

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

S. B. No. 28

Senator Uecker

**Cosponsors: Senators Obhof, Huffman, Hottinger, Hite, Eklund, LaRose, Coley,
Hoagland**

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 regarding final disposition 6
of fetal remains from surgical abortions. 7

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

Section 1. That sections 2317.56, 3701.341, and 3701.79 be 8
amended and sections 3726.01, 3726.02, 3726.03, 3726.04, 9
3726.041, 3726.042, 3726.05, 3726.09, 3726.10, 3726.11, 3726.12, 10
3726.13, 3726.14, 3726.15, 3726.16, 3726.95, 3726.99, and 11
4717.271 of the Revised Code be enacted to read as follows: 12

Sec. 2317.56. (A) As used in this section: 13

(1) "Medical emergency" has the same meaning as in section 14
2919.16 of the Revised Code. 15

(2) "Medical necessity" means a medical condition of a 16
pregnant woman that, in the reasonable judgment of the physician 17

who is attending the woman, so complicates the pregnancy that it 18
necessitates the immediate performance or inducement of an 19
abortion. 20

(3) "Probable gestational age of the zygote, blastocyte, 21
embryo, or fetus" means the gestational age that, in the 22
judgment of a physician, is, with reasonable probability, the 23
gestational age of the zygote, blastocyte, embryo, or fetus at 24
the time that the physician informs a pregnant woman pursuant to 25
division (B) (1) (b) of this section. 26

(B) Except when there is a medical emergency or medical 27
necessity, an abortion shall be performed or induced only if all 28
of the following conditions are satisfied: 29

(1) At least twenty-four hours prior to the performance or 30
inducement of the abortion, a physician meets with the pregnant 31
woman in person in an individual, private setting and gives her 32
an adequate opportunity to ask questions about the abortion that 33
will be performed or induced. At this meeting, the physician 34
shall inform the pregnant woman, verbally or, if she is hearing 35
impaired, by other means of communication, of all of the 36
following: 37

(a) The nature and purpose of the particular abortion 38
procedure to be used and the medical risks associated with that 39
procedure; 40

(b) The probable gestational age of the zygote, 41
blastocyte, embryo, or fetus; 42

(c) The medical risks associated with the pregnant woman 43
carrying the pregnancy to term. 44

The meeting need not occur at the facility where the 45
abortion is to be performed or induced, and the physician 46

involved in the meeting need not be affiliated with that 47
facility or with the physician who is scheduled to perform or 48
induce the abortion. 49

(2) At least twenty-four hours prior to the performance or 50
inducement of the abortion, the physician who is to perform or 51
induce the abortion or the physician's agent does each of the 52
following in person, by telephone, by certified mail, return 53
receipt requested, or by regular mail evidenced by a certificate 54
of mailing: 55

(a) Inform the pregnant woman of the name of the physician 56
who is scheduled to perform or induce the abortion; 57

(b) Give the pregnant woman copies of the published 58
materials described in division (C) of this section; 59

(c) Inform the pregnant woman that the materials given 60
pursuant to division (B) (2) (b) of this section are published by 61
the state and that they describe the zygote, blastocyte, embryo, 62
or fetus and list agencies that offer alternatives to abortion. 63
The pregnant woman may choose to examine or not to examine the 64
materials. A physician or an agent of a physician may choose to 65
be disassociated from the materials and may choose to comment or 66
not comment on the materials. 67

(3) If it has been determined that the unborn human 68
individual the pregnant woman is carrying has a detectable 69
heartbeat, the physician who is to perform or induce the 70
abortion shall comply with the informed consent requirements in 71
section 2919.192 of the Revised Code in addition to complying 72
with the informed consent requirements in divisions (B) (1), (2), 73
(4), and (5) of this section. 74

(4) Prior to the performance or inducement of the 75

abortion, the pregnant woman signs a form consenting to the 76
abortion and certifies ~~both~~ all of the following on that form: 77

(a) She has received the information and materials 78
described in divisions (B) (1) and (2) of this section, and her 79
questions about the abortion that will be performed or induced 80
have been answered in a satisfactory manner. 81

(b) She consents to the particular abortion voluntarily, 82
knowingly, intelligently, and without coercion by any person, 83
and she is not under the influence of any drug of abuse or 84
alcohol. 85

