

As Introduced

132nd General Assembly

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H. B. No. 258

Representatives Hagan, Hood

Cosponsors: Representatives Wiggam, Romanchuk, Ginter, Patton, Patmon, Lanese, Brinkman, Blessing, DeVitis, Roegner, Slaby, Henne, Butler, Antani, Merrin, Schuring, Retherford, Conditt, Keller, Zeltwanger, Stein, Young, Becker, Green, Brenner, Hambley, Kick, Householder, Perales, Dean, LaTourette, Schaffer, Koehler, Huffman, McColley, Riedel, Sprague, Vitale, Pelanda, Goodman, Johnson, Speaker Rosenberger, Representatives Smith, R., Thompson, Landis, Faber, Hill, Lipps

A BILL

To amend sections 2317.56, 2919.171, 2919.19,	1
2919.191, 2919.192, 2919.193, and 4731.22; to	2
amend, for the purpose of adopting new section	3
numbers as indicated in parentheses, sections	4
2919.191 (2919.192), 2919.192 (2919.194), and	5
2919.193 (2919.198); and to enact new sections	6
2919.191 and 2919.193 and sections 2919.195,	7
2919.196, 2919.197, 2919.199, 2919.1910, and	8
2919.1911 of the Revised Code to generally	9
prohibit an abortion of an unborn human	10
individual with a detectable heartbeat and to	11
create the Joint Legislative Committee on	12
Adoption Promotion and Support.	13

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

Section 1. That sections 2317.56, 2919.171, 2919.19, 14

2919.191, 2919.192, 2919.193, and 4731.22 be amended; sections 15
2919.191 (2919.192), 2919.192 (2919.194), and 2919.193 16
(2919.198) be amended for the purpose of adopting new section 17
numbers as shown in parentheses; and new sections 2919.191 and 18
2919.193 and sections 2919.195, 2919.196, 2919.197, 2919.199, 19
2919.1910, and 2919.1911 of the Revised Code be enacted to read 20
as follows: 21

Sec. 2317.56. (A) As used in this section: 22

(1) "Medical emergency" has the same meaning as in section 23
2919.16 of the Revised Code. 24

(2) "Medical necessity" means a medical condition of a 25
pregnant woman that, in the reasonable judgment of the physician 26
who is attending the woman, so complicates the pregnancy that it 27
necessitates the immediate performance or inducement of an 28
abortion. 29

(3) "Probable gestational age of the embryo or fetus" 30
means the gestational age that, in the judgment of a physician, 31
is, with reasonable probability, the gestational age of the 32
embryo or fetus at the time that the physician informs a 33
pregnant woman pursuant to division (B) (1) (b) of this section. 34

(B) Except when there is a medical emergency or medical 35
necessity, an abortion shall be performed or induced only if all 36
of the following conditions are satisfied: 37

(1) At least twenty-four hours prior to the performance or 38
inducement of the abortion, a physician meets with the pregnant 39
woman in person in an individual, private setting and gives her 40
an adequate opportunity to ask questions about the abortion that 41
will be performed or induced. At this meeting, the physician 42
shall inform the pregnant woman, verbally or, if she is hearing 43

impaired, by other means of communication, of all of the 44
following: 45

(a) The nature and purpose of the particular abortion 46
procedure to be used and the medical risks associated with that 47
procedure; 48

(b) The probable gestational age of the embryo or fetus; 49

(c) The medical risks associated with the pregnant woman 50
carrying the pregnancy to term. 51

The meeting need not occur at the facility where the 52
abortion is to be performed or induced, and the physician 53
involved in the meeting need not be affiliated with that 54
facility or with the physician who is scheduled to perform or 55
induce the abortion. 56

(2) At least twenty-four hours prior to the performance or 57
inducement of the abortion, the physician who is to perform or 58
induce the abortion or the physician's agent does each of the 59
following in person, by telephone, by certified mail, return 60
receipt requested, or by regular mail evidenced by a certificate 61
of mailing: 62

(a) Inform the pregnant woman of the name of the physician 63
who is scheduled to perform or induce the abortion; 64

(b) Give the pregnant woman copies of the published 65
materials described in division (C) of this section; 66

(c) Inform the pregnant woman that the materials given 67
pursuant to division (B) (2) (b) of this section are published by 68
the state and that they describe the embryo or fetus and list 69
agencies that offer alternatives to abortion. The pregnant woman 70
may choose to examine or not to examine the materials. A 71

physician or an agent of a physician may choose to be 72
disassociated from the materials and may choose to comment or 73
not comment on the materials. 74

(3) If it has been determined that the unborn human 75
individual the pregnant woman is carrying has a detectable fetal 76
heartbeat, the physician who is to perform or induce the 77
abortion shall comply with the informed consent requirements in 78
section ~~2919.192~~-2919.194 of the Revised Code in addition to 79
complying with the informed consent requirements in divisions 80
(B) (1), (2), (4), and (5) of this section. 81

(4) Prior to the performance or inducement of the 82
abortion, the pregnant woman signs a form consenting to the 83
abortion and certifies both of the following on that form: 84

(a) She has received the information and materials 85
described in divisions (B) (1) and (2) of this section, and her 86
questions about the abortion that will be performed or induced 87
have been answered in a satisfactory manner. 88

(b) She consents to the particular abortion voluntarily, 89
knowingly, intelligently, and without coercion by any person, 90
and she is not under the influence of any drug of abuse or 91
alcohol. 92

The form shall contain the name and contact information of 93
the physician who provided to the pregnant woman the information 94
described in division (B) (1) of this section. 95

(5) Prior to the performance or inducement of the 96
abortion, the physician who is scheduled to perform or induce 97
the abortion or the physician's agent receives a copy of the 98
pregnant woman's signed form on which she consents to the 99
abortion and that includes the certification required by 100

division (B) (4) of this section. 101

(C) The department of health shall publish in English and 102
in Spanish, in a typeface large enough to be clearly legible, 103
and in an easily comprehensible format, the following materials 104
on the department's web site: 105

(1) Materials that inform the pregnant woman about family 106
planning information, of publicly funded agencies that are 107
available to assist in family planning, and of public and 108
private agencies and services that are available to assist her 109
through the pregnancy, upon childbirth, and while the child is 110
dependent, including, but not limited to, adoption agencies. The 111
materials shall be geographically indexed; include a 112
comprehensive list of the available agencies, a description of 113
the services offered by the agencies, and the telephone numbers 114
and addresses of the agencies; and inform the pregnant woman 115
about available medical assistance benefits for prenatal care, 116
childbirth, and neonatal care and about the support obligations 117
of the father of a child who is born alive. The department shall 118
ensure that the materials described in division (C) (1) of this 119
section are comprehensive and do not directly or indirectly 120
promote, exclude, or discourage the use of any agency or service 121
described in this division. 122

(2) Materials that inform the pregnant woman of the 123
probable anatomical and physiological characteristics of the 124
zygote, blastocyte, embryo, or fetus at two-week gestational 125
increments for the first sixteen weeks of pregnancy and at four- 126
week gestational increments from the seventeenth week of 127
pregnancy to full term, including any relevant information 128
regarding the time at which the fetus possibly would be viable. 129
The department shall cause these materials to be published only 130

after it consults with the Ohio state medical association and 131
the Ohio section of the American college of obstetricians and 132
gynecologists relative to the probable anatomical and 133
physiological characteristics of a zygote, blastocyte, embryo, 134
or fetus at the various gestational increments. The materials 135
shall use language that is understandable by the average person 136
who is not medically trained, shall be objective and 137
nonjudgmental, and shall include only accurate scientific 138
information about the zygote, blastocyte, embryo, or fetus at 139
the various gestational increments. If the materials use a 140
pictorial, photographic, or other depiction to provide 141
information regarding the zygote, blastocyte, embryo, or fetus, 142
the materials shall include, in a conspicuous manner, a scale or 143
other explanation that is understandable by the average person 144
and that can be used to determine the actual size of the zygote, 145
blastocyte, embryo, or fetus at a particular gestational 146
increment as contrasted with the depicted size of the zygote, 147
blastocyte, embryo, or fetus at that gestational increment. 148

(D) Upon the submission of a request to the department of 149
health by any person, hospital, physician, or medical facility 150
for one copy of the materials published in accordance with 151
division (C) of this section, the department shall make the 152
requested copy of the materials available to the person, 153
hospital, physician, or medical facility that requested the 154
copy. 155

(E) If a medical emergency or medical necessity compels 156
the performance or inducement of an abortion, the physician who 157
will perform or induce the abortion, prior to its performance or 158
inducement if possible, shall inform the pregnant woman of the 159
medical indications supporting the physician's judgment that an 160
immediate abortion is necessary. Any physician who performs or 161

induces an abortion without the prior satisfaction of the 162
conditions specified in division (B) of this section because of 163
a medical emergency or medical necessity shall enter the reasons 164
for the conclusion that a medical emergency or medical necessity 165
exists in the medical record of the pregnant woman. 166

(F) If the conditions specified in division (B) of this 167
section are satisfied, consent to an abortion shall be presumed 168
to be valid and effective. 169

