

As Reported by the House Criminal Justice Committee

132nd General Assembly

Regular Session

2017-2018

Sub. S. B. No. 145

Senators Huffman, Wilson

Cosponsors: Senators Uecker, Lehner, Jordan, Terhar, Hottinger, Hackett,  
LaRose, Bacon, Burke, Eklund, Gardner, Hite, Hoagland, Obhof, Oelslager

---

A BILL

To amend sections 2305.114, 2307.53, 2901.01, 1  
2903.09, 2919.123, 2919.151, and 2967.193 and to 2  
enact section 2919.15 of the Revised Code to 3  
criminalize and create a civil action for 4  
dismemberment abortions. 5

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

**Section 1.** That sections 2305.114, 2307.53, 2901.01, 6  
2903.09, 2919.123, 2919.151, and 2967.193 be amended and section 7  
2919.15 of the Revised Code be enacted to read as follows: 8

**Sec. 2305.114.** A civil action pursuant to section 2307.53 9  
of the Revised Code for partial birth feticide or dismemberment 10  
feticide shall be commenced within one year after the commission 11  
of ~~that~~ the offense. 12

**Sec. 2307.53.** (A) As used in this section: 13

(1) "Dismemberment abortion" has the same meaning as in 14  
section 2919.15 of the Revised Code. 15

(2) "Frivolous conduct" has the same meaning as in section 16

2323.51 of the Revised Code. 17

~~(2)~~ (3) "Partial birth procedure" has the same meaning as 18  
in section 2919.151 of the Revised Code. 19

(B) A woman upon whom a partial birth procedure is 20  
performed in violation of division (B) or (C) of section 21  
2919.151 of the Revised Code, a woman upon whom a dismemberment 22  
abortion is performed in violation of division (B) of section 23  
2919.15 of the Revised Code, the father of the child if the 24  
child was not conceived by rape, or the parent of the woman if 25  
the woman is not eighteen years of age or older at the time of 26  
the violation has and may commence a civil action for 27  
compensatory damages, punitive or exemplary damages if 28  
authorized by section 2315.21 of the Revised Code, and court 29  
costs and reasonable attorney's fees against the person who 30  
committed the violation. 31

(C) If a judgment is rendered in favor of the defendant in 32  
a civil action commenced pursuant to division (B) of this 33  
section and the court finds, upon the filing of a motion under 34  
section 2323.51 of the Revised Code, that the commencement of 35  
the civil action constitutes frivolous conduct and that the 36  
defendant was adversely affected by the frivolous conduct, the 37  
court shall award in accordance with section 2323.51 of the 38  
Revised Code reasonable attorney's fees to the defendant. 39

**Sec. 2901.01.** (A) As used in the Revised Code: 40

(1) "Force" means any violence, compulsion, or constraint 41  
physically exerted by any means upon or against a person or 42  
thing. 43

(2) "Deadly force" means any force that carries a 44  
substantial risk that it will proximately result in the death of 45

any person. 46

(3) "Physical harm to persons" means any injury, illness, 47  
or other physiological impairment, regardless of its gravity or 48  
duration. 49

(4) "Physical harm to property" means any tangible or 50  
intangible damage to property that, in any degree, results in 51  
loss to its value or interferes with its use or enjoyment. 52  
"Physical harm to property" does not include wear and tear 53  
occasioned by normal use. 54

(5) "Serious physical harm to persons" means any of the 55  
following: 56

(a) Any mental illness or condition of such gravity as 57  
would normally require hospitalization or prolonged psychiatric 58  
treatment; 59

(b) Any physical harm that carries a substantial risk of 60  
death; 61

(c) Any physical harm that involves some permanent 62  
incapacity, whether partial or total, or that involves some 63  
temporary, substantial incapacity; 64

(d) Any physical harm that involves some permanent 65  
disfigurement or that involves some temporary, serious 66  
disfigurement; 67

(e) Any physical harm that involves acute pain of such 68  
duration as to result in substantial suffering or that involves 69  
any degree of prolonged or intractable pain. 70

(6) "Serious physical harm to property" means any physical 71  
harm to property that does either of the following: 72