(c) If the abortion will be performed or induced 86
surgically and she desires to exercise the rights under section 87
3726.03 of the Revised Code, she has completed the disposition 88
determination under section 3726.04 or 3726.041 of the Revised 89
Code. 90

A form shall be completed for each zygote, blastocyte, 91
embryo, or fetus to be aborted. If a pregnant woman is carrying 92
more than one zygote, blastocyte, embryo, or fetus, she shall 93
sign a form for each zygote, blastocyte, embryo, or fetus to be 94
aborted. 95

The form shall contain the name and contact information of 96
the physician who provided to the pregnant woman the information 97
described in division (B) (1) of this section. 98

(5) Prior to the performance or inducement of the 99
abortion, the physician who is scheduled to perform or induce 100
the abortion or the physician's agent receives a copy of the 101
pregnant woman's signed form on which she consents to the 102
abortion and that includes the certification required by 103
division (B) (4) of this section. 104

(C) The department of health shall publish in English and 105
in Spanish, in a typeface large enough to be clearly legible, 106
and in an easily comprehensible format, the following materials 107
on the department's web site: 108

(1) Materials that inform the pregnant woman about family 109
planning information, of publicly funded agencies that are 110
available to assist in family planning, and of public and 111
private agencies and services that are available to assist her 112
through the pregnancy, upon childbirth, and while the child is 113
dependent, including, but not limited to, adoption agencies. The 114
materials shall be geographically indexed; include a 115
comprehensive list of the available agencies, a description of 116
the services offered by the agencies, and the telephone numbers 117
and addresses of the agencies; and inform the pregnant woman 118
about available medical assistance benefits for prenatal care, 119
childbirth, and neonatal care and about the support obligations 120
of the father of a child who is born alive. The department shall 121
ensure that the materials described in division (C)(1) of this 122
section are comprehensive and do not directly or indirectly 123
promote, exclude, or discourage the use of any agency or service 124
described in this division. 125

(2) Materials that inform the pregnant woman of the 126
probable anatomical and physiological characteristics of the 127
zygote, blastocyte, embryo, or fetus at two-week gestational 128
increments for the first sixteen weeks of pregnancy and at four- 129
week gestational increments from the seventeenth week of 130
pregnancy to full term, including any relevant information 131
regarding the time at which the fetus possibly would be viable. 132
The department shall cause these materials to be published only 133
after it consults with the Ohio state medical association and 134
the Ohio section of the American college of obstetricians and 135

gynecologists relative to the probable anatomical and 136
physiological characteristics of a zygote, blastocyte, embryo, 137
or fetus at the various gestational increments. The materials 138
shall use language that is understandable by the average person 139
who is not medically trained, shall be objective and 140
nonjudgmental, and shall include only accurate scientific 141
information about the zygote, blastocyte, embryo, or fetus at 142
the various gestational increments. If the materials use a 143
pictorial, photographic, or other depiction to provide 144
information regarding the zygote, blastocyte, embryo, or fetus, 145
the materials shall include, in a conspicuous manner, a scale or 146
other explanation that is understandable by the average person 147
and that can be used to determine the actual size of the zygote, 148
blastocyte, embryo, or fetus at a particular gestational 149
increment as contrasted with the depicted size of the zygote, 150
blastocyte, embryo, or fetus at that gestational increment. 151

(D) Upon the submission of a request to the department of 152
health by any person, hospital, physician, or medical facility 153
for one copy of the materials published in accordance with 154
division (C) of this section, the department shall make the 155
requested copy of the materials available to the person, 156
hospital, physician, or medical facility that requested the 157
copy. 158

(E) If a medical emergency or medical necessity compels 159
the performance or inducement of an abortion, the physician who 160
will perform or induce the abortion, prior to its performance or 161
inducement if possible, shall inform the pregnant woman of the 162
medical indications supporting the physician's judgment that an 163
immediate abortion is necessary. Any physician who performs or 164
induces an abortion without the prior satisfaction of the 165
conditions specified in division (B) of this section because of 166

a medical emergency or medical necessity shall enter the reasons 167
for the conclusion that a medical emergency or medical necessity 168
exists in the medical record of the pregnant woman. 169