(G) The performance or inducement of an abortion without 170
the prior satisfaction of the conditions specified in division 171
(B) of this section does not constitute, and shall not be 172
construed as constituting, a violation of division (A) of 173
section 2919.12 of the Revised Code. The failure of a physician 174
to satisfy the conditions of division (B) of this section prior 175
to performing or inducing an abortion upon a pregnant woman may 176
be the basis of both of the following: 177

(1) A civil action for compensatory and exemplary damages 178
as described in division (H) of this section; 179

(2) Disciplinary action under section 4731.22 of the 180
Revised Code. 181

(H) (1) Subject to divisions (H) (2) and (3) of this 182
section, any physician who performs or induces an abortion with 183
actual knowledge that the conditions specified in division (B) 184
of this section have not been satisfied or with a heedless 185
indifference as to whether those conditions have been satisfied 186
is liable in compensatory and exemplary damages in a civil 187
action to any person, or the representative of the estate of any 188
person, who sustains injury, death, or loss to person or 189
property as a result of the failure to satisfy those conditions. 190

In the civil action, the court additionally may enter any 191
injunctive or other equitable relief that it considers 192
appropriate. 193

(2) The following shall be affirmative defenses in a civil 194
action authorized by division (H)(1) of this section: 195

(a) The physician performed or induced the abortion under 196
the circumstances described in division (E) of this section. 197

(b) The physician made a good faith effort to satisfy the 198
conditions specified in division (B) of this section. 199

(3) An employer or other principal is not liable in 200
damages in a civil action authorized by division (H)(1) of this 201
section on the basis of the doctrine of respondeat superior 202
unless either of the following applies: 203

(a) The employer or other principal had actual knowledge 204
or, by the exercise of reasonable diligence, should have known 205
that an employee or agent performed or induced an abortion with 206
actual knowledge that the conditions specified in division (B) 207
of this section had not been satisfied or with a heedless 208
indifference as to whether those conditions had been satisfied. 209

(b) The employer or other principal negligently failed to 210
secure the compliance of an employee or agent with division (B) 211
of this section. 212

(4) Notwithstanding division (E) of section 2919.12 of the 213
Revised Code, the civil action authorized by division (H)(1) of 214
this section shall be the exclusive civil remedy for persons, or 215
the representatives of estates of persons, who allegedly sustain 216
injury, death, or loss to person or property as a result of a 217
failure to satisfy the conditions specified in division (B) of 218
this section. 219

(I) The department of job and family services shall 220
prepare and conduct a public information program to inform women 221
of all available governmental programs and agencies that provide 222
services or assistance for family planning, prenatal care, child 223
care, or alternatives to abortion. 224

Sec. 2919.171. (A) (1) A physician who performs or induces 225
or attempts to perform or induce an abortion on a pregnant woman 226
shall submit a report to the department of health in accordance 227
with the forms, rules, and regulations adopted by the department 228
that includes all of the information the physician is required 229
to certify in writing or determine under ~~sections~~ section 230
2919.17~~and~~, section 2919.18, divisions (A) and (C) of section 231
2919.192, division (C) of section 2919.193, division (B) of 232
section 2919.195, or division (A) of section 2919.196 of the 233
Revised Code. 234

(2) If a person other than the physician described in 235
division (A) (1) of this section makes or maintains a record 236
required by sections 2919.192 to 2919.196 of the Revised Code on 237
the physician's behalf or at the physician's direction, that 238
person shall comply with the reporting requirement described in 239
division (A) (1) of this section as if the person were the 240
physician described in that division. 241

(B) By September 30 of each year, the department of health 242
shall issue a public report that provides statistics for the 243
previous calendar year compiled from all of the reports covering 244
that calendar year submitted to the department in accordance 245
with this section for each of the items listed in division (A) 246
of this section. The report shall also provide the statistics 247
for each previous calendar year in which a report was filed with 248
the department pursuant to this section, adjusted to reflect any 249

additional information that a physician provides to the 250
department in a late or corrected report. The department shall 251
ensure that none of the information included in the report could 252
reasonably lead to the identification of any pregnant woman upon 253
whom an abortion is performed. 254

(C) (1) The physician shall submit the report described in 255
division (A) of this section to the department of health within 256
fifteen days after the woman is discharged. If the physician 257
fails to submit the report more than thirty days after that 258
fifteen-day deadline, the physician shall be subject to a late 259
fee of five hundred dollars for each additional thirty-day 260
period or portion of a thirty-day period the report is overdue. 261
A physician who is required to submit to the department of 262
health a report under division (A) of this section and who has 263
not submitted a report or has submitted an incomplete report 264
more than one year following the fifteen-day deadline may, in an 265
action brought by the department of health, be directed by a 266
court of competent jurisdiction to submit a complete report to 267
the department of health within a period of time stated in a 268
court order or be subject to contempt of court. 269

(2) If a physician fails to comply with the requirements 270
of this section, other than filing a late report with the 271
department of health, or fails to submit a complete report to 272
the department of health in accordance with a court order, the 273
physician is subject to division (B) (44) of section 4731.22 of 274
the Revised Code. 275

(3) No person shall falsify any report required under this 276
section. Whoever violates this division is guilty of abortion 277
report falsification, a misdemeanor of the first degree. 278

(D) ~~Within ninety days of October 20, 2011, the~~ The 279

department of health shall adopt rules pursuant to section 280
111.15 of the Revised Code to assist in compliance with this 281
section. 282

Sec. 2919.19. (A) As used in this section and sections 283
2919.191 to ~~2919.193~~ 2919.1910 of the Revised Code: 284

~~(A)~~ (1) "Conception" means fertilization. 285

(2) "Contraceptive" means a drug, device, or chemical that 286
prevents conception. 287

(3) "DNA" means deoxyribonucleic acid. 288

(4) "Fetal heartbeat" means cardiac activity or the steady 289
and repetitive rhythmic contraction of the fetal heart within 290
the gestational sac. 291

~~(B)~~ (5) "Fetus" means the human offspring developing 292
during pregnancy from the moment of conception and includes the 293
embryonic stage of development. 294

~~(C)~~ (6) "Gestational age" means the age of an unborn human 295
individual as calculated from the first day of the last 296
menstrual period of a pregnant woman. 297

~~(D)~~ (7) "Gestational sac" means the structure that 298
comprises the extraembryonic membranes that envelop the fetus 299
and that is typically visible by ultrasound after the fourth 300
week of pregnancy. 301

~~(E)~~ (8) "Intrauterine pregnancy" means a pregnancy in 302
which the fetus is attached to the placenta within the uterus of 303
the pregnant woman. 304

(9) "Medical emergency" has the same meaning as in section 305
2919.16 of the Revised Code. 306

~~(F)~~ (10) "Physician" has the same meaning as in section 307
2305.113 of the Revised Code. 308

~~(G)~~ (11) "Pregnancy" means the human female reproductive 309
condition that begins with fertilization, when the woman is 310
carrying the developing human offspring, and that is calculated 311
from the first day of the last menstrual period of the woman. 312

~~(H)~~ (12) "Serious risk of the substantial and irreversible 313
impairment of a major bodily function" has the same meaning as 314
in section 2919.16 of the Revised Code. 315

~~(I)~~ (13) "Spontaneous miscarriage" means the natural or 316
accidental termination of a pregnancy and the expulsion of the 317
fetus, typically caused by genetic defects in the fetus or 318
physical abnormalities in the pregnant woman. 319

(14) "Standard medical practice" means the degree of 320
skill, care, and diligence that a physician of the same medical 321
specialty would employ in like circumstances. As applied to the 322
method used to determine the presence of a fetal heartbeat for 323
purposes of section ~~2919.191~~ 2919.192 of the Revised Code, 324
"standard medical practice" includes employing the appropriate 325
means of detection depending on the estimated gestational age of 326
the fetus and the condition of the woman and her pregnancy. 327

~~(J)~~ (15) "Unborn human individual" means an individual 328
organism of the species homo sapiens from fertilization until 329
live birth. 330

(B) (1) It is the intent of the general assembly that a 331
court judgment or order suspending enforcement of any provision 332
of this section or sections 2919.171 or 2919.191 to 2919.1910 of 333
the Revised Code is not to be regarded as tantamount to repeal 334
of that provision. 335

(2) After the issuance of a decision by the supreme court 336
of the United States overruling Roe v. Wade, 410 U.S. 113 337
(1973), the issuance of any other court order or judgment 338
restoring, expanding, or clarifying the authority of states to 339
prohibit or regulate abortion entirely or in part, or the 340
effective date of an amendment to the Constitution of the United 341
States restoring, expanding, or clarifying the authority of 342
states to prohibit or regulate abortion entirely or in part, the 343
attorney general may apply to the pertinent state or federal 344
court for either or both of the following: 345

(a) A declaration that any one or more sections specified 346
in division (B) (1) of this section are constitutional; 347

(b) A judgment or order lifting an injunction against the 348
enforcement of any one or more sections specified in division 349
(B) (1) of this section. 350

(3) If the attorney general fails to apply for the relief 351
described in division (B) (2) of this section within the thirty- 352
day period after an event described in that division occurs, any 353
county prosecutor may apply to the appropriate state or federal 354
court for such relief. 355

