



Ohio Legislative Service Commission

Sub. Bill Comparative Synopsis

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Sub. H.B. 417

131st General Assembly
(H. Health & Aging)

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Topic	Previous Version (As Introduced)	Sub. Version (LSC 131 1725-8)
Disposition methods	Final disposition must be by interment or cremation (<i>R.C. 3728.02</i>).	Disposal of fetal remains must be by interment, cremation, or humane individual incineration (<i>R.C. 3728.02(A)</i>).
Definition of fetal death	No provision.	Defines "fetal death" to mean death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of the pregnancy, which after expulsion or extraction does not breathe or show any other evidence of life (<i>R.C. 3728.01(C)</i>).
Definition of fetal remains	Defines "fetal remains" to mean the entire fetus or any of its parts that are removed from the pregnant woman's uterus by an abortion (<i>R.C. 3728.01(C)</i>).	Defines "fetal remains" to mean the entire fetus or any of its parts that are removed from the pregnant woman's uterus by an abortion, <i>irrespective of the duration of the pregnancy</i> (<i>R.C. 3728.01(D)</i>).

* Replaces the reference to "parental" consent with "parent, guardian, or custodian" consent regarding abortion facility duties to dispose of or release fetal remains under LSC 131 1725-8.

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Performance of humane individual incineration	No provision.	Requires humane individual incineration of fetal remains to be performed in a sterile incinerator. The remains of an individual fetus cannot be simultaneously incinerated with remains belonging to another fetus or any other items or medical waste (<i>R.C. 3728.03</i>).
Pregnant woman's rights regarding final disposition	Provides that a pregnant woman who has an abortion has a right to determine whether disposition of the fetal remains shall be by cremation or interment (<i>R.C. 3728.03</i>).	Provides that a pregnant woman who has an abortion has the following rights regarding the fetal remains: <ul style="list-style-type: none"> • To determine whether final disposition shall be by interment, cremation, or humane individual incineration; • To have the abortion facility perform or arrange for the interment, cremation, or humane individual incineration; • To personally arrange for the interment, cremation, or humane individual incineration; • To not exercise her rights. (<i>R.C. 3728.02(B), 3728.04, and 3728.05(A)(2).</i>)
Abortion facility's duty to dispose of fetal remains	Provides for an abortion facility to arrange for disposal of fetal remains in either of the following cases: <ul style="list-style-type: none"> • The pregnant woman makes a final disposition determination or parental consent is given for final disposition; • No final disposition 	Requires an abortion facility to dispose or arrange for the disposal of fetal remains if it obtains a final disposition determination from the woman, or if applicable, parent, guardian, or custodian consent or if she desires not to exercise her right to determine disposition (<i>R.C. 3728.02(A), 3728.04(B), 3728.05, and 3728.06</i>).

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	<p>determination is made or consented to within a reasonable time after the abortion was induced or performed. <i>(R.C. 3728.08.)</i></p>	
Abortion facility's duty to release fetal remains	<p>Requires an abortion facility to release fetal remains only if the pregnant woman makes a final disposition determination or parental consent is given for final disposition <i>(R.C. 3728.05).</i></p>	<p>Requires an abortion facility to release fetal remains if it obtains a final disposition determination from the woman, or if applicable, parent, guardian, or custodian consent <i>(R.C. 3728.05(A)(1) and (B), and 3728.06).</i></p>
Payment of disposition expenses <i>(R.C. 3728.09)</i>	<p>An abortion facility must pay the costs of final disposition, unless the disposition determination indicates a method or process that involves extraordinary expense, in which case it must be paid by the woman.</p>	<p>An abortion facility must pay the costs of final disposition, unless the disposition determination indicates a method that is not offered by the abortion facility, in which case it must be paid by the woman.</p>
Underage consent form	<p>Requires the Director of Health to create a parental consent form to permit the parent of a pregnant woman who is under 18 years old, unmarried, and unemancipated to consent to the final disposition of the fetal remains <i>(R.C. 4928.04(B)(1) and 4928.14(B)).</i></p>	<p>Requires the Director of Health to create a form to permit the parent, guardian, or custodian of a pregnant woman who is under 18 years old, unmarried, and unemancipated to consent to the final disposition of the fetal remains made in writing using the detachable supplemental form to the abortion "informed consent" form <i>(R.C. 4928.05(B)(1) and 4928.14(B)(1)).</i></p>
Form for final disposition	<p>Requires the Director of the Department of Health to create a form that indicates the pregnant woman's preferred method of disposal <i>(R.C. 3728.04(A) and 3728.14(B)).</i></p>	<p>Requires the Director to create a detachable supplemental form to the abortion "informed consent" form under existing law that includes the following:</p> <ul style="list-style-type: none"> • Indicates whether the pregnant woman has indicated a preference