(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;	73 74 75
(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.	76 77 78
(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.	79 80 81
(8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.	82 83 84 85
(9) "Offense of violence" means any of the following:	86
(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, of division (A) (1) of section 2903.34, of division (A) (1), (2), or (3) of section 2911.12, or of division (B) (1), (2), (3), or (4) of section 2919.22 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;	87 88 89 90 91 92 93 94 95 96
(b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A) (9) (a) of this section;	97 98 99 100
(c) An offense, other than a traffic offense, under an	101

existing or former municipal ordinance or law of this or any 102  
other state or the United States, committed purposely or 103  
knowingly, and involving physical harm to persons or a risk of 104  
serious physical harm to persons; 105

(d) A conspiracy or attempt to commit, or complicity in 106  
committing, any offense under division (A) (9) (a), (b), or (c) of 107  
this section. 108

(10) (a) "Property" means any property, real or personal, 109  
tangible or intangible, and any interest or license in that 110  
property. "Property" includes, but is not limited to, cable 111  
television service, other telecommunications service, 112  
telecommunications devices, information service, computers, 113  
data, computer software, financial instruments associated with 114  
computers, other documents associated with computers, or copies 115  
of the documents, whether in machine or human readable form, 116  
trade secrets, trademarks, copyrights, patents, and property 117  
protected by a trademark, copyright, or patent. "Financial 118  
instruments associated with computers" include, but are not 119  
limited to, checks, drafts, warrants, money orders, notes of 120  
indebtedness, certificates of deposit, letters of credit, bills 121  
of credit or debit cards, financial transaction authorization 122  
mechanisms, marketable securities, or any computer system 123  
representations of any of them. 124

(b) As used in division (A) (10) of this section, "trade 125  
secret" has the same meaning as in section 1333.61 of the 126  
Revised Code, and "telecommunications service" and "information 127  
service" have the same meanings as in section 2913.01 of the 128  
Revised Code. 129

(c) As used in divisions (A) (10) and (13) of this section, 130  
"cable television service," "computer," "computer software," 131

"computer system," "computer network," "data," and	132
"telecommunications device" have the same meanings as in section	133
2913.01 of the Revised Code.	134
(11) "Law enforcement officer" means any of the following:	135
(a) A sheriff, deputy sheriff, constable, police officer	136
of a township or joint police district, marshal, deputy marshal,	137
municipal police officer, member of a police force employed by a	138
metropolitan housing authority under division (D) of section	139
3735.31 of the Revised Code, or state highway patrol trooper;	140
(b) An officer, agent, or employee of the state or any of	141
its agencies, instrumentalities, or political subdivisions, upon	142
whom, by statute, a duty to conserve the peace or to enforce all	143
or certain laws is imposed and the authority to arrest violators	144
is conferred, within the limits of that statutory duty and	145
authority;	146
(c) A mayor, in the mayor's capacity as chief conservator	147
of the peace within the mayor's municipal corporation;	148
(d) A member of an auxiliary police force organized by	149
county, township, or municipal law enforcement authorities,	150
within the scope of the member's appointment or commission;	151
(e) A person lawfully called pursuant to section 311.07 of	152
the Revised Code to aid a sheriff in keeping the peace, for the	153
purposes and during the time when the person is called;	154
(f) A person appointed by a mayor pursuant to section	155
737.01 of the Revised Code as a special patrolling officer	156
during riot or emergency, for the purposes and during the time	157
when the person is appointed;	158
(g) A member of the organized militia of this state or the	159

armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;

(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code;

(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;

(k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;

(l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms;

(m) The senate sergeant at arms and an assistant senate sergeant at arms;

(n) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended.

(12) "Privilege" means an immunity, license, or right 188  
conferred by law, bestowed by express or implied grant, arising 189  
out of status, position, office, or relationship, or growing out 190  
of necessity. 191

(13) "Contraband" means any property that is illegal for a 192  
person to acquire or possess under a statute, ordinance, or 193  
rule, or that a trier of fact lawfully determines to be illegal 194  
to possess by reason of the property's involvement in an 195  
offense. "Contraband" includes, but is not limited to, all of 196  
the following: 197

(a) Any controlled substance, as defined in section 198  
3719.01 of the Revised Code, or any device or paraphernalia; 199

(b) Any unlawful gambling device or paraphernalia; 200

(c) Any dangerous ordnance or obscene material. 201

(14) A person is "not guilty by reason of insanity" 202  
relative to a charge of an offense only if the person proves, in 203  
the manner specified in section 2901.05 of the Revised Code, 204  
that at the time of the commission of the offense, the person 205  
did not know, as a result of a severe mental disease or defect, 206  
the wrongfulness of the person's acts. 207

