

## Guidance on 2317.51 as Enacted

**City Code Language:** The following city code language is provided from the Columbus City Council Legislative information website but has been slightly modified by Greater Columbus Right to Life in an effort to more easily show the as-introduced, amended, and enacted provisions. To help read this new law, you may refer to the following:

Underlined: Text that is underlined is the language that will be added to the municipal ordinances.

Underlined and Stricken: Text that is underlined and stricken represents language that was proposed in the as-introduced version but was removed by an amendment. That language will not be added to the municipal ordinance.

**Underlined and Bold:** Text that is underlined and bold represents language that was not in the original version of the ordinance but was added in by amendment. It will be part of the municipal ordinance.

Other: Hyperlinks and footnotes represent language added by Greater Columbus Right to Life to assist in interpretation.

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### BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

**SECTION 1.** That Chapter 2317 of Columbus City Code is hereby amended as follows:

Chapter 2317 - Public Conduct

2317.51 Obstruction and Harassment at Health Care Facilities

(A) As used in this section:

(1) "Health care facility" has the same meaning as in section 2919.16<sup>1</sup> of the Revised Code.

(2) "Reproductive health care facility" means a health care facility at which licensed, certified or otherwise legally authorized persons provide health care services, health care counseling relating to the human reproductive system or family planning services.

(3) "Premises" means any land, building, structure or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.

~~(4) "Harass" means engaging in a course of conduct that is directed at another that would cause a reasonable person to be seriously alarmed, annoyed or inconvenienced and that in fact seriously alarms, annoys or inconveniences another.~~

(B) No person shall knowingly<sup>2</sup> do any of the following:

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<sup>1</sup> 2919.16(C): "Health care facility" means a hospital, clinic, ambulatory surgical treatment center, other center, medical school, office of a physician, infirmary, dispensary, medical training institution, or other institution or location in or at which medical care, treatment, or diagnosis is provided to a person.

<sup>2</sup> 2301.22: A person acts knowingly, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist.

(1) Physically obstruct or block another person from entering into or exiting from the premises of a reproductive health care facility by physically striking, shoving, restraining, grabbing, or otherwise subjecting the person to unwanted physical contact, or attempt or threaten to do the same;<sup>3</sup>

(2) Obstruct or block the premises of a reproductive health care facility, so as to impede access to or from the facility, or attempt to do the same;<sup>4</sup>

(3) ~~Follow and harass another person~~ **Engage in disorderly conduct as set forth in section 2317.11 of Columbus City Code within fifteen feet of the premises of a reproductive health care facility;**<sup>5</sup>

(4) Engage in a course of conduct or repeatedly commit acts within fifteen feet of the premises of a reproductive health care facility when that behavior places another person in reasonable fear of physical harm, or attempt to do the same;<sup>6</sup>

(C) Whoever violates this section is guilty of impeding access to reproductive health care, a misdemeanor of the first degree on a first offense. An offender who previously has been convicted of or pleaded guilty to one or more violations of division (B) of this section is guilty of a misdemeanor. The court may sentence the offender to a maximum fine of \$1,000 and notwithstanding the terms of imprisonment set forth in Chapter 2929 of the Ohio Revised Code, a jail term not to exceed one (1) year.

**SECTION 2.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

**Practical Implications:** The “fifteen foot buffer zone” described in the original version of the bill still has a number of people concerned that they must refrain from entering the buffer zone in prayer or counseling. It is our opinion that the amendments resolve the initial concerns that we and others had voiced and that there is no longer an exile zone. A more accurate way to think about the new language is that the fifteen foot zone establishes an area where there is an increased penalty for engaging in otherwise illegal behaviors when it can be shown that the action was done *knowingly* and within the fifteen foot of the clinic property. A similar example from existing city code is the requirement that engaging in disorderly conduct at City Hall carries a minimum jail sentence and fine or that certain types of assaults and drug crimes carry more stringent penalties when they occur within 1000 feet of a school.