(F) If the conditions specified in division (B) of this 170
section are satisfied, consent to an abortion shall be presumed 171
to be valid and effective. 172

(G) The performance or inducement of an abortion without 173
the prior satisfaction of the conditions specified in division 174
(B) of this section does not constitute, and shall not be 175
construed as constituting, a violation of division (A) of 176
section 2919.12 of the Revised Code. The failure of a physician 177
to satisfy the conditions of division (B) of this section prior 178
to performing or inducing an abortion upon a pregnant woman may 179
be the basis of both of the following: 180

(1) A civil action for compensatory and exemplary damages 181
as described in division (H) of this section; 182

(2) Disciplinary action under section 4731.22 of the 183
Revised Code. 184

(H) (1) Subject to divisions (H) (2) and (3) of this 185
section, any physician who performs or induces an abortion with 186
actual knowledge that the conditions specified in division (B) 187
of this section have not been satisfied or with a heedless 188
indifference as to whether those conditions have been satisfied 189
is liable in compensatory and exemplary damages in a civil 190
action to any person, or the representative of the estate of any 191
person, who sustains injury, death, or loss to person or 192
property as a result of the failure to satisfy those conditions. 193
In the civil action, the court additionally may enter any 194
injunctive or other equitable relief that it considers 195

| | |
|--|---|
| appropriate. | 196 |
| (2) The following shall be affirmative defenses in a civil action authorized by division (H) (1) of this section: | 197 198 |
| (a) The physician performed or induced the abortion under the circumstances described in division (E) of this section. | 199 200 |
| (b) The physician made a good faith effort to satisfy the conditions specified in division (B) of this section. | 201 202 |
| (3) An employer or other principal is not liable in damages in a civil action authorized by division (H) (1) of this section on the basis of the doctrine of respondeat superior unless either of the following applies: | 203 204 205 206 |
| (a) The employer or other principal had actual knowledge or, by the exercise of reasonable diligence, should have known that an employee or agent performed or induced an abortion with actual knowledge that the conditions specified in division (B) of this section had not been satisfied or with a heedless indifference as to whether those conditions had been satisfied. | 207 208 209 210 211 212 |
| (b) The employer or other principal negligently failed to secure the compliance of an employee or agent with division (B) of this section. | 213 214 215 |
| (4) Notwithstanding division (E) of section 2919.12 of the Revised Code, the civil action authorized by division (H) (1) of this section shall be the exclusive civil remedy for persons, or the representatives of estates of persons, who allegedly sustain injury, death, or loss to person or property as a result of a failure to satisfy the conditions specified in division (B) of this section. | 216 217 218 219 220 221 222 |
| (I) The department of job and family services shall | 223 |

prepare and conduct a public information program to inform women 224
of all available governmental programs and agencies that provide 225
services or assistance for family planning, prenatal care, child 226
care, or alternatives to abortion. 227

Sec. 3701.341. (A) The director of health, pursuant to 228
Chapter 119. and consistent with Chapter 3726. and section 229
2317.56 of the Revised Code, shall adopt rules relating to 230
abortions and the following subjects: 231

(1) Post-abortion procedures to protect the health of the 232
pregnant woman; 233

(2) Pathological reports; 234

(3) Humane disposition of the product of human conception; 235

(4) Counseling. 236

(B) The director of health shall implement the rules and 237
shall apply to the court of common pleas for temporary or 238
permanent injunctions restraining a violation or threatened 239
violation of the rules. This action is an additional remedy not 240
dependent on the adequacy of the remedy at law. 241

Sec. 3701.79. (A) As used in this section: 242

(1) "Abortion" has the same meaning as in section 2919.11 243
of the Revised Code. 244

(2) "Abortion report" means a form completed pursuant to 245
division (C) of this section. 246

(3) "Ambulatory surgical facility" has the same meaning as 247
in section 3702.30 of the Revised Code. 248

(4) "Department" means the department of health. 249

(5) "Hospital" means any building, structure, institution, 250

or place devoted primarily to the maintenance and operation of 251
facilities for the diagnosis, treatment, and medical or surgical 252
care for three or more unrelated individuals suffering from 253
illness, disease, injury, or deformity, and regularly making 254
available at least clinical laboratory services, diagnostic x- 255
ray services, treatment facilities for surgery or obstetrical 256
care, or other definitive medical treatment. "Hospital" does not 257
include a "home" as defined in section 3721.01 of the Revised 258
Code. 259