(B) (1) (a) Subject to division (B) (2) of this section, as 208  
used in any section contained in Title XXIX of the Revised Code 209  
that sets forth a criminal offense, "person" includes all of the 210  
following: 211

(i) An individual, corporation, business trust, estate, 212  
trust, partnership, and association; 213

(ii) An unborn human who is viable. 214

(b) As used in any section contained in Title XXIX of the 215



Revised Code that does not set forth a criminal offense,	216
"person" includes an individual, corporation, business trust,	217
estate, trust, partnership, and association.	218
(c) As used in division (B) (1) (a) of this section:	219
(i) "Unborn human" means an individual organism of the	220
species Homo sapiens from fertilization until live birth.	221
(ii) "Viable" means the stage of development of a human	222
fetus at which there is a realistic possibility of maintaining	223
and nourishing of a life outside the womb with or without	224
temporary artificial life-sustaining support.	225
(2) Notwithstanding division (B) (1) (a) of this section, in	226
no case shall the portion of the definition of the term "person"	227
that is set forth in division (B) (1) (a) (ii) of this section be	228
applied or construed in any section contained in Title XXIX of	229
the Revised Code that sets forth a criminal offense in any of	230
the following manners:	231
(a) Except as otherwise provided in division (B) (2) (a) of	232
this section, in a manner so that the offense prohibits or is	233
construed as prohibiting any pregnant woman or her physician	234
from performing an abortion with the consent of the pregnant	235
woman, with the consent of the pregnant woman implied by law in	236
a medical emergency, or with the approval of one otherwise	237
authorized by law to consent to medical treatment on behalf of	238
the pregnant woman. An abortion that violates the conditions	239
described in the immediately preceding sentence may be punished	240
as a violation of section 2903.01, 2903.02, 2903.03, 2903.04,	241
2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14,	242
2903.21, or 2903.22 of the Revised Code, as applicable. An	243
abortion that does not violate the conditions described in the	244

second immediately preceding sentence, but that does violate 245  
section 2919.12, division (B) of section 2919.13, or section 246  
2919.15, 2919.151, 2919.17, or 2919.18 of the Revised Code, may 247  
be punished as a violation of section 2919.12, division (B) of 248  
section 2919.13, or section 2919.15, 2919.151, 2919.17, or 249  
2919.18 of the Revised Code, as applicable. Consent is 250  
sufficient under this division if it is of the type otherwise 251  
adequate to permit medical treatment to the pregnant woman, even 252  
if it does not comply with section 2919.12 of the Revised Code. 253

(b) In a manner so that the offense is applied or is 254  
construed as applying to a woman based on an act or omission of 255  
the woman that occurs while she is or was pregnant and that 256  
results in any of the following: 257

(i) Her delivery of a stillborn baby; 258

(ii) Her causing, in any other manner, the death in utero 259  
of a viable, unborn human that she is carrying; 260

(iii) Her causing the death of her child who is born alive 261  
but who dies from one or more injuries that are sustained while 262  
the child is a viable, unborn human; 263

(iv) Her causing her child who is born alive to sustain 264  
one or more injuries while the child is a viable, unborn human; 265

(v) Her causing, threatening to cause, or attempting to 266  
cause, in any other manner, an injury, illness, or other 267  
physiological impairment, regardless of its duration or gravity, 268  
or a mental illness or condition, regardless of its duration or 269  
gravity, to a viable, unborn human that she is carrying. 270

(C) As used in Title XXIX of the Revised Code: 271

(1) "School safety zone" consists of a school, school 272

building, school premises, school activity, and school bus.	273
(2) "School," "school building," and "school premises" have the same meanings as in section 2925.01 of the Revised Code.	274 275 276
(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314. of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code.	277 278 279 280 281 282 283 284
(4) "School bus" has the same meaning as in section 4511.01 of the Revised Code.	285 286
<b>Sec. 2903.09.</b> As used in sections 2903.01 to 2903.08, 2903.11 to 2903.14, 2903.21, and 2903.22 of the Revised Code:	287 288
(A) "Unlawful termination of another's pregnancy" means causing the death of an unborn member of the species homo sapiens, who is or was carried in the womb of another, as a result of injuries inflicted during the period that begins with fertilization and that continues unless and until live birth occurs.	289 290 291 292 293 294
(B) "Another's unborn" or "such other person's unborn" means a member of the species homo sapiens, who is or was carried in the womb of another, during a period that begins with fertilization and that continues unless and until live birth occurs.	295 296 297 298 299
(C) Notwithstanding divisions (A) and (B) of this section, in no case shall the definitions of the terms "unlawful	300 301

termination of another's pregnancy," "another's unborn," and 302  
"such other person's unborn" that are set forth in division (A) 303  
of this section be applied or construed in any of the following 304  
manners: 305