(4) If any provision of this section or sections 2919.171 356
or 2919.191 to 2919.1910 of the Revised Code is held invalid, or 357
if the application of such provision to any person or 358
circumstance is held invalid, the invalidity of that provision 359
does not affect any other provisions or applications of this 360
section and sections 2919.171 and 2919.191 to 2919.1910 of the 361
Revised Code that can be given effect without the invalid 362
provision or application, and to this end the provisions of this 363
section and sections 2919.171 and 2919.191 to 2919.1910 of the 364
Revised Code are severable as provided in section 1.50 of the 365

Revised Code. In particular, it is the intent of the general 366
assembly that any invalidity or potential invalidity of a 367
provision of this section or sections 2919.171 or 2919.191 to 368
2919.1910 of the Revised Code is not to impair the immediate and 369
continuing enforceability of the remaining provisions. It is 370
furthermore the intent of the general assembly that the 371
provisions of this section and sections 2919.171 or 2919.191 to 372
2919.1910 of the Revised Code are not to have the effect of 373
repealing or limiting any other laws of this state, except as 374
specified by this section and sections 2919.171 and 2919.191 to 375
2919.1910 of the Revised Code. 376

Sec. 2919.191. (A) The general assembly hereby declares 377
that it finds, according to contemporary medical research, all 378
of the following: 379

(1) As many as thirty per cent of natural pregnancies end 380
in spontaneous miscarriage. 381

(2) Less than five per cent of all natural pregnancies end 382
in spontaneous miscarriage after detection of fetal cardiac 383
activity. 384

(3) Over ninety per cent of in vitro pregnancies survive 385
the first trimester if cardiac activity is detected in the 386
gestational sac. 387

(4) Nearly ninety per cent of in vitro pregnancies do not 388
survive the first trimester where cardiac activity is not 389
detected in the gestational sac. 390

(5) Fetal heartbeat, therefore, has become a key medical 391
predictor that an unborn human individual will reach live birth. 392

(6) Cardiac activity begins at a biologically identifiable 393
moment in time, normally when the fetal heart is formed in the 394

gestational sac.

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(7) The state of Ohio has legitimate interests from the
outset of the pregnancy in protecting the health of the woman
and the life of an unborn human individual who may be born.

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(8) In order to make an informed choice about whether to
continue her pregnancy, the pregnant woman has a legitimate
interest in knowing the likelihood of the fetus surviving to
full-term birth based upon the presence of cardiac activity.

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(B) Sections 2919.192 to 2919.195 of the Revised Code
apply only to intrauterine pregnancies.

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Sec. 2919.191-2919.192. (A) A person who intends to
perform or induce an abortion on a pregnant woman shall
determine whether there is a detectable fetal heartbeat of the
unborn human individual the pregnant woman is carrying. The
method of determining the presence of a fetal heartbeat shall be
consistent with the person's good faith understanding of
standard medical practice, provided that if rules have been
adopted under division ~~(C)~~ (B) of this section, the method
chosen shall be one that is consistent with the rules. The
person who determines the presence or absence of a fetal
heartbeat shall record in the pregnant woman's medical record
the estimated gestational age of the unborn human individual,
the method used to test for a fetal heartbeat, the date and time
of the test, and the results of the test.

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~~(B) (1) Except when a medical emergency exists that~~
~~prevents compliance with this division, no person shall perform~~
~~or induce an abortion on a pregnant woman prior to determining~~
~~if the unborn human individual the pregnant woman is carrying~~
~~has a detectable fetal heartbeat. Any person who performs or~~

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~~induces an abortion on a pregnant woman based on the exception— 424~~
~~in this division shall note in the pregnant woman's medical— 425~~
~~records that a medical emergency necessitating the abortion— 426~~
~~existed and shall also note the medical condition of the— 427~~
~~pregnant woman that prevented compliance with this division. The— 428~~
~~person shall maintain a copy of the notes described in this— 429~~
~~division in the person's own records for at least seven years— 430~~
~~after the notes are entered into the medical records. 431~~

~~(2)~~—The person who performs the examination for the 432
presence of a fetal heartbeat shall give the pregnant woman the 433
option to view or hear the fetal heartbeat. 434

~~(C)~~—(B) The director of health may ~~promulgate~~ adopt rules 435
pursuant to section 111.15 of the Revised Code specifying the 436
appropriate methods of performing an examination for the purpose 437
of determining the presence of a fetal heartbeat of an unborn 438
individual based on standard medical practice. The rules shall 439
require only that an examination shall be performed externally. 440

~~(D)~~—(C) A person is not in violation of division (A) ~~or— 441~~
~~(B)~~—of this section if that person has performed an examination 442
for the purpose of determining the presence of a fetal heartbeat 443
~~in the fetus of an unborn human individual~~ utilizing standard 444
medical practice, that examination does not reveal a fetal 445
heartbeat or the person has been informed by a physician who has 446
performed the examination for a fetal heartbeat that the 447
examination did not reveal a fetal heartbeat, and the person 448
notes in the pregnant woman's medical records the procedure 449
utilized to detect the presence of a fetal heartbeat. 450

~~(E)~~ ~~Except as provided in division (F) of this section, no— 451~~
~~person shall knowingly and purposefully perform or induce an— 452~~
~~abortion on a pregnant woman before determining in accordance— 453~~

~~with division (A) of this section whether the unborn human individual the pregnant woman is carrying has a detectable heartbeat. The failure of a person to satisfy the requirements of this section prior to performing or inducing an abortion on a pregnant woman may be the basis for either of the following:~~

~~(1) A civil action for compensatory and exemplary damages;~~

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

~~(F) Division (E) of this section does not apply to a physician who performs or induces the abortion if the physician believes that a medical emergency exists that prevents compliance with that division.~~

~~(G) The director of health may determine and specify in rules adopted pursuant to section 111.15 of the Revised Code and based upon available medical evidence the statistical probability of bringing an unborn human individual to term based on the gestational age of an unborn human individual who possesses a detectable fetal heartbeat.~~

~~(H) A woman on whom an abortion is performed in violation of division (B) of this section or division (B) (3) of section 2317.56 of the Revised Code may file a civil action for the wrongful death of the woman's unborn child and may receive at the mother's election at any time prior to final judgment damages in an amount equal to ten thousand dollars or an amount determined by the trier of fact after consideration of the evidence subject to the same defenses and requirements of proof, except any requirement of live birth, as would apply to a suit for the wrongful death of a child who had been born alive.~~

Sec. 2919.193. (A) Except as provided in division (B) of

this section, no person shall knowingly and purposefully perform 483
or induce an abortion on a pregnant woman before determining in 484
accordance with division (A) of section 2919.192 of the Revised 485
Code whether the unborn human individual the pregnant woman is 486
carrying has a detectable heartbeat. 487

Whoever violates this division is guilty of performing or 488
inducing an abortion before determining whether there is a 489
detectable fetal heartbeat, a felony of the fifth degree. A 490
violation of this division may also be the basis of either of 491
the following: 492

(1) A civil action for compensatory and exemplary damages; 493

(2) Disciplinary action under section 4731.22 of the 494
Revised Code. 495

(B) Division (A) of this section does not apply to a 496
physician who performs or induces the abortion if the physician 497
believes that a medical emergency exists that prevents 498
compliance with that division. 499

(C) A physician who performs or induces an abortion on a 500
pregnant woman based on the exception in division (B) of this 501
section shall make written notations in the pregnant woman's 502
medical records of both of the following: 503

(1) The physician's belief that a medical emergency 504
necessitating the abortion existed; 505

(2) The medical condition of the pregnant woman that 506
assertedly prevented compliance with division (A) of this 507
section. 508

For at least seven years from the date the notations are 509
made, the physician shall maintain in the physician's own 510

records a copy of the notations.

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(D) A person is not in violation of division (A) of this
section if the person acts in accordance with division (A) of
section 2919.192 of the Revised Code and the method used to
determine the presence of a fetal heartbeat does not reveal a
fetal heartbeat.

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Sec. ~~2919.192~~ 2919.194. (A) If a person who intends to
perform or induce an abortion on a pregnant woman has
determined, under section ~~2919.191~~ 2919.192 of the Revised Code,
that the unborn human individual the pregnant woman is carrying
has a detectable heartbeat, the person shall not, except as
provided in division (B) of this section, perform or induce the
abortion until all of the following requirements have been met
and at least twenty-four hours have elapsed after the last of
the requirements is met:

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

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(2) The person intending to perform or induce the abortion
shall inform the pregnant woman, to the best of the person's
knowledge, of the statistical probability of bringing the unborn
human individual possessing a detectable fetal heartbeat to term
based on the gestational age of the unborn human individual the
pregnant woman is carrying or, if the director of health has
specified statistical probability information pursuant to rules
adopted under division (C) of this section, shall provide to the
pregnant woman that information.