(6) "Physician's office" means an office or portion of an 260
office that is used to provide medical or surgical services to 261
the physician's patients. "Physician's office" does not mean an 262
ambulatory surgical facility, a hospital, or a hospital 263
emergency department. 264

(7) "Postabortion care" means care given after the uterus 265
has been evacuated by abortion. 266

(B) The department shall be responsible for collecting and 267
collating abortion data reported to the department as required 268
by this section. 269

(C) The attending physician shall complete an individual 270
abortion report for ~~each~~ the abortion of each zygote, 271
blastocyte, embryo, or fetus the physician performs ~~upon a~~ 272
~~woman~~. The report shall be confidential and shall not contain 273
the woman's name. The report shall include, but is not limited 274
to, all of the following, insofar as the patient makes the data 275
available that is not within the physician's knowledge: 276

(1) Patient number; 277

(2) The name and address of the facility in which the 278
abortion was performed, and whether the facility is a hospital, 279

| | |
|--|-----|
| ambulatory surgical facility, physician's office, or other facility; | 280 |
| | 281 |
| (3) The date of the abortion; | 282 |
| (4) <u>If a surgical abortion, the method of final disposition of the fetal remains under Chapter 3726. of the Revised Code;</u> | 283 |
| | 284 |
| | 285 |
| (5) All of the following regarding the woman on whom the abortion was performed: | 286 |
| | 287 |
| (a) Zip code of residence; | 288 |
| (b) Age; | 289 |
| (c) Race; | 290 |
| (d) Marital status; | 291 |
| (e) Number of previous pregnancies; | 292 |
| (f) Years of education; | 293 |
| (g) Number of living children; | 294 |
| (h) Number of <u>zygotes, blastocytes, embryos, or fetuses</u> previously induced abortions <u>aborted</u> ; | 295 |
| | 296 |
| (i) Date of last induced abortion; | 297 |
| (j) Date of last live birth; | 298 |
| (k) Method of contraception at the time of conception; | 299 |
| (l) Date of the first day of the last menstrual period; | 300 |
| (m) Medical condition at the time of the abortion; | 301 |
| (n) Rh-type; | 302 |
| (o) The number of weeks of gestation at the time of the | 303 |

| | |
|---|-----|
| abortion. | 304 |
| (5) <u>(6)</u> The type of abortion procedure performed; | 305 |
| (6) <u>(7)</u> Complications by type; | 306 |
| (7) <u>(8)</u> Type of procedure performed after the abortion; | 307 |
| (8) <u>(9)</u> Type of family planning recommended; | 308 |
| (9) <u>(10)</u> Type of additional counseling given; | 309 |
| (10) <u>(11)</u> Signature of attending physician. | 310 |
| (D) The physician who completed the abortion report under | 311 |
| division (C) of this section shall submit the abortion report to | 312 |
| the department within fifteen days after the woman is | 313 |
| discharged. | 314 |
| (E) The appropriate vital records report or certificate | 315 |
| shall be made out after the twentieth week of gestation. | 316 |
| (F) A copy of the abortion report shall be made part of | 317 |
| the medical record of the patient of the facility in which the | 318 |
| abortion was performed. | 319 |
| (G) Each hospital shall file monthly and annual reports | 320 |
| listing the total number of women who have undergone a post- | 321 |
| twelve-week-gestation abortion and received postabortion care. | 322 |
| The annual report shall be filed following the conclusion of the | 323 |
| state's fiscal year. Each report shall be filed within thirty | 324 |
| days after the end of the applicable reporting period. | 325 |
| (H) Each case in which a physician treats a post abortion | 326 |
| complication shall be reported on a postabortion complication | 327 |
| form. The report shall be made upon a form prescribed by the | 328 |
| department, shall be signed by the attending physician, and | 329 |
| shall be confidential. | 330 |

(I) (1) Not later than the first day of October of each year, the department shall issue an annual report of the abortion data reported to the department for the previous calendar year as required by this section. The annual report shall include at least the following information:

(a) The total number of ~~induced abortions~~ zygotes, blastocytes, embryos, or fetuses that were aborted;