(1) Except as otherwise provided in division (C)(1) of 306  
this section, in a manner so that the offense prohibits or is 307  
construed as prohibiting any pregnant woman or her physician 308  
from performing an abortion with the actual consent of the 309  
pregnant woman, with the consent of the pregnant woman implied 310  
by law in a medical emergency, or with the approval of one 311  
otherwise authorized by law to consent to medical treatment on 312  
behalf of the pregnant woman. An abortion that violates the 313  
conditions described in the immediately preceding sentence may 314  
be punished as a violation of section 2903.01, 2903.02, 2903.03, 315  
2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 316  
2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. 317  
An abortion that does not violate the conditions described in 318  
the second immediately preceding sentence, but that does violate 319  
section 2919.12, division (B) of section 2919.13, or section 320  
2919.15, 2919.151, 2919.17, or 2919.18 of the Revised Code, may 321  
be punished as a violation of section 2919.12, division (B) of 322  
section 2919.13, or section 2919.15, 2919.151, 2919.17, or 323  
2919.18 of the Revised Code, as applicable. 324

(2) In a manner so that the offense is applied or is 325  
construed as applying to a woman based on an act or omission of 326  
the woman that occurs while she is or was pregnant and that 327  
results in any of the following: 328

(a) Her delivery of a stillborn baby; 329

(b) Her causing, in any other manner, the death in utero 330  
of an unborn that she is carrying; 331

(c) Her causing the death of her child who is born alive 332  
but who dies from one or more injuries that are sustained while 333  
the child is an unborn; 334

(d) Her causing her child who is born alive to sustain one 335  
or more injuries while the child is an unborn; 336

(e) Her causing, threatening to cause, or attempting to 337  
cause, in any other manner, an injury, illness, or other 338  
physiological impairment, regardless of its duration or gravity, 339  
or a mental illness or condition, regardless of its duration or 340  
gravity, to an unborn that she is carrying. 341

**Sec. 2919.123.** (A) No person shall knowingly give, sell, 342  
dispense, administer, otherwise provide, or prescribe RU-486 343  
(mifepristone) to another for the purpose of inducing an 344  
abortion in any person or enabling the other person to induce an 345  
abortion in any person, unless the person who gives, sells, 346  
dispenses, administers, or otherwise provides or prescribes the 347  
RU-486 (mifepristone) is a physician, the physician satisfies 348  
all the criteria established by federal law that a physician 349  
must satisfy in order to provide RU-486 (mifepristone) for 350  
inducing abortions, and the physician provides the RU-486 351  
(mifepristone) to the other person for the purpose of inducing 352  
an abortion in accordance with all provisions of federal law 353  
that govern the use of RU-486 (mifepristone) for inducing 354  
abortions. A person who gives, sells, dispenses, administers, 355  
otherwise provides, or prescribes RU-486 (mifepristone) to 356  
another as described in division (A) of this section shall not 357  
be prosecuted based on a violation of the criteria contained in 358  
this division unless the person knows that the person is not a 359  
physician, that the person did not satisfy all the specified 360  
criteria established by federal law, or that the person did not 361

provide the RU-486 (mifepristone) in accordance with the 362  
specified provisions of federal law, whichever is applicable. 363

(B) No physician who provides RU-486 (mifepristone) to 364  
another for the purpose of inducing an abortion as authorized 365  
under division (A) of this section shall knowingly fail to 366  
comply with the applicable requirements of any federal law that 367  
pertain to follow-up examinations or care for persons to whom or 368  
for whom RU-486 (mifepristone) is provided for the purpose of 369  
inducing an abortion. 370

