

As Introduced

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H. B. No. 357

Representatives Johnson, G., Smith, K.

**Cosponsors: Representatives Slesnick, Howse, Lepore-Hagan, Fedor, Bishoff,
Celebrezze**

A BILL

To amend sections 2317.56, 2919.12, and 2919.192 1
and to repeal section 2919.122 of the Revised 2
Code to remove waiting-period restrictions on 3
when a woman can obtain an abortion and to 4
repeal requirements governing the provision of 5
notice to a woman's relative, custodian, or 6
guardian, if the woman is seeking an abortion 7
and is pregnant, unmarried, a minor, and 8
unemancipated. 9

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

Section 1. That sections 2317.56, 2919.12, and 2919.192 of 10
the Revised Code be amended to read as follows: 11

Sec. 2317.56. (A) As used in this section: 12

(1) "Medical emergency" has the same meaning as in section 13
2919.16 of the Revised Code. 14

(2) "Medical necessity" means a medical condition of a 15
pregnant woman that, in the reasonable judgment of the physician 16
who is attending the woman, so complicates the pregnancy that it 17

necessitates the immediate performance or inducement of an 18
abortion. 19

(3) "Probable gestational age of the embryo or fetus" 20
means the gestational age that, in the judgment of a physician, 21
is, with reasonable probability, the gestational age of the 22
embryo or fetus at the time that the physician informs a 23
pregnant woman pursuant to division (B) (1) (b) of this section. 24

(B) Except when there is a medical emergency or medical 25
necessity, an abortion shall be performed or induced only if all 26
of the following conditions are satisfied: 27

(1) ~~At least twenty-four hours prior~~ Prior to the 28
performance or inducement of the abortion, a physician meets 29
with the pregnant woman in person in an individual, private 30
setting and gives her an adequate opportunity to ask questions 31
about the abortion that will be performed or induced. At this 32
meeting, the physician shall inform the pregnant woman, verbally 33
or, if she is hearing impaired, by other means of communication, 34
of all of the following: 35

(a) The nature and purpose of the particular abortion 36
procedure to be used and the medical risks associated with that 37
procedure; 38

(b) The probable gestational age of the embryo or fetus; 39

(c) The medical risks associated with the pregnant woman 40
carrying the pregnancy to term. 41

The meeting need not occur at the facility where the 42
abortion is to be performed or induced, and the physician 43
involved in the meeting need not be affiliated with that 44
facility or with the physician who is scheduled to perform or 45
induce the abortion. 46

(2) ~~At least twenty four hours prior~~ Prior to the 47
performance or inducement of the abortion, the physician who is 48
to perform or induce the abortion or the physician's agent does 49
each of the following in person, by telephone, by certified 50
mail, return receipt requested, or by regular mail evidenced by 51
a certificate of mailing: 52

(a) Inform the pregnant woman of the name of the physician 53
who is scheduled to perform or induce the abortion; 54

(b) Give the pregnant woman copies of the published 55
materials described in division (C) of this section; 56

(c) Inform the pregnant woman that the materials given 57
pursuant to division (B) (2) (b) of this section are published by 58
the state and that they describe the embryo or fetus and list 59
agencies that offer alternatives to abortion. The pregnant woman 60
may choose to examine or not to examine the materials. A 61
physician or an agent of a physician may choose to be 62
disassociated from the materials and may choose to comment or 63
not comment on the materials. 64

(3) If it has been determined that the unborn human 65
individual the pregnant woman is carrying has a detectable 66
heartbeat, the physician who is to perform or induce the 67
abortion shall comply with the informed consent requirements in 68
section 2919.192 of the Revised Code in addition to complying 69
with the informed consent requirements in divisions (B) (1), (2), 70
(4), and (5) of this section. 71

(4) Prior to the performance or inducement of the 72
abortion, the pregnant woman signs a form consenting to the 73
abortion and certifies both of the following on that form: 74

(a) She has received the information and materials 75

described in divisions (B) (1) and (2) of this section, and her 76
questions about the abortion that will be performed or induced 77
have been answered in a satisfactory manner. 78

(b) She consents to the particular abortion voluntarily, 79
knowingly, intelligently, and without coercion by any person, 80
and she is not under the influence of any drug of abuse or 81
alcohol. 82

The form shall contain the name and contact information of 83
the physician who provided to the pregnant woman the information 84
described in division (B) (1) of this section. 85

(5) Prior to the performance or inducement of the 86
abortion, the physician who is scheduled to perform or induce 87
the abortion or the physician's agent receives a copy of the 88
pregnant woman's signed form on which she consents to the 89
abortion and that includes the certification required by 90
division (B) (4) of this section. 91