(b) The number of abortions performed on Ohio and out-of-state residents;

(c) The number of abortions performed, sorted by each of the following:

(i) The age of the woman on whom the abortion was performed, using the following categories: under fifteen years of age, fifteen to nineteen years of age, twenty to twenty-four years of age, twenty-five to twenty-nine years of age, thirty to thirty-four years of age, thirty-five to thirty-nine years of age, forty to forty-four years of age, forty-five years of age or older;

(ii) The race and Hispanic ethnicity of the woman on whom the abortion was performed;

(iii) The education level of the woman on whom the abortion was performed, using the following categories or their equivalents: less than ninth grade, ninth through twelfth grade, one or more years of college;

(iv) The marital status of the woman on whom the abortion was performed;

(v) The number of living children of the woman on whom the abortion was performed, using the following categories: none,

| | |
|--|---------------------------------|
| one, or two or more; | 359 |
| (vi) The number of weeks of gestation of the woman at the time the abortion was performed, using the following categories: less than nine weeks, nine to twelve weeks, thirteen to nineteen weeks, or twenty weeks or more; | 360 361 362 363 |
| (vii) The county in which the abortion was performed; | 364 |
| (viii) The type of abortion procedure performed; | 365 |
| (ix) The number of abortions <u>zygotes, blastocytes, embryos, or fetuses</u> previously performed on <u>aborted by</u> the woman on whom the abortion was performed; | 366 367 368 |
| (x) The type of facility in which the abortion was performed; | 369 370 |
| (xi) For Ohio residents, the county of residence of the woman on whom the abortion was performed. | 371 372 |
| (2) The report also shall indicate the number and type of the abortion complications reported to the department either on the abortion report required under division (C) of this section or the postabortion complication report required under division (H) of this section. | 373 374 375 376 377 |
| (3) In addition to the annual report required under division (I)(1) of this section, the department shall make available, on request, the number of abortions performed by zip code of residence. | 378 379 380 381 |
| (J) The director of health shall implement this section and shall apply to the court of common pleas for temporary or permanent injunctions restraining a violation or threatened violation of its requirements. This action is an additional remedy not dependent on the adequacy of the remedy at law. | 382 383 384 385 386 |

| | |
|--|-----|
| <u>Sec. 3726.01. As used in this chapter:</u> | 387 |
| <u>(A) "Abortion facility" means any of the following in</u> | 388 |
| <u>which abortions are induced or performed:</u> | 389 |
| <u>(1) Ambulatory surgical facility as defined in section</u> | 390 |
| <u>3702.30 of the Revised Code;</u> | 391 |
| <u>(2) Any other facility in which abortion is legally</u> | 392 |
| <u>provided.</u> | 393 |
| <u>(B) "Cremation" has the same meaning as in section 4717.01</u> | 394 |
| <u>of the Revised Code.</u> | 395 |
| <u>(C) "Fetal remains" means the product of human conception</u> | 396 |
| <u>that has been aborted. If a woman is carrying more than one</u> | 397 |
| <u>zygote, blastocyte, embryo, or fetus, such as in the incidence</u> | 398 |
| <u>of twins or triplets, each zygote, blastocyte, embryo, or fetus</u> | 399 |
| <u>or any of its parts that is aborted is a separate product of</u> | 400 |
| <u>human conception that has been aborted.</u> | 401 |
| <u>(D) "Interment" means the burial or entombment of fetal</u> | 402 |
| <u>remains.</u> | 403 |
| <u>Sec. 3726.02. (A) Final disposition of fetal remains from</u> | 404 |
| <u>a surgical abortion at an abortion facility shall be by</u> | 405 |
| <u>cremation or interment.</u> | 406 |
| <u>(B) The cremation of fetal remains under division (A) of</u> | 407 |
| <u>this section shall be in a crematory facility, in compliance</u> | 408 |
| <u>with Chapter 4717. of the Revised Code.</u> | 409 |
| <u>(C) As used in this section, "crematory facility" has the</u> | 410 |
| <u>same meaning as in section 4717.01 of the Revised Code.</u> | 411 |
| <u>Sec. 3726.03. A pregnant woman who has a surgical abortion</u> | 412 |
| <u>has the right to determine both of the following regarding the</u> | 413 |

fetal remains: 414

(A) Whether the final disposition shall be by cremation or interment; 415
416

(B) The location for the final disposition. 417

Sec. 3726.04. (A) (1) If a pregnant woman desires to exercise the rights under section 3726.03 of the Revised Code, she shall make the determination in writing using a form prescribed by the director of health under division (C) of section 3726.14 of the Revised Code. The determination must clearly indicate both of the following: 418
419
420
421
422
423