(C) (1) If a physician provides RU-486 (mifepristone) to 371  
another for the purpose of inducing an abortion as authorized 372  
under division (A) of this section and if the physician knows 373  
that the person who uses the RU-486 (mifepristone) for the 374  
purpose of inducing an abortion experiences during or after the 375  
use an incomplete abortion, severe bleeding, or an adverse 376  
reaction to the RU-486 (mifepristone) or is hospitalized, 377  
receives a transfusion, or experiences any other serious event, 378  
the physician promptly must provide a written report of the 379  
incomplete abortion, severe bleeding, adverse reaction, 380  
hospitalization, transfusion, or serious event to the state 381  
medical board. The board shall compile and retain all reports it 382  
receives under this division. Except as otherwise provided in 383  
this division, all reports the board receives under this 384  
division are public records open to inspection under section 385  
149.43 of the Revised Code. In no case shall the board release 386  
to any person the name or any other personal identifying 387  
information regarding a person who uses RU-486 (mifepristone) 388  
for the purpose of inducing an abortion and who is the subject 389  
of a report the board receives under this division. 390

(2) No physician who provides RU-486 (mifepristone) to 391

another for the purpose of inducing an abortion as authorized 392  
under division (A) of this section shall knowingly fail to file 393  
a report required under division (C)(1) of this section. 394

(D) Division (A) of this section does not apply to any of 395  
the following: 396

(1) A pregnant woman who obtains or possesses RU-486 397  
(mifepristone) for the purpose of inducing an abortion to 398  
terminate her own pregnancy; 399

(2) The legal transport of RU-486 (mifepristone) by any 400  
person or entity and the legal delivery of the RU-486 401  
(mifepristone) by any person to the recipient, provided that 402  
this division does not apply regarding any conduct related to 403  
the RU-486 (mifepristone) other than its transport and delivery 404  
to the recipient; 405

(3) The distribution, provision, or sale of RU-486 406  
(mifepristone) by any legal manufacturer or distributor of RU- 407  
486 (mifepristone), provided the manufacturer or distributor 408  
made a good faith effort to comply with any applicable 409  
requirements of federal law regarding the distribution, 410  
provision, or sale. 411

(E) Whoever violates this section is guilty of unlawful 412  
distribution of an abortion-inducing drug, a felony of the 413  
fourth degree. If the offender previously has been convicted of 414  
or pleaded guilty to a violation of this section or of section 415  
2919.12, 2919.121, 2919.13, 2919.14, 2919.15, 2919.151, 2919.17, 416  
or 2919.18 of the Revised Code, unlawful distribution of an 417  
abortion-inducing drug is a felony of the third degree. 418

If the offender is a professionally licensed person, in 419  
addition to any other sanction imposed by law for the offense, 420

the offender is subject to sanctioning as provided by law by the 421  
regulatory or licensing board or agency that has the 422  
administrative authority to suspend or revoke the offender's 423  
professional license, including the sanctioning provided in 424  
section 4731.22 of the Revised Code for offenders who have a 425  
certificate to practice or certificate of registration issued 426  
under that chapter. 427

(F) As used in this section: 428

(1) "Federal law" means any law, rule, or regulation of 429  
the United States or any drug approval letter of the food and 430  
drug administration of the United States that governs or 431  
regulates the use of RU-486 (mifepristone) for the purpose of 432  
inducing abortions. 433

(2) "Personal identifying information" has the same 434  
meaning as in section 2913.49 of the Revised Code. 435

(3) "Physician" has the same meaning as in section 436  
2305.113 of the Revised Code. 437

(4) "Professionally licensed person" has the same meaning 438  
as in section 2925.01 of the Revised Code. 439

**Sec. 2919.15.** (A) As used in this section: 440

"Dismemberment abortion" means, with the purpose of 441  
causing the death of an unborn child, to dismember a living 442  
unborn child and extract the unborn child one piece at a time 443  
from the uterus through use of clamps, grasping forceps, tongs, 444  
scissors, or similar instruments that, through the convergence 445  
of two rigid levers, slice, crush, or grasp a portion of the 446  
unborn child's body to cut or rip it off. "Dismemberment 447  
abortion" does not include a procedure performed after the death 448  
of the unborn child to extract any remaining parts of the unborn 449



