

As Passed by the House

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H. B. No. 214

Representatives LaTourette, Merrin

Cosponsors: Representatives Thompson, Becker, Antani, Butler, Koehler, McColley, Riedel, Wiggam, Keller, Brinkman, Faber, Goodman, Hambley, Retherford, Henne, Hood, Blessing, Schaffer, Ginter, Johnson, Anielski, Cupp, Duffey, Greenspan, Hagan, Hill, Householder, Huffman, Kick, Lanese, Lang, Lipps, Patton, Perales, Romanchuk, Smith, R., Sprague, Stein, Vitale, Young

A BILL

To amend section 3701.79 and to enact sections 1
2919.10 and 2919.101 of the Revised Code to 2
prohibit a person from performing, inducing, or 3
attempting to perform or induce an abortion on a 4
pregnant woman who is seeking the abortion 5
because an unborn child has or may have Down 6
Syndrome. 7

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

Section 1. That section 3701.79 be amended and sections 8
2919.10 and 2919.101 of the Revised Code be enacted to read as 9
follows: 10

Sec. 2919.10. (A) As used in this section: 11

(1) "Down syndrome" means a chromosome disorder associated 12
either with an extra chromosome twenty-one, in whole or in part, 13
or an effective trisomy for chromosome twenty-one. 14

(2) "Physician," "pregnant," and "unborn child" have the 15

same meanings as in section 2919.16 of the Revised Code. 16

(B) No person shall purposely perform or induce or attempt 17
to perform or induce an abortion on a pregnant woman if the 18
person has knowledge that the pregnant woman is seeking the 19
abortion, in whole or in part, because of any of the following: 20

(1) A test result indicating Down syndrome in an unborn 21
child; 22

(2) A prenatal diagnosis of Down syndrome in an unborn 23
child; 24

(3) Any other reason to believe that an unborn child has 25
Down syndrome. 26

(C) Whoever violates division (B) of this section is 27
guilty of performing or attempting to perform an abortion that 28
was being sought because of Down syndrome, a felony of the 29
fourth degree. 30

(D) The state medical board shall revoke a physician's 31
license to practice medicine in this state if the physician 32
violates division (B) of this section. 33

(E) Any physician who violates division (B) of this 34
section is liable in a civil action for compensatory and 35
exemplary damages and reasonable attorney's fees to any person, 36
or the representative of the estate of any person, who sustains 37
injury, death, or loss to person or property as the result of 38
the performance or inducement or the attempted performance or 39
inducement of the abortion. In any action under this division, 40
the court also may award any injunctive or other equitable 41
relief that the court considers appropriate. 42

(F) A pregnant woman on whom an abortion is performed or 43

induced or attempted to be performed or induced in violation of 44
division (B) of this section is not guilty of violating division 45
(B) of this section or of attempting to commit, conspiring to 46
commit, or complicity in committing a violation of division (B) 47
of this section. 48

(G) If any provision of this section is held invalid, or 49
if the application of any provision of this section to any 50
person or circumstance is held invalid, the invalidity of that 51
provision does not affect any other provisions or applications 52
of this section and sections 2919.11 to 2919.193 of the Revised 53
Code that can be given effect without the invalid provision or 54
application, and to this end the provisions of this section and 55
sections 2919.11 to 2919.193 of the Revised Code are severable 56
as provided in section 1.50 of the Revised Code. In particular, 57
it is the intent of the general assembly that any invalidity or 58
potential invalidity of a provision of this section is not to 59
impair the immediate and continuing enforceability of any other 60
provisions of this section and sections 2919.11 to 2919.193 of 61
the Revised Code. It is furthermore the intent of the general 62
assembly that the provisions of this section are not to have the 63
effect of repealing or limiting any other laws of this state. 64

(H) The general assembly may, by joint resolution, appoint 65
one or more of its members who sponsored or cosponsored ...B... 66
of the 132nd general assembly to intervene as a matter of right 67
in any case in which the constitutionality of this section is 68
challenged. 69

Sec. 2919.101. (A) In the abortion report required under 70
section 3701.79 of the Revised Code, the attending physician 71
shall indicate that the attending physician does not have 72
knowledge that the pregnant woman was seeking the abortion , in 73

<u>whole or in part, because of any of the following:</u>	74
<u>(1) A test result indicating Down syndrome in an unborn child;</u>	75 76
<u>(2) A prenatal diagnosis of Down syndrome in an unborn child;</u>	77 78
<u>(3) Any other reason to believe that an unborn child has Down syndrome.</u>	79 80
<u>(B) Within ninety days of the effective date of this section, the department of health shall adopt rules pursuant to section 111.15 of the Revised Code to assist in compliance with this section.</u>	81 82 83 84
Sec. 3701.79. (A) As used in this section:	85
(1) "Abortion" has the same meaning as in section 2919.11 of the Revised Code.	86 87
(2) "Abortion report" means a form completed pursuant to division (C) of this section.	88 89
(3) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.	90 91
(4) "Department" means the department of health.	92
(5) "Hospital" means any building, structure, institution, or place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, and medical or surgical care for three or more unrelated individuals suffering from illness, disease, injury, or deformity, and regularly making available at least clinical laboratory services, diagnostic x-ray services, treatment facilities for surgery or obstetrical care, or other definitive medical treatment. "Hospital" does not	93 94 95 96 97 98 99 100