(a) Whether the final disposition will be by cremation or interment; 424
425

(b) Whether the final disposition will be at a location other than one provided by the abortion facility. 426
427

(2) If a pregnant woman does not desire to exercise the rights under section 3726.03 of the Revised Code, the abortion facility shall determine whether final disposition shall be by cremation or interment. 428
429
430
431

(B) (1) A pregnant woman who is under eighteen years of age, unmarried, and unemancipated shall obtain parental consent from one of the person's parents, guardian, or custodian to the final disposition determination she makes under division (A) (1) of this section. The consent shall be made in writing using a form prescribed by the director under division (B) of section 3726.14 of the Revised Code. 432
433
434
435
436
437
438

(2) The consent under division (B) (1) of this section is not required for a pregnant woman exercising her rights under section 3726.03 of the Revised Code if an order authorizing 439
440
441

consent to the abortion was issued under section 2151.85 of the 442
Revised Code. 443

Sec. 3726.041. (A) A pregnant woman who is carrying more 444
than one zygote, blastocyte, embryo, or fetus, who desires to 445
exercise the rights under section 3726.03 of the Revised Code, 446
shall complete one form under division (A)(1) of section 3726.04 447
of the Revised Code for each zygote, blastocyte, embryo, or 448
fetus that will be aborted. 449

(B) A pregnant woman who obtains parental consent under 450
division (B)(1) of section 3726.04 of the Revised Code shall use 451
one consent form for each zygote, blastocyte, embryo, or fetus 452
that will be aborted. 453

Sec. 3726.042. A form used under section 3726.04 of the 454
Revised Code that covers more than one zygote, blastocyte, 455
embryo, or fetus that will be aborted is invalid. 456

Sec. 3726.05. An abortion facility may not release fetal 457
remains from a surgical abortion, or arrange for the cremation 458
or interment of such fetal remains, until it obtains a final 459
disposition determination made, and if applicable, the consent 460
made, under section 3726.04 or 3726.041 of the Revised Code. 461

Sec. 3726.09. (A) Except as provided in division (B) of 462
this section, an abortion facility shall pay for and provide for 463
the cremation or interment of the fetal remains from a surgical 464
abortion performed at that facility. 465

(B) If the disposition determination made under division 466
(A)(1) of section 3726.04 or 3726.041 of the Revised Code 467
identifies a location for final disposition other than one 468
provided by the abortion facility, the pregnant woman is 469
responsible for the costs related to the final disposition of 470

the fetal remains at the chosen location. 471

Sec. 3726.10. An abortion facility shall document in the 472
pregnant woman's medical record the final disposition 473
determination made, and if applicable, the consent made, under 474
section 3726.04 or 3726.041 of the Revised Code. 475

Sec. 3726.11. An abortion facility shall maintain 476
evidentiary documentation demonstrating the date and method of 477
the disposition of fetal remains from surgical abortions 478
performed or induced in the facility. 479

Sec. 3726.12. An abortion facility shall have written 480
policies and procedures regarding cremation or interment of 481
fetal remains from surgical abortions performed or induced in 482
the facility. 483

Sec. 3726.13. An abortion facility shall develop and 484
maintain a written list of locations at which it provides or 485
arranges for the final disposition of fetal remains from 486
surgical abortions. 487

Sec. 3726.14. Not later than ninety days after the 488
effective date of this section, the director of health, in 489
accordance with Chapter 119. of the Revised Code, shall adopt 490
rules necessary to carry out sections 3726.01 to 3726.13 of the 491
Revised Code, including rules that prescribe the following: 492

(A) The method in which pregnant women who seek surgical 493
abortions are informed of the following: 494

(1) The right to determine final disposition of fetal 495
remains under section 3726.03 of the Revised Code; 496