<u>child.</u>	450
<u>"Serious risk of the substantial and irreversible</u>	451
<u>impairment of a major bodily function" has the same meaning as</u>	452
<u>in section 2919.151 of the Revised Code.</u>	453
<u>"Unborn child" has the same meaning as in section 2919.16</u>	454
<u>of the Revised Code.</u>	455
<u>(B) No person shall knowingly perform or attempt to</u>	456
<u>perform a dismemberment abortion when the dismemberment abortion</u>	457
<u>is not necessary, in reasonable medical judgment, to preserve</u>	458
<u>the life or physical health of the mother as a result of the</u>	459
<u>mother's life or physical health being endangered by a serious</u>	460
<u>risk of the substantial and irreversible physical impairment of</u>	461
<u>a major bodily function.</u>	462
<u>(C) Whoever violates division (B) of this section is</u>	463
<u>guilty of dismemberment feticide, a felony of the fourth degree.</u>	464
<u>(D) None of the following are guilty of committing,</u>	465
<u>attempting to commit, complicity in the commission of, or</u>	466
<u>conspiracy in the commission of a violation of division (B) of</u>	467
<u>this section:</u>	468
<u>(1) A pregnant woman upon whom a dismemberment abortion is</u>	469
<u>performed in violation of division (B) of this section;</u>	470
<u>(2) An individual who is employed by the person who</u>	471
<u>violates division (B) of this section and who acts at the</u>	472
<u>direction of the person who violates division (B) of this</u>	473
<u>section;</u>	474
<u>(3) A pharmacist or other individual who fills a</u>	475
<u>prescription or provides instruments or materials used in</u>	476
<u>violating division (B) of this section.</u>	477

(E) This section does not prohibit the suction curettage 478  
procedure of abortion or the suction aspiration procedure of 479  
abortion. 480

**Sec. 2919.151.** (A) As used in this section: 481

~~(1) "Dilation and evacuation procedure of abortion" does~~ 482  
~~not include the dilation and extraction procedure of abortion.~~ 483

~~(2)~~ "From the body of the mother" means that the portion 484  
of the fetus' body in question is beyond the mother's vaginal 485  
introitus in a vaginal delivery. 486

~~(3)~~ (2) "Partial birth procedure" means the medical 487  
procedure that includes all of the following elements in 488  
sequence: 489

(a) Intentional dilation of the cervix of a pregnant 490  
woman, usually over a sequence of days; 491

(b) In a breech presentation, intentional extraction of at 492  
least the lower torso to the navel, but not the entire body, of 493  
an intact fetus from the body of the mother, or in a cephalic 494  
presentation, intentional extraction of at least the complete 495  
head, but not the entire body, of an intact fetus from the body 496  
of the mother; 497

(c) Intentional partial evacuation of the intracranial 498  
contents of the fetus, which procedure the person performing the 499  
procedure knows will cause the death of the fetus, intentional 500  
compression of the head of the fetus, which procedure the person 501  
performing the procedure knows will cause the death of the 502  
fetus, or performance of another intentional act that the person 503  
performing the procedure knows will cause the death of the 504  
fetus; 505

(d) Completion of the vaginal delivery of the fetus.	506
<del>(4)</del> <u>(3)</u> "Partially born" means that the portion of the	507
body of an intact fetus described in division (A) (3) (b) of this	508
section has been intentionally extracted from the body of the	509
mother.	510
<del>(5)</del> <u>(4)</u> "Serious risk of the substantial and irreversible	511
impairment of a major bodily function" means any medically	512
diagnosed condition that so complicates the pregnancy of the	513
woman as to directly or indirectly cause the substantial and	514
irreversible impairment of a major bodily function.	515
<del>(6)</del> <u>(5)</u> "Viable" has the same meaning as in section	516
2901.01 of the Revised Code.	517
(B) When the fetus that is the subject of the procedure is	518
viable, no person shall knowingly perform a partial birth	519
procedure on a pregnant woman when the procedure is not	520
necessary, in reasonable medical judgment, to preserve the life	521
or health of the mother as a result of the mother's life or	522
health being endangered by a serious risk of the substantial and	523
irreversible impairment of a major bodily function.	524
(C) When the fetus that is the subject of the procedure is	525
not viable, no person shall knowingly perform a partial birth	526
procedure on a pregnant woman when the procedure is not	527
necessary, in reasonable medical judgment, to preserve the life	528
or health of the mother as a result of the mother's life or	529
health being endangered by a serious risk of the substantial and	530
irreversible impairment of a major bodily function.	531
(D) Whoever violates division (B) or (C) of this section	532
is guilty of partial birth feticide, a felony of the second	533
degree.	534

(E) A pregnant woman upon whom a partial birth procedure 535  
is performed in violation of division (B) or (C) of this section 536  
is not guilty of committing, attempting to commit, complicity in 537  
the commission of, or conspiracy in the commission of a 538  
violation of those divisions. 539