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(3) The pregnant woman shall sign a form acknowledging
that the pregnant woman has received information from the person

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intending to perform or induce the abortion that the unborn 540
human individual the pregnant woman is carrying has a fetal 541
heartbeat and that the pregnant woman is aware of the 542
statistical probability of bringing the unborn human individual 543
the pregnant woman is carrying to term. 544

(B) Division (A) of this section does not apply if the 545
person who intends to perform or induce the abortion believes 546
that a medical emergency exists that prevents compliance with 547
that division. 548

(C) The director of health may adopt rules that specify 549
information regarding the statistical probability of bringing an 550
unborn human individual possessing a detectable heartbeat to 551
term based on the gestational age of the unborn human 552
individual. The rules shall be based on available medical 553
evidence and shall be adopted in accordance with section 111.15 554
of the Revised Code. 555

(D) This section does not have the effect of repealing or 556
limiting any other provision of the Revised Code relating to 557
informed consent for an abortion, including the provisions in 558
section 2317.56 of the Revised Code. 559

(E) Whoever violates division (A) of this section is 560
guilty of performing or inducing an abortion without informed 561
consent when there is a detectable fetal heartbeat, a 562
misdemeanor of the first degree on a first offense and a felony 563
of the fourth degree on each subsequent offense. 564

Sec. 2919.195. (A) Except as provided in division (B) of 565
this section, no person shall knowingly and purposefully perform 566
or induce an abortion on a pregnant woman with the specific 567
intent of causing or abetting the termination of the life of the 568

unborn human individual the pregnant woman is carrying and whose 569
fetal heartbeat has been detected in accordance with division 570
(A) of section 2919.192 of the Revised Code. 571

Whoever violates this division is guilty of performing or 572
inducing an abortion after the detection of a fetal heartbeat, a 573
felony of the fifth degree. 574

(B) Division (A) of this section does not apply to a 575
physician who performs a medical procedure that, in the 576
physician's reasonable medical judgment, is designed or intended 577
to prevent the death of the pregnant woman or to prevent a 578
serious risk of the substantial and irreversible impairment of a 579
major bodily function of the pregnant woman. 580

A physician who performs a medical procedure as described 581
in this division shall declare, in a written document, that the 582
medical procedure is necessary, to the best of the physician's 583
reasonable medical judgment, to prevent the death of the 584
pregnant woman or to prevent a serious risk of the substantial 585
and irreversible impairment of a major bodily function of the 586
pregnant woman. In the document, the physician shall specify the 587
pregnant woman's medical condition that the medical procedure is 588
asserted to address and the medical rationale for the 589
physician's conclusion that the medical procedure is necessary 590
to prevent the death of the pregnant woman or to prevent a 591
serious risk of the substantial and irreversible impairment of a 592
major bodily function of the pregnant woman. 593

A physician who performs a medical procedure as described 594
in this division shall place the written document required by 595
this division in the pregnant woman's medical records. The 596
physician shall maintain a copy of the document in the 597
physician's own records for at least seven years from the date 598

the document is created.

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(C) A person is not in violation of division (A) of this
section if the person acts in accordance with division (A) of
section 2919.192 of the Revised Code and the method used to
determine the presence of a fetal heartbeat does not reveal a
fetal heartbeat.

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(D) Division (A) of this section does not have the effect
of repealing or limiting any other provision of the Revised Code
that restricts or regulates the performance or inducement of an
abortion by a particular method or during a particular stage of
a pregnancy.

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Sec. 2919.196. The provisions of this section are wholly
independent of the requirements of sections 2919.192 to 2919.195
of the Revised Code.

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(A) A person who performs or induces an abortion on a
pregnant woman shall do whichever of the following is
applicable:

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(1) If the reason for the abortion purported is to
preserve the health of the pregnant woman, the person shall
specify in a written document the medical condition that the
abortion is asserted to address and the medical rationale for
the person's conclusion that the abortion is necessary to
address that condition.

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(2) If the reason for the abortion is other than to
preserve the health of the pregnant woman, the person shall
specify in a written document that maternal health is not the
purpose of the abortion.

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(B) The person who specifies the information in the
document described in division (A) of this section shall place

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the document in the pregnant woman's medical records. The person 628
who specifies the information shall maintain a copy of the 629
document in the person's own records for at least seven years 630
from the date the document is created. 631

Sec. 2919.197. Nothing in sections 2919.19 to 2919.196 of 632
the Revised Code prohibits the sale, use, prescription, or 633
administration of a drug, device, or chemical that is designed 634
for contraceptive purposes. 635

Sec. 2919.193-2919.198. A pregnant woman on whom an 636
abortion is performed or induced in violation of section 637
2919.191 or 2919.192-2919.193, 2919.194, or 2919.195 of the 638
Revised Code is not guilty of violating any of those sections; 639
is not guilty of attempting to commit, conspiring to commit, or 640
complicity in committing a violation of any of those sections; 641
and is not subject to a civil penalty based on the abortion 642
being performed or induced in violation of any of those 643
sections. 644

Sec. 2919.199. (A) A woman who meets either or both of the 645
following criteria may file a civil action for the wrongful 646
death of her unborn child: 647

(1) A woman on whom an abortion was performed or induced 648
in violation of division (A) of section 2919.193 or division (A) 649
of section 2919.195 of the Revised Code; 650

(2) A woman on whom an abortion was performed or induced 651
who was not given the information described in divisions (A)(1) 652
and (2) of section 2919.194 of the Revised Code or who did not 653
sign a form described in division (A)(3) of section 2919.194 of 654
the Revised code. 655

(B) A woman who prevails in an action filed under division 656

(A) of this section shall receive both of the following from the 657
person who committed the one or more acts described in division 658
(A) (1) or (2) of this section: 659

(1) Damages in an amount equal to ten thousand dollars or 660
an amount determined by the trier of fact after consideration of 661
the evidence at the mother's election at any time prior to final 662
judgment subject to the same defenses and requirements of proof, 663
except any requirement of live birth, as would apply to a suit 664
for the wrongful death of a child who had been born alive; 665

(2) Court costs and reasonable attorney's fees. 666

(C) A determination that division (A) of section 2919.193 667
of the Revised Code, division (A) (1), (2), or (3) of section 668
2919.194 of the Revised Code, or division (A) of section 669
2919.195 of the Revised Code is unconstitutional shall be a 670
defense to an action filed under division (A) of this section 671
alleging that the defendant violated the division that was 672
determined to be unconstitutional. 673

(D) If the defendant in an action filed under division (A) 674
of this section prevails and all of the following apply the 675
court shall award reasonable attorney's fees to the defendant in 676
accordance with section 2323.51 of the Revised Code: 677

(1) The court finds that the commencement of the action 678
constitutes frivolous conduct, as defined in section 2323.51 of 679
the Revised Code. 680

(2) The court's finding in division (D) (1) of this section 681
is not based on that court or another court determining that 682
division (A) of section 2919.193 of the Revised Code, division 683
(A) (1), (2), or (3) of section 2919.194 of the Revised Code, or 684
division (A) of section 2919.195 of the Revised Code is 685

unconstitutional. 686

(3) The court finds that the defendant was adversely 687
affected by the frivolous conduct. 688

Sec. 2919.1910. (A) It is the intent of the general 689
assembly that women whose pregnancies are protected under 690
division (A) of section 2919.195 of the Revised Code be informed 691
of available options for adoption. 692

(B) In furtherance of the intent expressed in division (A) 693
of this section, there is hereby created the joint legislative 694
committee on adoption promotion and support. The committee may 695
review or study any matter that it considers relevant to the 696
adoption process in this state, with priority given to the study 697
or review of mechanisms intended to increase awareness of the 698
process, increase its effectiveness, or both. 699

(C) The committee shall consist of three members of the 700
house of representatives appointed by the speaker of the house 701
of representatives and three members of the senate appointed by 702
the president of the senate. Not more than two members appointed 703
by the speaker of the house of representatives and not more than 704
two members appointed by the president of the senate may be of 705
the same political party. 706

Each member of the committee shall hold office during the 707
general assembly in which the member is appointed and until a 708
successor has been appointed, notwithstanding the adjournment 709
sine die of the general assembly in which the member was 710
appointed or the expiration of the member's term as a member of 711
the general assembly. Any vacancies occurring among the members 712
of the committee shall be filled in the manner of the original 713
appointment. 714

(D) The committee has the same powers as other standing or 715
select committees of the general assembly. 716

Sec. 2919.1911. The department of health shall inspect the 717
medical records from any facility that performs abortions to 718
ensure that the physicians or other persons who perform 719
abortions at that facility are in compliance with the reporting 720
requirements under section 2919.171 of the Revised Code. The 721
facility shall make the medical records available for inspection 722
to the department of health but shall not release any personal 723
medical information in the medical records that is prohibited by 724
law. 725

Sec. 4731.22. (A) The state medical board, by an 726
affirmative vote of not fewer than six of its members, may 727
limit, revoke, or suspend an individual's certificate to 728
practice or certificate to recommend, refuse to grant a 729
certificate to an individual, refuse to renew a certificate, 730
refuse to reinstate a certificate, or reprimand or place on 731
probation the holder of a certificate if the individual or 732
certificate holder is found by the board to have committed fraud 733
during the administration of the examination for a certificate 734
to practice or to have committed fraud, misrepresentation, or 735
deception in applying for, renewing, or securing any certificate 736
to practice or certificate to recommend issued by the board. 737

(B) The board, by an affirmative vote of not fewer than 738
six members, shall, to the extent permitted by law, limit, 739
revoke, or suspend an individual's certificate to practice or 740
certificate to recommend, refuse to issue a certificate to an 741
individual, refuse to renew a certificate, refuse to reinstate a 742
certificate, or reprimand or place on probation the holder of a 743
certificate for one or more of the following reasons: 744

(1) Permitting one's name or one's certificate to practice 745
to be used by a person, group, or corporation when the 746
individual concerned is not actually directing the treatment 747
given; 748