(C) The department of health shall publish in English and 92
in Spanish, in a typeface large enough to be clearly legible, 93
and in an easily comprehensible format, the following materials 94
on the department's web site: 95

(1) Materials that inform the pregnant woman about family 96
planning information, of publicly funded agencies that are 97
available to assist in family planning, and of public and 98
private agencies and services that are available to assist her 99
through the pregnancy, upon childbirth, and while the child is 100
dependent, including, but not limited to, adoption agencies. The 101
materials shall be geographically indexed; include a 102
comprehensive list of the available agencies, a description of 103
the services offered by the agencies, and the telephone numbers 104

and addresses of the agencies; and inform the pregnant woman 105
about available medical assistance benefits for prenatal care, 106
childbirth, and neonatal care and about the support obligations 107
of the father of a child who is born alive. The department shall 108
ensure that the materials described in division (C)(1) of this 109
section are comprehensive and do not directly or indirectly 110
promote, exclude, or discourage the use of any agency or service 111
described in this division. 112

(2) Materials that inform the pregnant woman of the 113
probable anatomical and physiological characteristics of the 114
zygote, blastocyte, embryo, or fetus at two-week gestational 115
increments for the first sixteen weeks of pregnancy and at four- 116
week gestational increments from the seventeenth week of 117
pregnancy to full term, including any relevant information 118
regarding the time at which the fetus possibly would be viable. 119
The department shall cause these materials to be published only 120
after it consults with the Ohio state medical association and 121
the Ohio section of the American college of obstetricians and 122
gynecologists relative to the probable anatomical and 123
physiological characteristics of a zygote, blastocyte, embryo, 124
or fetus at the various gestational increments. The materials 125
shall use language that is understandable by the average person 126
who is not medically trained, shall be objective and 127
nonjudgmental, and shall include only accurate scientific 128
information about the zygote, blastocyte, embryo, or fetus at 129
the various gestational increments. If the materials use a 130
pictorial, photographic, or other depiction to provide 131
information regarding the zygote, blastocyte, embryo, or fetus, 132
the materials shall include, in a conspicuous manner, a scale or 133
other explanation that is understandable by the average person 134
and that can be used to determine the actual size of the zygote, 135

blastocyte, embryo, or fetus at a particular gestational 136
increment as contrasted with the depicted size of the zygote, 137
blastocyte, embryo, or fetus at that gestational increment. 138

(D) Upon the submission of a request to the department of 139
health by any person, hospital, physician, or medical facility 140
for one copy of the materials published in accordance with 141
division (C) of this section, the department shall make the 142
requested copy of the materials available to the person, 143
hospital, physician, or medical facility that requested the 144
copy. 145

(E) If a medical emergency or medical necessity compels 146
the performance or inducement of an abortion, the physician who 147
will perform or induce the abortion, prior to its performance or 148
inducement if possible, shall inform the pregnant woman of the 149
medical indications supporting the physician's judgment that an 150
immediate abortion is necessary. Any physician who performs or 151
induces an abortion without the prior satisfaction of the 152
conditions specified in division (B) of this section because of 153
a medical emergency or medical necessity shall enter the reasons 154
for the conclusion that a medical emergency or medical necessity 155
exists in the medical record of the pregnant woman. 156

(F) If the conditions specified in division (B) of this 157
section are satisfied, consent to an abortion shall be presumed 158
to be valid and effective. 159

(G) The performance or inducement of an abortion without 160
the prior satisfaction of the conditions specified in division 161
(B) of this section does not constitute, and shall not be 162
construed as constituting, a violation of division (A) of 163
section 2919.12 of the Revised Code. The failure of a physician 164
to satisfy the conditions of division (B) of this section prior 165

to performing or inducing an abortion upon a pregnant woman may	166
be the basis of both of the following:	167
(1) A civil action for compensatory and exemplary damages	168
as described in division (H) of this section;	169
(2) Disciplinary action under section 4731.22 of the	170
Revised Code.	171
(H) (1) Subject to divisions (H) (2) and (3) of this	172
section, any physician who performs or induces an abortion with	173
actual knowledge that the conditions specified in division (B)	174
of this section have not been satisfied or with a heedless	175
indifference as to whether those conditions have been satisfied	176
is liable in compensatory and exemplary damages in a civil	177
action to any person, or the representative of the estate of any	178
person, who sustains injury, death, or loss to person or	179
property as a result of the failure to satisfy those conditions.	180
In the civil action, the court additionally may enter any	181
injunctive or other equitable relief that it considers	182
appropriate.	183
(2) The following shall be affirmative defenses in a civil	184
action authorized by division (H) (1) of this section:	185
(a) The physician performed or induced the abortion under	186
the circumstances described in division (E) of this section.	187
(b) The physician made a good faith effort to satisfy the	188
conditions specified in division (B) of this section.	189
(3) An employer or other principal is not liable in	190
damages in a civil action authorized by division (H) (1) of this	191
section on the basis of the doctrine of respondeat superior	192
unless either of the following applies:	193