(F) This section does not prohibit the suction curettage 540  
procedure of abortion, or the suction aspiration procedure of 541  
abortion, ~~or the dilation and evacuation procedure of abortion.~~ 542

(G) This section does not apply to any person who performs 543  
or attempts to perform a legal abortion if the act that causes 544  
the death of the fetus is performed prior to the fetus being 545  
partially born even though the death of the fetus occurs after 546  
it is partially born. 547

**Sec. 2967.193.** (A) (1) Except as provided in division (C) 548  
of this section and subject to the maximum aggregate total 549  
specified in division (A) (3) of this section, a person confined 550  
in a state correctional institution or placed in the substance 551  
use disorder treatment program may provisionally earn one day or 552  
five days of credit, based on the category set forth in division 553  
(D) (1), (2), (3), (4), or (5) of this section in which the 554  
person is included, toward satisfaction of the person's stated 555  
prison term for each completed month during which the person, if 556  
confined in a state correctional institution, productively 557  
participates in an education program, vocational training, 558  
employment in prison industries, treatment for substance abuse, 559  
or any other constructive program developed by the department 560  
with specific standards for performance by prisoners or during 561  
which the person, if placed in the substance use disorder 562  
treatment program, productively participates in the program. 563  
Except as provided in division (C) of this section and subject 564

to the maximum aggregate total specified in division (A) (3) of 565  
this section, a person so confined in a state correctional 566  
institution who successfully completes two programs or 567  
activities of that type may, in addition, provisionally earn up 568  
to five days of credit toward satisfaction of the person's 569  
stated prison term for the successful completion of the second 570  
program or activity. The person shall not be awarded any 571  
provisional days of credit for the successful completion of the 572  
first program or activity or for the successful completion of 573  
any program or activity that is completed after the second 574  
program or activity. At the end of each calendar month in which 575  
a person productively participates in a program or activity 576  
listed in this division or successfully completes a program or 577  
activity listed in this division, the department of 578  
rehabilitation and correction shall determine and record the 579  
total number of days credit that the person provisionally earned 580  
in that calendar month. If the person in a state correctional 581  
institution violates prison rules or the person in the substance 582  
use disorder treatment program violates program or department 583  
rules, the department may deny the person a credit that 584  
otherwise could have been provisionally awarded to the person or 585  
may withdraw one or more credits previously provisionally earned 586  
by the person. Days of credit provisionally earned by a person 587  
shall be finalized and awarded by the department subject to 588  
administrative review by the department of the person's conduct. 589

(2) Unless a person is serving a mandatory prison term or 590  
a prison term for an offense of violence or a sexually oriented 591  
offense, and notwithstanding the maximum aggregate total 592  
specified in division (A) (3) of this section, a person who 593  
successfully completes any of the following shall earn ninety 594  
days of credit toward satisfaction of the person's stated prison 595

term or a ten per cent reduction of the person's stated prison	596
term, whichever is less:	597
(a) An Ohio high school diploma or Ohio certificate of	598
high school equivalence certified by the Ohio central school	599
system;	600
(b) A therapeutic drug community program;	601
(c) All three phases of the department of rehabilitation	602
and correction's intensive outpatient drug treatment program;	603
(d) A career technical vocational school program;	604
(e) A college certification program;	605
(f) The criteria for a certificate of achievement and	606
employability as specified in division (A) (1) of section 2961.22	607
of the Revised Code.	608
(3) Except for persons described in division (A) (2) of	609
this section, the aggregate days of credit provisionally earned	610
by a person for program or activity participation and program	611
and activity completion under this section and the aggregate	612
days of credit finally credited to a person under this section	613
shall not exceed eight per cent of the total number of days in	614
the person's stated prison term.	615
(B) The department of rehabilitation and correction shall	616
adopt rules that specify the programs or activities for which	617
credit may be earned under this section, the criteria for	618
determining productive participation in, or completion of, the	619
programs or activities and the criteria for awarding credit,	620
including criteria for awarding additional credit for successful	621
program or activity completion, and the criteria for denying or	622
withdrawing previously provisionally earned credit as a result	623

of a violation of prison rules, or program or department rules, 624  
whichever is applicable. 625

(C) No person confined in a state correctional institution 626  
or placed in a substance use disorder treatment program to whom 627  
any of the following applies shall be awarded any days of credit 628  
under division (A) of this section: 629