(2) Failure to maintain minimal standards applicable to 749
the selection or administration of drugs, or failure to employ 750
acceptable scientific methods in the selection of drugs or other 751
modalities for treatment of disease; 752

(3) Except as provided in section 4731.97 of the Revised 753
Code, selling, giving away, personally furnishing, prescribing, 754
or administering drugs for other than legal and legitimate 755
therapeutic purposes or a plea of guilty to, a judicial finding 756
of guilt of, or a judicial finding of eligibility for 757
intervention in lieu of conviction of, a violation of any 758
federal or state law regulating the possession, distribution, or 759
use of any drug; 760

(4) Willfully betraying a professional confidence. 761

For purposes of this division, "willfully betraying a 762
professional confidence" does not include providing any 763
information, documents, or reports under sections 307.621 to 764
307.629 of the Revised Code to a child fatality review board; 765
does not include providing any information, documents, or 766
reports to the director of health pursuant to guidelines 767
established under section 3701.70 of the Revised Code; does not 768
include written notice to a mental health professional under 769
section 4731.62 of the Revised Code; and does not include the 770
making of a report of an employee's use of a drug of abuse, or a 771
report of a condition of an employee other than one involving 772
the use of a drug of abuse, to the employer of the employee as 773
described in division (B) of section 2305.33 of the Revised 774

Code. Nothing in this division affects the immunity from civil 775
liability conferred by section 2305.33 or 4731.62 of the Revised 776
Code upon a physician who makes a report in accordance with 777
section 2305.33 or notifies a mental health professional in 778
accordance with section 4731.62 of the Revised Code. As used in 779
this division, "employee," "employer," and "physician" have the 780
same meanings as in section 2305.33 of the Revised Code. 781

(5) Making a false, fraudulent, deceptive, or misleading 782
statement in the solicitation of or advertising for patients; in 783
relation to the practice of medicine and surgery, osteopathic 784
medicine and surgery, podiatric medicine and surgery, or a 785
limited branch of medicine; or in securing or attempting to 786
secure any certificate to practice issued by the board. 787

As used in this division, "false, fraudulent, deceptive, 788
or misleading statement" means a statement that includes a 789
misrepresentation of fact, is likely to mislead or deceive 790
because of a failure to disclose material facts, is intended or 791
is likely to create false or unjustified expectations of 792
favorable results, or includes representations or implications 793
that in reasonable probability will cause an ordinarily prudent 794
person to misunderstand or be deceived. 795

(6) A departure from, or the failure to conform to, 796
minimal standards of care of similar practitioners under the 797
same or similar circumstances, whether or not actual injury to a 798
patient is established; 799

(7) Representing, with the purpose of obtaining 800
compensation or other advantage as personal gain or for any 801
other person, that an incurable disease or injury, or other 802
incurable condition, can be permanently cured; 803

(8) The obtaining of, or attempting to obtain, money or 804
anything of value by fraudulent misrepresentations in the course 805
of practice; 806

(9) A plea of guilty to, a judicial finding of guilt of, 807
or a judicial finding of eligibility for intervention in lieu of 808
conviction for, a felony; 809

(10) Commission of an act that constitutes a felony in 810
this state, regardless of the jurisdiction in which the act was 811
committed; 812

(11) A plea of guilty to, a judicial finding of guilt of, 813
or a judicial finding of eligibility for intervention in lieu of 814
conviction for, a misdemeanor committed in the course of 815
practice; 816

(12) Commission of an act in the course of practice that 817
constitutes a misdemeanor in this state, regardless of the 818
jurisdiction in which the act was committed; 819

(13) A plea of guilty to, a judicial finding of guilt of, 820
or a judicial finding of eligibility for intervention in lieu of 821
conviction for, a misdemeanor involving moral turpitude; 822

(14) Commission of an act involving moral turpitude that 823
constitutes a misdemeanor in this state, regardless of the 824
jurisdiction in which the act was committed; 825

(15) Violation of the conditions of limitation placed by 826
the board upon a certificate to practice; 827

(16) Failure to pay license renewal fees specified in this 828
chapter; 829

(17) Except as authorized in section 4731.31 of the 830
Revised Code, engaging in the division of fees for referral of 831

patients, or the receiving of a thing of value in return for a 832
specific referral of a patient to utilize a particular service 833
or business; 834

(18) Subject to section 4731.226 of the Revised Code, 835
violation of any provision of a code of ethics of the American 836
medical association, the American osteopathic association, the 837
American podiatric medical association, or any other national 838
professional organizations that the board specifies by rule. The 839
state medical board shall obtain and keep on file current copies 840
of the codes of ethics of the various national professional 841
organizations. The individual whose certificate is being 842
suspended or revoked shall not be found to have violated any 843
provision of a code of ethics of an organization not appropriate 844
to the individual's profession. 845

For purposes of this division, a "provision of a code of 846
ethics of a national professional organization" does not include 847
any provision that would preclude the making of a report by a 848
physician of an employee's use of a drug of abuse, or of a 849
condition of an employee other than one involving the use of a 850
drug of abuse, to the employer of the employee as described in 851
division (B) of section 2305.33 of the Revised Code. Nothing in 852
this division affects the immunity from civil liability 853
conferred by that section upon a physician who makes either type 854
of report in accordance with division (B) of that section. As 855
used in this division, "employee," "employer," and "physician" 856
have the same meanings as in section 2305.33 of the Revised 857
Code. 858

(19) Inability to practice according to acceptable and 859
prevailing standards of care by reason of mental illness or 860
physical illness, including, but not limited to, physical 861

deterioration that adversely affects cognitive, motor, or 862
perceptive skills. 863

In enforcing this division, the board, upon a showing of a 864
possible violation, may compel any individual authorized to 865
practice by this chapter or who has submitted an application 866
pursuant to this chapter to submit to a mental examination, 867
physical examination, including an HIV test, or both a mental 868
and a physical examination. The expense of the examination is 869
the responsibility of the individual compelled to be examined. 870
Failure to submit to a mental or physical examination or consent 871
to an HIV test ordered by the board constitutes an admission of 872
the allegations against the individual unless the failure is due 873
to circumstances beyond the individual's control, and a default 874
and final order may be entered without the taking of testimony 875
or presentation of evidence. If the board finds an individual 876
unable to practice because of the reasons set forth in this 877
division, the board shall require the individual to submit to 878
care, counseling, or treatment by physicians approved or 879
designated by the board, as a condition for initial, continued, 880
reinstated, or renewed authority to practice. An individual 881
affected under this division shall be afforded an opportunity to 882
demonstrate to the board the ability to resume practice in 883
compliance with acceptable and prevailing standards under the 884
provisions of the individual's certificate. For the purpose of 885
this division, any individual who applies for or receives a 886
certificate to practice under this chapter accepts the privilege 887
of practicing in this state and, by so doing, shall be deemed to 888
have given consent to submit to a mental or physical examination 889
when directed to do so in writing by the board, and to have 890
waived all objections to the admissibility of testimony or 891
examination reports that constitute a privileged communication. 892

(20) Except when civil penalties are imposed under section 893
4731.225 or 4731.282 of the Revised Code, and subject to section 894
4731.226 of the Revised Code, violating or attempting to 895
violate, directly or indirectly, or assisting in or abetting the 896
violation of, or conspiring to violate, any provisions of this 897
chapter or any rule promulgated by the board. 898

This division does not apply to a violation or attempted 899
violation of, assisting in or abetting the violation of, or a 900
conspiracy to violate, any provision of this chapter or any rule 901
adopted by the board that would preclude the making of a report 902
by a physician of an employee's use of a drug of abuse, or of a 903
condition of an employee other than one involving the use of a 904
drug of abuse, to the employer of the employee as described in 905
division (B) of section 2305.33 of the Revised Code. Nothing in 906
this division affects the immunity from civil liability 907
conferred by that section upon a physician who makes either type 908
of report in accordance with division (B) of that section. As 909
used in this division, "employee," "employer," and "physician" 910
have the same meanings as in section 2305.33 of the Revised 911
Code. 912

(21) The violation of section 3701.79 of the Revised Code 913
or of any abortion rule adopted by the director of health 914
pursuant to section 3701.341 of the Revised Code; 915

(22) Any of the following actions taken by an agency 916
responsible for authorizing, certifying, or regulating an 917
individual to practice a health care occupation or provide 918
health care services in this state or another jurisdiction, for 919
any reason other than the nonpayment of fees: the limitation, 920
revocation, or suspension of an individual's license to 921
practice; acceptance of an individual's license surrender; 922

denial of a license; refusal to renew or reinstate a license; 923
imposition of probation; or issuance of an order of censure or 924
other reprimand; 925

(23) The violation of section 2919.12 of the Revised Code 926
or the performance or inducement of an abortion upon a pregnant 927
woman with actual knowledge that the conditions specified in 928
division (B) of section 2317.56 of the Revised Code have not 929
been satisfied or with a heedless indifference as to whether 930
those conditions have been satisfied, unless an affirmative 931
defense as specified in division (H) (2) of that section would 932
apply in a civil action authorized by division (H) (1) of that 933
section; 934

(24) The revocation, suspension, restriction, reduction, 935
or termination of clinical privileges by the United States 936
department of defense or department of veterans affairs or the 937
termination or suspension of a certificate of registration to 938
prescribe drugs by the drug enforcement administration of the 939
United States department of justice; 940