(a) The employer or other principal had actual knowledge 194
or, by the exercise of reasonable diligence, should have known 195
that an employee or agent performed or induced an abortion with 196
actual knowledge that the conditions specified in division (B) 197
of this section had not been satisfied or with a heedless 198
indifference as to whether those conditions had been satisfied. 199

(b) The employer or other principal negligently failed to 200
secure the compliance of an employee or agent with division (B) 201
of this section. 202

(4) Notwithstanding division ~~(E)~~ (C) of section 2919.12 of 203
the Revised Code, the civil action authorized by division (H) (1) 204
of this section shall be the exclusive civil remedy for persons, 205
or the representatives of estates of persons, who allegedly 206
sustain injury, death, or loss to person or property as a result 207
of a failure to satisfy the conditions specified in division (B) 208
of this section. 209

(I) The department of job and family services shall 210
prepare and conduct a public information program to inform women 211
of all available governmental programs and agencies that provide 212
services or assistance for family planning, prenatal care, child 213
care, or alternatives to abortion. 214

Sec. 2919.12. (A) No person shall perform or induce an 215
abortion without the informed consent of the pregnant woman. 216

~~(B) (1) (a) No person shall knowingly perform or induce an~~ 217
~~abortion upon a woman who is pregnant, unmarried, under eighteen~~ 218
~~years of age, and unemancipated unless at least one of the~~ 219
~~following applies:~~ 220

~~(i) Subject to division (B) (2) of this section, the person~~ 221
~~has given at least twenty four hours actual notice, in person or~~ 222

~~by telephone, to one of the woman's parents, her guardian, or~~ 223
~~her custodian as to the intention to perform or induce the~~ 224
~~abortion, provided that if the woman has requested, in~~ 225
~~accordance with division (B) (1) (b) of this section, that notice~~ 226
~~be given to a specified brother or sister of the woman who is~~ 227
~~twenty one years of age or older or to a specified stepparent or~~ 228
~~grandparent of the woman instead of to one of her parents, her~~ 229
~~guardian, or her custodian, and if the person is notified by a~~ 230
~~juvenile court that affidavits of the type described in that~~ 231
~~division have been filed with that court, the twenty four hours~~ 232
~~actual notice described in this division as to the intention to~~ 233
~~perform or induce the abortion shall be given, in person or by~~ 234
~~telephone, to the specified brother, sister, stepparent, or~~ 235
~~grandparent instead of to the parent, guardian, or custodian;~~ 236

~~(ii) One of the woman's parents, her guardian, or her~~ 237
~~custodian has consented in writing to the performance or~~ 238
~~inducement of the abortion;~~ 239

~~(iii) A juvenile court pursuant to section 2151.85 of the~~ 240
~~Revised Code issues an order authorizing the woman to consent to~~ 241
~~the abortion without notification of one of her parents, her~~ 242
~~guardian, or her custodian;~~ 243

~~(iv) A juvenile court or a court of appeals, by its~~ 244
~~inaction, constructively has authorized the woman to consent to~~ 245
~~the abortion without notification of one of her parents, her~~ 246
~~guardian, or her custodian under division (B) (1) of section~~ 247
~~2151.85 or division (A) of section 2505.073 of the Revised Code.~~ 248

~~(b) If a woman who is pregnant, unmarried, under eighteen~~ 249
~~years of age, and unemancipated desires notification as to a~~ 250
~~person's intention to perform or induce an abortion on the woman~~ 251
~~to be given to a specified brother or sister of the woman who is~~ 252