(2) The available options for locations and methods for 497
the disposition of fetal remains. 498

| | |
|--|-----|
| <u>(B) The notification form for final disposition</u> | 499 |
| <u>determinations and the consent form for purposes of section</u> | 500 |
| <u>3726.04 or 3726.041 of the Revised Code;</u> | 501 |
| <u>(C) (1) A detachable supplemental form to the form</u> | 502 |
| <u>described in division (B) (4) of section 2317.56 of the Revised</u> | 503 |
| <u>Code that meets the following requirements:</u> | 504 |
| <u>(a) Indicates whether the pregnant woman has indicated a</u> | 505 |
| <u>preference as to the method of disposition of the fetal remains</u> | 506 |
| <u>and the preferred method selected;</u> | 507 |
| <u>(b) Indicates whether the pregnant woman has indicated a</u> | 508 |
| <u>preference as to the location of disposition of the fetal</u> | 509 |
| <u>remains;</u> | 510 |
| <u>(c) Provides for the signature of the physician who is to</u> | 511 |
| <u>perform or induce the abortion;</u> | 512 |
| <u>(d) Provides for a medical identification number for the</u> | 513 |
| <u>pregnant woman but does not provide for the pregnant woman's</u> | 514 |
| <u>printed name or signature.</u> | 515 |
| <u>(2) If a medical emergency or medical necessity prevents</u> | 516 |
| <u>the pregnant woman from completing the detachable supplemental</u> | 517 |
| <u>form, procedures to complete that form a reasonable time after</u> | 518 |
| <u>the medical emergency or medical necessity has ended.</u> | 519 |
| <u>Sec. 3726.15. A person who buries or cremates fetal</u> | 520 |
| <u>remains from a surgical abortion is not liable for or subject to</u> | 521 |
| <u>damages in any civil action, prosecution in any criminal</u> | 522 |
| <u>proceeding, or professional disciplinary action related to the</u> | 523 |
| <u>disposal of fetal remains, if that person does all of the</u> | 524 |
| <u>following:</u> | 525 |
| <u>(A) Acts in good faith compliance with this chapter and,</u> | 526 |

if applicable, section 4717.271 of the Revised Code; 527

(B) Receives a copy of a properly executed detachable 528
supplemental form described in division (C)(1) of section 529
3726.14 of the Revised Code; 530

(C) Acts in furtherance of the final disposition of the 531
fetal remains. 532

Sec. 3726.16. Except for the requirements of section 533
3705.20 of the Revised Code, no conflicting provision of the 534
Revised Code or conflicting procedure of an agency or board 535
shall apply regarding a person who buries or cremates fetal 536
remains in accordance with section 3726.15 of the Revised Code. 537

Sec. 3726.95. A pregnant woman who has a surgical 538
abortion, the fetal remains from which are not disposed of in 539
compliance with this chapter, is not guilty of committing, 540
attempting to commit, complicity in the commission of, or 541
conspiracy in the commission of a violation of section 3726.99 542
of the Revised Code. 543

Sec. 3726.99. (A) No person shall fail to comply with 544
section 3726.02, 3726.05, 3726.10, or 3726.11 of the Revised 545
Code. 546

(B) Whoever knowingly violates division (A) of this 547
section is guilty of failure to dispose of fetal remains 548
humanely, a misdemeanor of the first degree. 549

Sec. 4717.271. The operator of a crematory facility that 550
cremates fetal remains for an abortion facility under Chapter 551
3726. of the Revised Code shall not do either of the following: 552

(A) Dispose of the cremated fetal remains anywhere other 553
than in a grave, crypt, or niche; 554

| | |
|---|-----|
| <u>(B) Arrange for the transfer or disposal of the cremated</u> | 555 |
| <u>fetal remains anywhere other than in a grave, crypt, or niche.</u> | 556 |
| Section 2. That existing sections 2317.56, 3701.341, and | 557 |
| 3701.79 of the Revised Code are hereby repealed. | 558 |
| Section 3. Neither of the following shall apply until | 559 |
| rules are adopted under section 3726.14 of the Revised Code: | 560 |
| (A) The prohibition under section 3726.99 of the Revised | 561 |
| Code; | 562 |
| (B) The prohibition under section 4717.271 of the Revised | 563 |
| Code. | 564 |