(25) Termination or suspension from participation in the 941
medicare or medicaid programs by the department of health and 942
human services or other responsible agency for any act or acts 943
that also would constitute a violation of division (B) (2), (3), 944
(6), (8), or (19) of this section; 945

(26) Impairment of ability to practice according to 946
acceptable and prevailing standards of care because of habitual 947
or excessive use or abuse of drugs, alcohol, or other substances 948
that impair ability to practice. 949

For the purposes of this division, any individual 950
authorized to practice by this chapter accepts the privilege of 951

practicing in this state subject to supervision by the board. By 952
filing an application for or holding a certificate to practice 953
under this chapter, an individual shall be deemed to have given 954
consent to submit to a mental or physical examination when 955
ordered to do so by the board in writing, and to have waived all 956
objections to the admissibility of testimony or examination 957
reports that constitute privileged communications. 958

If it has reason to believe that any individual authorized 959
to practice by this chapter or any applicant for certification 960
to practice suffers such impairment, the board may compel the 961
individual to submit to a mental or physical examination, or 962
both. The expense of the examination is the responsibility of 963
the individual compelled to be examined. Any mental or physical 964
examination required under this division shall be undertaken by 965
a treatment provider or physician who is qualified to conduct 966
the examination and who is chosen by the board. 967

Failure to submit to a mental or physical examination 968
ordered by the board constitutes an admission of the allegations 969
against the individual unless the failure is due to 970
circumstances beyond the individual's control, and a default and 971
final order may be entered without the taking of testimony or 972
presentation of evidence. If the board determines that the 973
individual's ability to practice is impaired, the board shall 974
suspend the individual's certificate or deny the individual's 975
application and shall require the individual, as a condition for 976
initial, continued, reinstated, or renewed certification to 977
practice, to submit to treatment. 978

Before being eligible to apply for reinstatement of a 979
certificate suspended under this division, the impaired 980
practitioner shall demonstrate to the board the ability to 981

resume practice in compliance with acceptable and prevailing 982
standards of care under the provisions of the practitioner's 983
certificate. The demonstration shall include, but shall not be 984
limited to, the following: 985

(a) Certification from a treatment provider approved under 986
section 4731.25 of the Revised Code that the individual has 987
successfully completed any required inpatient treatment; 988

(b) Evidence of continuing full compliance with an 989
aftercare contract or consent agreement; 990

(c) Two written reports indicating that the individual's 991
ability to practice has been assessed and that the individual 992
has been found capable of practicing according to acceptable and 993
prevailing standards of care. The reports shall be made by 994
individuals or providers approved by the board for making the 995
assessments and shall describe the basis for their 996
determination. 997

The board may reinstate a certificate suspended under this 998
division after that demonstration and after the individual has 999
entered into a written consent agreement. 1000

When the impaired practitioner resumes practice, the board 1001
shall require continued monitoring of the individual. The 1002
monitoring shall include, but not be limited to, compliance with 1003
the written consent agreement entered into before reinstatement 1004
or with conditions imposed by board order after a hearing, and, 1005
upon termination of the consent agreement, submission to the 1006
board for at least two years of annual written progress reports 1007
made under penalty of perjury stating whether the individual has 1008
maintained sobriety. 1009

(27) A second or subsequent violation of section 4731.66 1010

or 4731.69 of the Revised Code; 1011

(28) Except as provided in division (N) of this section: 1012

(a) Waiving the payment of all or any part of a deductible 1013
or copayment that a patient, pursuant to a health insurance or 1014
health care policy, contract, or plan that covers the 1015
individual's services, otherwise would be required to pay if the 1016
waiver is used as an enticement to a patient or group of 1017
patients to receive health care services from that individual; 1018

(b) Advertising that the individual will waive the payment 1019
of all or any part of a deductible or copayment that a patient, 1020
pursuant to a health insurance or health care policy, contract, 1021
or plan that covers the individual's services, otherwise would 1022
be required to pay. 1023

(29) Failure to use universal blood and body fluid 1024
precautions established by rules adopted under section 4731.051 1025
of the Revised Code; 1026

(30) Failure to provide notice to, and receive 1027
acknowledgment of the notice from, a patient when required by 1028
section 4731.143 of the Revised Code prior to providing 1029
nonemergency professional services, or failure to maintain that 1030
notice in the patient's file; 1031

(31) Failure of a physician supervising a physician 1032
assistant to maintain supervision in accordance with the 1033
requirements of Chapter 4730. of the Revised Code and the rules 1034
adopted under that chapter; 1035

(32) Failure of a physician or podiatrist to enter into a 1036
standard care arrangement with a clinical nurse specialist, 1037
certified nurse-midwife, or certified nurse practitioner with 1038
whom the physician or podiatrist is in collaboration pursuant to 1039

section 4731.27 of the Revised Code or failure to fulfill the 1040
responsibilities of collaboration after entering into a standard 1041
care arrangement; 1042

(33) Failure to comply with the terms of a consult 1043
agreement entered into with a pharmacist pursuant to section 1044
4729.39 of the Revised Code; 1045

(34) Failure to cooperate in an investigation conducted by 1046
the board under division (F) of this section, including failure 1047
to comply with a subpoena or order issued by the board or 1048
failure to answer truthfully a question presented by the board 1049
in an investigative interview, an investigative office 1050
conference, at a deposition, or in written interrogatories, 1051
except that failure to cooperate with an investigation shall not 1052
constitute grounds for discipline under this section if a court 1053
of competent jurisdiction has issued an order that either 1054
quashes a subpoena or permits the individual to withhold the 1055
testimony or evidence in issue; 1056

(35) Failure to supervise an oriental medicine 1057
practitioner or acupuncturist in accordance with Chapter 4762. 1058
of the Revised Code and the board's rules for providing that 1059
supervision; 1060

(36) Failure to supervise an anesthesiologist assistant in 1061
accordance with Chapter 4760. of the Revised Code and the 1062
board's rules for supervision of an anesthesiologist assistant; 1063

(37) Assisting suicide, as defined in section 3795.01 of 1064
the Revised Code; 1065

(38) Failure to comply with the requirements of section 1066
2317.561 of the Revised Code; 1067

(39) Failure to supervise a radiologist assistant in 1068

accordance with Chapter 4774. of the Revised Code and the 1069
board's rules for supervision of radiologist assistants; 1070

(40) Performing or inducing an abortion at an office or 1071
facility with knowledge that the office or facility fails to 1072
post the notice required under section 3701.791 of the Revised 1073
Code; 1074

(41) Failure to comply with the standards and procedures 1075
established in rules under section 4731.054 of the Revised Code 1076
for the operation of or the provision of care at a pain 1077
management clinic; 1078

(42) Failure to comply with the standards and procedures 1079
established in rules under section 4731.054 of the Revised Code 1080
for providing supervision, direction, and control of individuals 1081
at a pain management clinic; 1082

(43) Failure to comply with the requirements of section 1083
4729.79 or 4731.055 of the Revised Code, unless the state board 1084
of pharmacy no longer maintains a drug database pursuant to 1085
section 4729.75 of the Revised Code; 1086

(44) Failure to comply with the requirements of section 1087
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 1088
to submit to the department of health in accordance with a court 1089
order a complete report as described in section 2919.171 or 1090
2919.202 of the Revised Code; 1091

(45) Practicing at a facility that is subject to licensure 1092
as a category III terminal distributor of dangerous drugs with a 1093
pain management clinic classification unless the person 1094
operating the facility has obtained and maintains the license 1095
with the classification; 1096

(46) Owning a facility that is subject to licensure as a 1097

category III terminal distributor of dangerous drugs with a pain 1098
management clinic classification unless the facility is licensed 1099
with the classification; 1100

(47) Failure to comply with any of the requirement 1101
requirements regarding making or maintaining notes medical 1102
records or documents described in division (B) (A) of section 1103
2919.191-2919.192, division (C) of section 2919.193, division 1104
(B) of section 2919.195, or division (A) of section 2919.196 of 1105
the Revised Code ~~or failure to satisfy the requirements of~~ 1106
~~section 2919.191 of the Revised Code prior to performing or~~ 1107
~~inducing an abortion upon a pregnant woman;~~ 1108

(48) Failure to comply with the requirements in section 1109
3719.061 of the Revised Code before issuing for a minor a 1110
prescription for an opioid analgesic, as defined in section 1111
3719.01 of the Revised Code; 1112

(49) Failure to comply with the requirements of section 1113
4731.30 of the Revised Code or rules adopted under section 1114
4731.301 of the Revised Code when recommending treatment with 1115
medical marijuana; 1116

(50) Practicing at a facility, clinic, or other location 1117
that is subject to licensure as a category III terminal 1118
distributor of dangerous drugs with an office-based opioid 1119
treatment classification unless the person operating that place 1120
has obtained and maintains the license with the classification; 1121

(51) Owning a facility, clinic, or other location that is 1122
subject to licensure as a category III terminal distributor of 1123
dangerous drugs with an office-based opioid treatment 1124
classification unless that place is licensed with the 1125
classification. 1126