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		<p>as to the method of disposal, and the preferred method selected;</p> <ul style="list-style-type: none"> • Provides for the physician's signature; • Provides for an identification number for the woman, but does not provide for her printed name or signature (<i>R.C. 3728.05(A)(1) and (B)(1), 3728.14(C), and 2317.56(B)(4)(c).</i>)
Certification of compliance	No provision.	Requires the pregnant woman, prior to the performance of an abortion, to certify that she made a determination in writing using the detachable supplemental form, or the parent, guardian, or custodian consent form, or both, as applicable, if she desires to exercise her rights to make a final disposition (<i>R.C. 2317.56(B)(4)(c).</i>)
Medical emergency prevents signature	No provision.	Requires the Director of Health to create procedures to complete the detachable supplemental form a reasonable time after the medical emergency or necessity has ended (<i>R.C. 3728.14(C)(2).</i>)
Rules relating to abortions (R.C. 3701.341)	Requires the Director of Health, when adopting rules relating to abortions, to make the rules consistent with the provisions of the bill concerning the disposition of fetal remains.	Repeals the requirement that the Director of Health, when adopting rules relating to abortions, to adopt rules for the humane disposition of the product of human conception.

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Rules consistent with abortion informed consent law	No provision.	Requires the rules the Director of Health adopts that are necessary to carry out the disposition of fetal remains requirements of the bill must be consistent with the abortion informed consent law (<i>R.C. 3728.14</i>).
Deadline for creating rules	No provision.	Requires the Director of Health to adopt the rules to carry out the fetal remains requirements under the bill not later than six months after the effective date of the bill (<i>R.C. 3728.14</i>).
Duty to implement rules	No provision.	The bill requires the Director of Health to implement the rules adopted to carry out the fetal remains requirements under the bill (<i>R.C. 3701.3412</i>).
Documentation for burial permits	No provision.	Provides that the detachable supplemental form must be filed with the local registrar or sub-registrar of vital statistics to obtain a burial permit (<i>R.C. 3728.13 and 3705.17</i>).
Filing responsibility	No provision.	Requires the abortion facility in possession of fetal remains to file the supplemental form (<i>R.C. 3728.13</i>).
Injunctive powers	No provision.	Allows any of the following to file injunctions to restrain a violation or threat of violation of the rules adopted under the bill: <ul style="list-style-type: none"> • The Director; • The Attorney General; • The county prosecutor; • The city director of law, township director of law, or legal counsel for a village (<i>R.C. 3701.3412</i>).

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Immunity	No provision.	Provides that a pregnant woman whose fetal remains from an abortion are not disposed of properly is immune from the bill's criminal provisions (<i>R.C. 3728.95</i>).
Effect on fetal death certificate law	No provision.	Provides that the bill does not limit the law regarding fetal death certificates for the product of human conception of at least 20 weeks of gestation (<i>R.C. 3728.18</i>).
Delayed enforcement of criminal prohibition	No provision.	Provides that the criminal prohibition does not apply to any failure to comply until the rules are adopted as required under the bill (<i>Section 3</i>).

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