~~twenty one years of age or older or to a specified stepparent or
grandparent of the woman instead of to one of her parents, her
guardian, or her custodian, the person who intends to perform or
induce the abortion shall notify the specified brother, sister,
stepparent, or grandparent instead of the parent, guardian, or
custodian for purposes of division (B) (1) (a) (i) of this section
if all of the following apply:~~ 253
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~~(i) The woman has requested the person to provide the
notification to the specified brother, sister, stepparent, or
grandparent, clearly has identified the specified brother,
sister, stepparent, or grandparent and her relation to that
person, and, if the specified relative is a brother or sister,
has indicated the age of the brother or sister;~~ 260
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~~(ii) The woman has executed an affidavit stating that she
is in fear of physical, sexual, or severe emotional abuse from
the parent, guardian, or custodian who otherwise would be
notified under division (B) (1) (a) (i) of this section, and that
the fear is based on a pattern of physical, sexual, or severe
emotional abuse of her exhibited by that parent, guardian, or
custodian, has filed the affidavit with the juvenile court of
the county in which the woman has a residence or legal
settlement, the juvenile court of any county that borders to any
extent the county in which she has a residence or legal
settlement, or the juvenile court of the county in which the
hospital, clinic, or other facility in which the abortion would
be performed or induced is located, and has given the court
written notice of the name and address of the person who intends
to perform or induce the abortion;~~ 266
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~~(iii) The specified brother, sister, stepparent, or
grandparent has executed an affidavit stating that the woman has~~ 281
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~~reason to fear physical, sexual, or severe emotional abuse from 283
the parent, guardian, or custodian who otherwise would be 284
notified under division (B) (1) (a) (i) of this section, based on a 285
pattern of physical, sexual, or severe emotional abuse of her by 286
that parent, guardian, or custodian, and the woman or the 287
specified brother, sister, stepparent, or grandparent has filed 288
the affidavit with the juvenile court in which the affidavit 289
described in division (B) (1) (b) (ii) of this section was filed; 290~~

~~(iv) The juvenile court in which the affidavits described 291
in divisions (B) (1) (b) (ii) and (iii) of this section were filed 292
has notified the person that both of those affidavits have been 293
filed with the court. 294~~

~~(c) If an affidavit of the type described in division (B) 295
(1) (b) (ii) of this section and an affidavit of the type 296
described in division (B) (1) (b) (iii) of this section are filed 297
with a juvenile court and the court has been provided with 298
written notice of the name and address of the person who intends 299
to perform or induce an abortion upon the woman to whom the 300
affidavits pertain, the court promptly shall notify the person 301
who intends to perform or induce the abortion that the 302
affidavits have been filed. If possible, the notice to the 303
person shall be given in person or by telephone. 304~~

~~(2) If division (B) (1) (a) (ii), (iii), or (iv) of this 305
section does not apply, and if no parent, guardian, or custodian 306
can be reached for purposes of division (B) (1) (a) (i) of this 307
section after a reasonable effort, or if notification is to be 308
given to a specified brother, sister, stepparent, or grandparent 309
under that division and the specified brother, sister, 310
stepparent, or grandparent cannot be reached for purposes of 311
that division after a reasonable effort, no person shall perform 312~~

~~or induce such an abortion without giving at least forty eight-~~ 313
~~hours constructive notice to one of the woman's parents, her-~~ 314
~~guardian, or her custodian, by both certified and ordinary mail-~~ 315
~~sent to the last known address of the parent, guardian, or-~~ 316
~~custodian, or if notification for purposes of division (B)(1)(a)~~ 317
~~(i) of this section is to be given to a specified brother,~~ 318
~~sister, stepparent, or grandparent, without giving at least-~~ 319
~~forty eight hours constructive notice to that specified brother,~~ 320
~~sister, stepparent, or grandparent by both certified and-~~ 321
~~ordinary mail sent to the last known address of that specified-~~ 322
~~brother, sister, stepparent, or grandparent. The forty eight-~~ 323
~~hour period under this division begins when the certified mail-~~ 324
~~notice is mailed. If a parent, guardian, or custodian of the-~~ 325
~~woman, or if notification under division (B)(1)(a)(i) of this-~~ 326
~~section is to be given to a specified brother, sister,~~ 327
~~stepparent, or grandparent, the specified brother, sister,~~ 328
~~stepparent, or grandparent, is not reached within the forty-~~ 329
~~eight hour period, the abortion may proceed even if the-~~ 330
~~certified mail notice is not received.~~ 331

~~(3) If a parent, guardian, custodian, or specified-~~ 332
~~brother, sister, stepparent, or grandparent who has been-~~ 333
~~notified in accordance with division (B)(1) or (2) of this-~~ 334
~~section clearly and unequivocally expresses that he or she does-~~ 335
~~not wish to consult with a pregnant woman prior to her abortion,~~ 336
~~then the abortion may proceed without any further waiting-~~ 337
~~period.~~ 338