(C) Disciplinary actions taken by the board under 1127
divisions (A) and (B) of this section shall be taken pursuant to 1128
an adjudication under Chapter 119. of the Revised Code, except 1129
that in lieu of an adjudication, the board may enter into a 1130
consent agreement with an individual to resolve an allegation of 1131
a violation of this chapter or any rule adopted under it. A 1132
consent agreement, when ratified by an affirmative vote of not 1133
fewer than six members of the board, shall constitute the 1134
findings and order of the board with respect to the matter 1135
addressed in the agreement. If the board refuses to ratify a 1136
consent agreement, the admissions and findings contained in the 1137
consent agreement shall be of no force or effect. 1138

A telephone conference call may be utilized for 1139
ratification of a consent agreement that revokes or suspends an 1140
individual's certificate to practice or certificate to 1141
recommend. The telephone conference call shall be considered a 1142
special meeting under division (F) of section 121.22 of the 1143
Revised Code. 1144

If the board takes disciplinary action against an 1145
individual under division (B) of this section for a second or 1146
subsequent plea of guilty to, or judicial finding of guilt of, a 1147
violation of section 2919.123 of the Revised Code, the 1148
disciplinary action shall consist of a suspension of the 1149
individual's certificate to practice for a period of at least 1150
one year or, if determined appropriate by the board, a more 1151
serious sanction involving the individual's certificate to 1152
practice. Any consent agreement entered into under this division 1153
with an individual that pertains to a second or subsequent plea 1154
of guilty to, or judicial finding of guilt of, a violation of 1155
that section shall provide for a suspension of the individual's 1156
certificate to practice for a period of at least one year or, if 1157

determined appropriate by the board, a more serious sanction 1158
involving the individual's certificate to practice. 1159

(D) For purposes of divisions (B)(10), (12), and (14) of 1160
this section, the commission of the act may be established by a 1161
finding by the board, pursuant to an adjudication under Chapter 1162
119. of the Revised Code, that the individual committed the act. 1163
The board does not have jurisdiction under those divisions if 1164
the trial court renders a final judgment in the individual's 1165
favor and that judgment is based upon an adjudication on the 1166
merits. The board has jurisdiction under those divisions if the 1167
trial court issues an order of dismissal upon technical or 1168
procedural grounds. 1169

(E) The sealing of conviction records by any court shall 1170
have no effect upon a prior board order entered under this 1171
section or upon the board's jurisdiction to take action under 1172
this section if, based upon a plea of guilty, a judicial finding 1173
of guilt, or a judicial finding of eligibility for intervention 1174
in lieu of conviction, the board issued a notice of opportunity 1175
for a hearing prior to the court's order to seal the records. 1176
The board shall not be required to seal, destroy, redact, or 1177
otherwise modify its records to reflect the court's sealing of 1178
conviction records. 1179

(F)(1) The board shall investigate evidence that appears 1180
to show that a person has violated any provision of this chapter 1181
or any rule adopted under it. Any person may report to the board 1182
in a signed writing any information that the person may have 1183
that appears to show a violation of any provision of this 1184
chapter or any rule adopted under it. In the absence of bad 1185
faith, any person who reports information of that nature or who 1186
testifies before the board in any adjudication conducted under 1187

Chapter 119. of the Revised Code shall not be liable in damages 1188
in a civil action as a result of the report or testimony. Each 1189
complaint or allegation of a violation received by the board 1190
shall be assigned a case number and shall be recorded by the 1191
board. 1192

(2) Investigations of alleged violations of this chapter 1193
or any rule adopted under it shall be supervised by the 1194
supervising member elected by the board in accordance with 1195
section 4731.02 of the Revised Code and by the secretary as 1196
provided in section 4731.39 of the Revised Code. The president 1197
may designate another member of the board to supervise the 1198
investigation in place of the supervising member. No member of 1199
the board who supervises the investigation of a case shall 1200
participate in further adjudication of the case. 1201

(3) In investigating a possible violation of this chapter 1202
or any rule adopted under this chapter, or in conducting an 1203
inspection under division (E) of section 4731.054 of the Revised 1204
Code, the board may question witnesses, conduct interviews, 1205
administer oaths, order the taking of depositions, inspect and 1206
copy any books, accounts, papers, records, or documents, issue 1207
subpoenas, and compel the attendance of witnesses and production 1208
of books, accounts, papers, records, documents, and testimony, 1209
except that a subpoena for patient record information shall not 1210
be issued without consultation with the attorney general's 1211
office and approval of the secretary and supervising member of 1212
the board. 1213

(a) Before issuance of a subpoena for patient record 1214
information, the secretary and supervising member shall 1215
determine whether there is probable cause to believe that the 1216
complaint filed alleges a violation of this chapter or any rule 1217

adopted under it and that the records sought are relevant to the 1218
alleged violation and material to the investigation. The 1219
subpoena may apply only to records that cover a reasonable 1220
period of time surrounding the alleged violation. 1221

(b) On failure to comply with any subpoena issued by the 1222
board and after reasonable notice to the person being 1223
subpoenaed, the board may move for an order compelling the 1224
production of persons or records pursuant to the Rules of Civil 1225
Procedure. 1226

(c) A subpoena issued by the board may be served by a 1227
sheriff, the sheriff's deputy, or a board employee designated by 1228
the board. Service of a subpoena issued by the board may be made 1229
by delivering a copy of the subpoena to the person named 1230
therein, reading it to the person, or leaving it at the person's 1231
usual place of residence, usual place of business, or address on 1232
file with the board. When serving a subpoena to an applicant for 1233
or the holder of a certificate issued under this chapter, 1234
service of the subpoena may be made by certified mail, return 1235
receipt requested, and the subpoena shall be deemed served on 1236
the date delivery is made or the date the person refuses to 1237
accept delivery. If the person being served refuses to accept 1238
the subpoena or is not located, service may be made to an 1239
attorney who notifies the board that the attorney is 1240
representing the person. 1241

(d) A sheriff's deputy who serves a subpoena shall receive 1242
the same fees as a sheriff. Each witness who appears before the 1243
board in obedience to a subpoena shall receive the fees and 1244
mileage provided for under section 119.094 of the Revised Code. 1245

(4) All hearings, investigations, and inspections of the 1246
board shall be considered civil actions for the purposes of 1247

section 2305.252 of the Revised Code. 1248

(5) A report required to be submitted to the board under 1249
this chapter, a complaint, or information received by the board 1250
pursuant to an investigation or pursuant to an inspection under 1251
division (E) of section 4731.054 of the Revised Code is 1252
confidential and not subject to discovery in any civil action. 1253

The board shall conduct all investigations or inspections 1254
and proceedings in a manner that protects the confidentiality of 1255
patients and persons who file complaints with the board. The 1256
board shall not make public the names or any other identifying 1257
information about patients or complainants unless proper consent 1258
is given or, in the case of a patient, a waiver of the patient 1259
privilege exists under division (B) of section 2317.02 of the 1260
Revised Code, except that consent or a waiver of that nature is 1261
not required if the board possesses reliable and substantial 1262
evidence that no bona fide physician-patient relationship 1263
exists. 1264

The board may share any information it receives pursuant 1265
to an investigation or inspection, including patient records and 1266
patient record information, with law enforcement agencies, other 1267
licensing boards, and other governmental agencies that are 1268
prosecuting, adjudicating, or investigating alleged violations 1269
of statutes or administrative rules. An agency or board that 1270
receives the information shall comply with the same requirements 1271
regarding confidentiality as those with which the state medical 1272
board must comply, notwithstanding any conflicting provision of 1273
the Revised Code or procedure of the agency or board that 1274
applies when it is dealing with other information in its 1275
possession. In a judicial proceeding, the information may be 1276
admitted into evidence only in accordance with the Rules of 1277

Evidence, but the court shall require that appropriate measures 1278
are taken to ensure that confidentiality is maintained with 1279
respect to any part of the information that contains names or 1280
other identifying information about patients or complainants 1281
whose confidentiality was protected by the state medical board 1282
when the information was in the board's possession. Measures to 1283
ensure confidentiality that may be taken by the court include 1284
sealing its records or deleting specific information from its 1285
records. 1286

(6) On a quarterly basis, the board shall prepare a report 1287
that documents the disposition of all cases during the preceding 1288
three months. The report shall contain the following information 1289
for each case with which the board has completed its activities: 1290

(a) The case number assigned to the complaint or alleged 1291
violation; 1292

(b) The type of certificate to practice, if any, held by 1293
the individual against whom the complaint is directed; 1294

(c) A description of the allegations contained in the 1295
complaint; 1296

(d) The disposition of the case. 1297

The report shall state how many cases are still pending 1298
and shall be prepared in a manner that protects the identity of 1299
each person involved in each case. The report shall be a public 1300
record under section 149.43 of the Revised Code. 1301

(G) If the secretary and supervising member determine both 1302
of the following, they may recommend that the board suspend an 1303
individual's certificate to practice or certificate to recommend 1304
without a prior hearing: 1305

(1) That there is clear and convincing evidence that an 1306
individual has violated division (B) of this section; 1307

(2) That the individual's continued practice presents a 1308
danger of immediate and serious harm to the public. 1309

Written allegations shall be prepared for consideration by 1310
the board. The board, upon review of those allegations and by an 1311
affirmative vote of not fewer than six of its members, excluding 1312
the secretary and supervising member, may suspend a certificate 1313
without a prior hearing. A telephone conference call may be 1314
utilized for reviewing the allegations and taking the vote on 1315
the summary suspension. 1316