include a "home" as defined in section 3721.01 of the Revised Code.	101 102
(6) "Physician's office" means an office or portion of an office that is used to provide medical or surgical services to the physician's patients. "Physician's office" does not mean an ambulatory surgical facility, a hospital, or a hospital emergency department.	103 104 105 106 107
(7) "Postabortion care" means care given after the uterus has been evacuated by abortion.	108 109
(B) The department shall be responsible for collecting and collating abortion data reported to the department as required by this section.	110 111 112
(C) The attending physician shall complete an individual abortion report for each abortion the physician performs upon a woman. The report shall be confidential and shall not contain the woman's name. The report shall include, but is not limited to, all of the following, insofar as the patient makes the data available that is not within the physician's knowledge:	113 114 115 116 117 118
(1) Patient number;	119
(2) The name and address of the facility in which the abortion was performed, and whether the facility is a hospital, ambulatory surgical facility, physician's office, or other facility;	120 121 122 123
(3) The date of the abortion;	124
(4) All of the following regarding the woman on whom the abortion was performed:	125 126
(a) Zip code of residence;	127

(b) Age;	128
(c) Race;	129
(d) Marital status;	130
(e) Number of previous pregnancies;	131
(f) Years of education;	132
(g) Number of living children;	133
(h) Number of previously induced abortions;	134
(i) Date of last induced abortion;	135
(j) Date of last live birth;	136
(k) Method of contraception at the time of conception;	137
(l) Date of the first day of the last menstrual period;	138
(m) Medical condition at the time of the abortion;	139
(n) Rh-type;	140
(o) The number of weeks of gestation at the time of the abortion.	141 142
(5) The type of abortion procedure performed;	143
(6) Complications by type;	144
(7) <u>Written acknowledgment by the attending physician that</u> <u>the pregnant woman is not seeking the abortion, in whole or in</u> <u>part, because of any of the following:</u>	145 146 147
<u>(a) A test result indicating Down syndrome in an unborn</u> <u>child;</u>	148 149
<u>(b) A prenatal diagnosis of Down syndrome in an unborn</u> <u>child;</u>	150 151

<u>(c) Any other reason to believe that an unborn child has</u>	152
<u>Down syndrome.</u>	153
<u>(8) Type of procedure performed after the abortion;</u>	154
(8) <u>(9) Type of family planning recommended;</u>	155
(9) <u>(10) Type of additional counseling given;</u>	156
(10) <u>(11) Signature of attending physician.</u>	157
(D) The physician who completed the abortion report under	158
division (C) of this section shall submit the abortion report to	159
the department within fifteen days after the woman is	160
discharged.	161
(E) The appropriate vital records report or certificate	162
shall be made out after the twentieth week of gestation.	163
(F) A copy of the abortion report shall be made part of	164
the medical record of the patient of the facility in which the	165
abortion was performed.	166
(G) Each hospital shall file monthly and annual reports	167
listing the total number of women who have undergone a post-	168
twelve-week-gestation abortion and received postabortion care.	169
The annual report shall be filed following the conclusion of the	170
state's fiscal year. Each report shall be filed within thirty	171
days after the end of the applicable reporting period.	172
(H) Each case in which a physician treats a post abortion	173
complication shall be reported on a postabortion complication	174
form. The report shall be made upon a form prescribed by the	175
department, shall be signed by the attending physician, and	176
shall be confidential.	177
(I) (1) Not later than the first day of October of each	178

year, the department shall issue an annual report of the	179
abortion data reported to the department for the previous	180
calendar year as required by this section. The annual report	181
shall include at least the following information:	182
(a) The total number of induced abortions;	183
(b) The number of abortions performed on Ohio and out-of-	184
state residents;	185
(c) The number of abortions performed, sorted by each of	186
the following:	187
(i) The age of the woman on whom the abortion was	188
performed, using the following categories: under fifteen years	189
of age, fifteen to nineteen years of age, twenty to twenty-four	190
years of age, twenty-five to twenty-nine years of age, thirty to	191
thirty-four years of age, thirty-five to thirty-nine years of	192
age, forty to forty-four years of age, forty-five years of age	193
or older;	194
(ii) The race and Hispanic ethnicity of the woman on whom	195
the abortion was performed;	196
(iii) The education level of the woman on whom the	197
abortion was performed, using the following categories or their	198
equivalents: less than ninth grade, ninth through twelfth grade,	199
one or more years of college;	200
(iv) The marital status of the woman on whom the abortion	201
was performed;	202
(v) The number of living children of the woman on whom the	203
abortion was performed, using the following categories: none,	204
one, or two or more;	205
(vi) The number of weeks of gestation of the woman at the	206

time the abortion was performed, using the following categories:	207
less than nine weeks, nine to twelve weeks, thirteen to nineteen	208
weeks, or twenty weeks or more;	209
(vii) The county in which the abortion was performed;	210
(viii) The type of abortion procedure performed;	211
(ix) The number of abortions previously performed on the	212
woman on whom the abortion was performed;	213
(x) The type of facility in which the abortion was	214
performed;	215
(xi) For Ohio residents, the county of residence of the	216
woman on whom the abortion was performed.	217
(2) The report also shall indicate the number and type of	218
the abortion complications reported to the department either on	219
the abortion report required under division (C) of this section	220
or the postabortion complication report required under division	221
(H) of this section.	222
(3) In addition to the annual report required under	223
division (I)(1) of this section, the department shall make	224
available, on request, the number of abortions performed by zip	225
code of residence.	226
(J) The director of health shall implement this section	227
and shall apply to the court of common pleas for temporary or	228
permanent injunctions restraining a violation or threatened	229
violation of its requirements. This action is an additional	230
remedy not dependent on the adequacy of the remedy at law.	231
Section 2. That existing section 3701.79 of the Revised	232
Code is hereby repealed.	233