(1) The person is serving a prison term that section 630  
2929.13 or section 2929.14 of the Revised Code specifies cannot 631  
be reduced pursuant to this section or this chapter or is 632  
serving a sentence for which section 2967.13 or division (B) of 633  
section 2929.143 of the Revised Code specifies that the person 634  
is not entitled to any earned credit under this section. 635

(2) The person is sentenced to death or is serving a 636  
prison term or a term of life imprisonment for aggravated 637  
murder, murder, or a conspiracy or attempt to commit, or 638  
complicity in committing, aggravated murder or murder. 639

(3) The person is serving a sentence of life imprisonment 640  
without parole imposed pursuant to section 2929.03 or 2929.06 of 641  
the Revised Code, a prison term or a term of life imprisonment 642  
without parole imposed pursuant to section 2971.03 of the 643  
Revised Code, or a sentence for a sexually oriented offense that 644  
was committed on or after September 30, 2011. 645

(D) This division does not apply to a determination of 646  
whether a person confined in a state correctional institution or 647  
placed in a substance use disorder treatment program may earn 648  
any days of credit under division (A) of this section for 649  
successful completion of a second program or activity. The 650  
determination of whether a person confined in a state 651  
correctional institution may earn one day of credit or five days 652

of credit under division (A) of this section for each completed 653  
month during which the person productively participates in a 654  
program or activity specified under that division shall be made 655  
in accordance with the following: 656

(1) The offender may earn one day of credit under division 657  
(A) of this section, except as provided in division (C) of this 658  
section, if the most serious offense for which the offender is 659  
confined is any of the following that is a felony of the first 660  
or second degree: 661

(a) A violation of division (A) of section 2903.04 or of 662  
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 663  
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 664  
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.15, 2919.151, 665  
2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, 666  
or 2927.24 of the Revised Code; 667

(b) A conspiracy or attempt to commit, or complicity in 668  
committing, any other offense for which the maximum penalty is 669  
imprisonment for life or any offense listed in division (D)(1) 670  
(a) of this section. 671

(2) The offender may earn one day of credit under division 672  
(A) of this section, except as provided in division (C) of this 673  
section, if the offender is serving a stated prison term that 674  
includes a prison term imposed for a sexually oriented offense 675  
that the offender committed prior to September 30, 2011. 676

(3) The offender may earn one day of credit under division 677  
(A) of this section, except as provided in division (C) of this 678  
section, if the offender is serving a stated prison term that 679  
includes a prison term imposed for a felony other than carrying 680  
a concealed weapon an essential element of which is any conduct 681



or failure to act expressly involving any deadly weapon or 682  
dangerous ordnance. 683

(4) Except as provided in division (C) of this section, if 684  
the most serious offense for which the offender is confined is a 685  
felony of the first or second degree and divisions (D) (1), (2), 686  
and (3) of this section do not apply to the offender, the 687  
offender may earn one day of credit under division (A) of this 688  
section if the offender committed that offense prior to 689  
September 30, 2011, and the offender may earn five days of 690  
credit under division (A) of this section if the offender 691  
committed that offense on or after September 30, 2011. 692

(5) Except as provided in division (C) of this section, if 693  
the most serious offense for which the offender is confined is a 694  
felony of the third, fourth, or fifth degree or an unclassified 695  
felony and neither division (D) (2) nor (3) of this section 696  
applies to the offender, the offender may earn one day of credit 697  
under division (A) of this section if the offender committed 698  
that offense prior to September 30, 2011, and the offender may 699  
earn five days of credit under division (A) of this section if 700  
the offender committed that offense on or after September 30, 701  
2011. 702

(E) The department annually shall seek and consider the 703  
written feedback of the Ohio prosecuting attorneys association, 704  
the Ohio judicial conference, the Ohio public defender, the Ohio 705  
association of criminal defense lawyers, and other organizations 706  
and associations that have an interest in the operation of the 707  
corrections system and the earned credits program under this 708  
section as part of its evaluation of the program and in 709  
determining whether to modify the program. 710

(F) As used in this section: 711

(1) "Sexually oriented offense" has the same meaning as in	712
section 2950.01 of the Revised Code.	713
(2) "Substance use disorder treatment program" means the	714
substance use disorder treatment program established by the	715
department of rehabilitation and correction under section	716
5120.035 of the Revised Code.	717
<b>Section 2.</b> That existing sections 2305.114, 2307.53,	718
2901.01, 2903.09, 2919.123, 2919.151, and 2967.193 of the	719
Revised Code are hereby repealed.	720