The board shall issue a written order of suspension by 1317
certified mail or in person in accordance with section 119.07 of 1318
the Revised Code. The order shall not be subject to suspension 1319
by the court during pendency of any appeal filed under section 1320
119.12 of the Revised Code. If the individual subject to the 1321
summary suspension requests an adjudicatory hearing by the 1322
board, the date set for the hearing shall be within fifteen 1323
days, but not earlier than seven days, after the individual 1324
requests the hearing, unless otherwise agreed to by both the 1325
board and the individual. 1326

Any summary suspension imposed under this division shall 1327
remain in effect, unless reversed on appeal, until a final 1328
adjudicative order issued by the board pursuant to this section 1329
and Chapter 119. of the Revised Code becomes effective. The 1330
board shall issue its final adjudicative order within seventy- 1331
five days after completion of its hearing. A failure to issue 1332
the order within seventy-five days shall result in dissolution 1333
of the summary suspension order but shall not invalidate any 1334
subsequent, final adjudicative order. 1335

(H) If the board takes action under division (B) (9), (11), 1336
or (13) of this section and the judicial finding of guilt, 1337
guilty plea, or judicial finding of eligibility for intervention 1338
in lieu of conviction is overturned on appeal, upon exhaustion 1339
of the criminal appeal, a petition for reconsideration of the 1340
order may be filed with the board along with appropriate court 1341
documents. Upon receipt of a petition of that nature and 1342
supporting court documents, the board shall reinstate the 1343
individual's certificate to practice. The board may then hold an 1344
adjudication under Chapter 119. of the Revised Code to determine 1345
whether the individual committed the act in question. Notice of 1346
an opportunity for a hearing shall be given in accordance with 1347
Chapter 119. of the Revised Code. If the board finds, pursuant 1348
to an adjudication held under this division, that the individual 1349
committed the act or if no hearing is requested, the board may 1350
order any of the sanctions identified under division (B) of this 1351
section. 1352

(I) The certificate to practice issued to an individual 1353
under this chapter and the individual's practice in this state 1354
are automatically suspended as of the date of the individual's 1355
second or subsequent plea of guilty to, or judicial finding of 1356
guilt of, a violation of section 2919.123 of the Revised Code. 1357
In addition, the certificate to practice or certificate to 1358
recommend issued to an individual under this chapter and the 1359
individual's practice in this state are automatically suspended 1360
as of the date the individual pleads guilty to, is found by a 1361
judge or jury to be guilty of, or is subject to a judicial 1362
finding of eligibility for intervention in lieu of conviction in 1363
this state or treatment or intervention in lieu of conviction in 1364
another jurisdiction for any of the following criminal offenses 1365
in this state or a substantially equivalent criminal offense in 1366

another jurisdiction: aggravated murder, murder, voluntary 1367
manslaughter, felonious assault, kidnapping, rape, sexual 1368
battery, gross sexual imposition, aggravated arson, aggravated 1369
robbery, or aggravated burglary. Continued practice after 1370
suspension shall be considered practicing without a certificate. 1371

The board shall notify the individual subject to the 1372
suspension by certified mail or in person in accordance with 1373
section 119.07 of the Revised Code. If an individual whose 1374
certificate is automatically suspended under this division fails 1375
to make a timely request for an adjudication under Chapter 119. 1376
of the Revised Code, the board shall do whichever of the 1377
following is applicable: 1378

(1) If the automatic suspension under this division is for 1379
a second or subsequent plea of guilty to, or judicial finding of 1380
guilt of, a violation of section 2919.123 of the Revised Code, 1381
the board shall enter an order suspending the individual's 1382
certificate to practice for a period of at least one year or, if 1383
determined appropriate by the board, imposing a more serious 1384
sanction involving the individual's certificate to practice. 1385

(2) In all circumstances in which division (I)(1) of this 1386
section does not apply, enter a final order permanently revoking 1387
the individual's certificate to practice. 1388

(J) If the board is required by Chapter 119. of the 1389
Revised Code to give notice of an opportunity for a hearing and 1390
if the individual subject to the notice does not timely request 1391
a hearing in accordance with section 119.07 of the Revised Code, 1392
the board is not required to hold a hearing, but may adopt, by 1393
an affirmative vote of not fewer than six of its members, a 1394
final order that contains the board's findings. In that final 1395
order, the board may order any of the sanctions identified under 1396

division (A) or (B) of this section. 1397

(K) Any action taken by the board under division (B) of 1398
this section resulting in a suspension from practice shall be 1399
accompanied by a written statement of the conditions under which 1400
the individual's certificate to practice may be reinstated. The 1401
board shall adopt rules governing conditions to be imposed for 1402
reinstatement. Reinstatement of a certificate suspended pursuant 1403
to division (B) of this section requires an affirmative vote of 1404
not fewer than six members of the board. 1405

(L) When the board refuses to grant or issue a certificate 1406
to practice to an applicant, revokes an individual's certificate 1407
to practice, refuses to renew an individual's certificate to 1408
practice, or refuses to reinstate an individual's certificate to 1409
practice, the board may specify that its action is permanent. An 1410
individual subject to a permanent action taken by the board is 1411
forever thereafter ineligible to hold a certificate to practice 1412
and the board shall not accept an application for reinstatement 1413
of the certificate or for issuance of a new certificate. 1414

(M) Notwithstanding any other provision of the Revised 1415
Code, all of the following apply: 1416

(1) The surrender of a certificate issued under this 1417
chapter shall not be effective unless or until accepted by the 1418
board. A telephone conference call may be utilized for 1419
acceptance of the surrender of an individual's certificate to 1420
practice. The telephone conference call shall be considered a 1421
special meeting under division (F) of section 121.22 of the 1422
Revised Code. Reinstatement of a certificate surrendered to the 1423
board requires an affirmative vote of not fewer than six members 1424
of the board. 1425

(2) An application for a certificate made under the 1426
provisions of this chapter may not be withdrawn without approval 1427
of the board. 1428

(3) Failure by an individual to renew a certificate to 1429
practice in accordance with this chapter or a certificate to 1430
recommend in accordance with rules adopted under section 1431
4731.301 of the Revised Code shall not remove or limit the 1432
board's jurisdiction to take any disciplinary action under this 1433
section against the individual. 1434

(4) At the request of the board, a certificate holder 1435
shall immediately surrender to the board a certificate that the 1436
board has suspended, revoked, or permanently revoked. 1437

(N) Sanctions shall not be imposed under division (B) (28) 1438
of this section against any person who waives deductibles and 1439
copayments as follows: 1440

(1) In compliance with the health benefit plan that 1441
expressly allows such a practice. Waiver of the deductibles or 1442
copayments shall be made only with the full knowledge and 1443
consent of the plan purchaser, payer, and third-party 1444
administrator. Documentation of the consent shall be made 1445
available to the board upon request. 1446

(2) For professional services rendered to any other person 1447
authorized to practice pursuant to this chapter, to the extent 1448
allowed by this chapter and rules adopted by the board. 1449

(O) Under the board's investigative duties described in 1450
this section and subject to division (F) of this section, the 1451
board shall develop and implement a quality intervention program 1452
designed to improve through remedial education the clinical and 1453
communication skills of individuals authorized under this 1454

chapter to practice medicine and surgery, osteopathic medicine 1455
and surgery, and podiatric medicine and surgery. In developing 1456
and implementing the quality intervention program, the board may 1457
do all of the following: 1458

(1) Offer in appropriate cases as determined by the board 1459
an educational and assessment program pursuant to an 1460
investigation the board conducts under this section; 1461

(2) Select providers of educational and assessment 1462
services, including a quality intervention program panel of case 1463
reviewers; 1464

(3) Make referrals to educational and assessment service 1465
providers and approve individual educational programs 1466
recommended by those providers. The board shall monitor the 1467
progress of each individual undertaking a recommended individual 1468
educational program. 1469

(4) Determine what constitutes successful completion of an 1470
individual educational program and require further monitoring of 1471
the individual who completed the program or other action that 1472
the board determines to be appropriate; 1473

(5) Adopt rules in accordance with Chapter 119. of the 1474
Revised Code to further implement the quality intervention 1475
program. 1476

An individual who participates in an individual 1477
educational program pursuant to this division shall pay the 1478
financial obligations arising from that educational program. 1479

Section 2. That existing sections 2317.56, 2919.171, 1480
2919.19, 2919.191, 2919.192, 2919.193, and 4731.22 of the 1481
Revised Code are hereby repealed. 1482

Section 3. Section 4731.22 of the Revised Code is 1483
presented in this act as a composite of the section as amended 1484
by Sub. H.B. 290, Sub. S.B. 127, and Sub. S.B. 319, all of the 1485
132nd General Assembly. The General Assembly, applying the 1486
principle stated in division (B) of section 1.52 of the Revised 1487
Code that amendments are to be harmonized if reasonably capable 1488
of simultaneous operation, finds that the composite is the 1489
resulting version of the section in effect prior to the 1490
effective date of the section as presented in this act. 1491

Section 4. If any provisions of a section as amended or 1492
enacted by this act, or the application thereof to any person or 1493
circumstance is held invalid, the invalidity does not affect 1494
other provisions or applications of the section or related 1495
sections which can be given effect without the invalid provision 1496
or application, and to this end the provisions are severable. 1497