~~(4) For purposes of prosecutions for a violation of-~~ 339
~~division (B)(1) or (2) of this section, it shall be a rebuttable-~~ 340
~~presumption that a woman who is unmarried and under eighteen-~~ 341
~~years of age is unemancipated.~~ 342

~~(C) (1) It is an affirmative defense to a charge under 343
division (B) (1) or (2) of this section that the pregnant woman 344
provided the person who performed or induced the abortion with 345
false, misleading, or incorrect information about her age, 346
marital status, or emancipation, about the age of a brother or 347
sister to whom she requested notice be given as a specified 348
relative instead of to one of her parents, her guardian, or her 349
custodian, or about the last known address of either of her 350
parents, her guardian, her custodian, or a specified brother, 351
sister, stepparent, or grandparent to whom she requested notice 352
be given and the person who performed or induced the abortion 353
did not otherwise have reasonable cause to believe the pregnant 354
woman was under eighteen years of age, unmarried, or 355
unemancipated, to believe that the age of a brother or sister to 356
whom she requested notice be given as a specified relative 357
instead of to one of her parents, her guardian, or her custodian 358
was not twenty-one years of age, or to believe that the last 359
known address of either of her parents, her guardian, her 360
custodian, or a specified brother, sister, stepparent, or 361
grandparent to whom she requested notice be given was incorrect. 362~~

~~(2) It is an affirmative defense to a charge under this 363
section that compliance with the requirements of this section 364
was not possible because an immediate threat of serious risk to 365
the life or physical health of the pregnant woman from the 366
continuation of her pregnancy created an emergency necessitating 367
the immediate performance or inducement of an abortion. 368~~

~~(D) Whoever violates this section is guilty of unlawful 369
abortion. A violation of division (A) of this section is, a 370
misdemeanor of the first degree on the first offense and a 371
felony of the fourth degree on each subsequent offense. A 372
violation of division (B) of this section is a misdemeanor of 373~~

~~the first degree on a first offense and a felony of the fifth- 374
degree on each subsequent offense. 375~~

~~(E) (C) Whoever violates this section is liable to the 376
pregnant woman and her parents, guardian, or custodian for civil 377
compensatory and exemplary damages. 378~~

~~(F) As used in this section "unemancipated" means that a 379
woman who is unmarried and under eighteen years of age has not 380
entered the armed services of the United States, has not become 381
employed and self-sustaining, or has not otherwise become 382
independent from the care and control of her parent, guardian, 383
or custodian. 384~~

Sec. 2919.192. (A) If a person who intends to perform or 385
induce an abortion on a pregnant woman has determined, under 386
section 2919.191 of the Revised Code, that the unborn human 387
individual the pregnant woman is carrying has a detectable 388
heartbeat, the person shall not, except as provided in division 389
(B) of this section, perform or induce the abortion until all of 390
the following requirements have been met ~~and at least twenty-~~ 391
~~four hours have elapsed after the last of the requirements is-~~ 392
~~met:~~ 393

(1) The person intending to perform or induce the abortion 394
shall inform the pregnant woman in writing that the unborn human 395
individual the pregnant woman is carrying has a fetal heartbeat. 396

(2) The person intending to perform or induce the abortion 397
shall inform the pregnant woman, to the best of the person's 398
knowledge, of the statistical probability of bringing the unborn 399
human individual possessing a detectable fetal heartbeat to term 400
based on the gestational age of the unborn human individual or, 401
if the director of health has specified statistical probability 402

information pursuant to rules adopted under division (C) of this 403
section, shall provide to the pregnant woman that information. 404

(B) Division (A) of this section does not apply if the 405
person who intends to perform or induce the abortion believes 406
that a medical emergency exists that prevents compliance with 407
that division. 408

(C) The director of health may adopt rules that specify 409
information regarding the statistical probability of bringing an 410
unborn human individual possessing a detectable heartbeat to 411
term based on the gestational age of the unborn human 412
individual. The rules shall be based on available medical 413
evidence and shall be adopted in accordance with section 111.15 414
of the Revised Code. 415

(D) This section does not have the effect of repealing or 416
limiting any other provision of the Revised Code relating to 417
informed consent for an abortion, including the provisions in 418
section 2317.56 of the Revised Code. 419

(E) Whoever violates division (A) of this section is 420
guilty of performing or inducing an abortion without informed 421
consent when there is a detectable fetal heartbeat, a 422
misdemeanor of the first degree on a first offense and a felony 423
of the fourth degree on each subsequent offense. 424

Section 2. That existing sections 2317.56, 2919.12, and 425
2919.192 and section 2919.122 of the Revised Code are hereby 426
repealed. 427