
section is guilty of failure to dispose of fetal remains 549
humanely, a misdemeanor of the first degree. 550

Sec. 4717.271. The following applies to a crematory 551
operator that cremates fetal remains for an abortion facility 552
under Chapter 3726. of the Revised Code. 553

(A) A crematory operator shall not do any of the 554
following: 555

(1) Cremate fetal remains without receiving a copy of a 556
properly executed detachable supplemental form described in 557
division (C) (1) of section 3726.14 of the Revised Code; 558

(2) Dispose of the cremated fetal remains by a means other 559
than one of the following: 560

(a) Placing them in a grave, crypt, or niche; 561

(b) Scattering them in any dignified manner, including in 562
a memorial garden, at sea, by air, or at a scattering ground 563
described in section 1721.21 of the Revised Code; 564

(c) Any other lawful manner. 565

(3) Arrange for the disposal of the cremated fetal remains 566
by a means other than one described in division (A) (2) of this 567
section; 568

(4) Arrange for the transfer of the cremated fetal remains 569
for disposal by a means other than one described in division (A) 570
(2) of this section. 571

(B) A crematory operator is not required to secure a death 572
certificate, a burial or burial-transit permit, or a cremation 573
authorization form to cremate fetal remains. 574

Section 2. That existing sections 2317.56, 3701.341, and 575
3701.79 of the Revised Code are hereby repealed. 576

Section 3. 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