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<sup>3</sup> Already illegal under federal FACE Act: <https://www.law.cornell.edu/uscode/text/18/248>, Columbus City Assault Ordinance: 2303.13, Columbus City Menacing Ordinance: 2303.22, Columbus City Unlawful Restraint Ordinance: 2305.03, Columbus City Disorderly Conduct Ordinance: 2317.11, etc.

<sup>4</sup> Already illegal under federal FACE Act.

<sup>5</sup> 2317.11 - Disorderly conduct.

(A) No person shall recklessly cause inconvenience, annoyance, or alarm to another, by doing any of the following:

- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
- (2) Making unreasonable noise or offensively coarse utterance, gesture, or display, or communicating unwarranted and grossly abusive language to any person;
- (3) Insulting, taunting, or challenging another, under circumstances in which such conduct is likely to provoke a violent response;
- (4) Hindering or preventing the movement of persons on a public street, road, highway, or right-of-way, or to, from, within, or upon public or private property, so as to interfere with the rights of others, and by any act which serves no lawful and reasonable purpose of the offender;
- (5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property, by any act which serves no lawful and reasonable purpose of the offender.

<sup>6</sup> Already illegal under Columbus City Menacing Ordinance: 2303.22.

As an reference, we have created this map of the community around the abortion clinic located at 1243 E Broad Street. The “orange” area is roughly representative of the property of the clinic and the “red” are is roughly representative of fifteen feet from the property line.

If you are in the orange area, you are trespassing. Do not go into the orange area once the law is effective, just as you would not go into the orange area today.

If you are anywhere in the City of Columbus you should not physically obstruct the path or block the access of a person who wishes to enter or exit the clinic, nor should you hit, shove, grab, restrain, touch, or threaten another individual. If you recklessly (or in a few circumstances knowingly) were to do any of these things prior to the effective date of 1458-2016 you would be breaking one of several laws such as assault, menacing, FACE, etc (see above). If you **knowingly** do one of those things after the effective date of 1458-2016 you may be charged under the provisions of the existing law, under the new “impeding access to a reproductive health care facility,” or both.



If you are anywhere in the City of Columbus you should not engage in disorderly conduct (defined in footnote 5). If you do so **recklessly** anywhere in the City of Columbus, you may be charged with a fourth degree misdemeanor. This is true both before and after the effective date of 1458-2016. After the effective date of 1458-2016, if you **knowingly** engage in disorderly conduct within fifteen feet of an abortion clinic (red-shaded area), you could be charged with a first degree misdemeanor. This is an enhanced penalty for an already illegal behavior.

If you are anywhere in the City of Columbus, you should not knowingly do things which would place a person in reasonable fear of physical harm or attempt to do things which would place a person in reasonable fear of physical harm. If you do so anywhere in the City of Columbus, both before and after the effective date of 1458-2016 you could be charged with “menacing” – a fourth degree misdemeanor. If you do so repeatedly and within the fifteen foot buffer zone (red-shaded area), you may be charged with a first degree misdemeanor. This is an enhanced penalty for an already illegal behavior.

It is possible that given the public and political scrutiny that this issue has generated, public safety forces may be more likely to enforce existing laws that have been ignored or only earned a warning in the past. This is also true of things like noise ordinances or parking infractions which are governed by city code and not mentioned here, however while targeted enforcement toward pro-life individuals would prove to be problematic for the city, it is also the case that we believe that those individuals who are acting within the scope of GCRTL training are not likely to have any problems; we have always exercised caution with regard to local laws.

Greater Columbus Right to Life volunteers are reminded of your affirmation of our statement of peace, belief, and mission, which prohibits this type of behavior already. GCRTL sidewalk counselors are specifically reminded of their training and SWC agreement which outline a course of conduct which would not permit any of these activities. Moreover, GCRTL training also reminds each of our volunteers to not engage in physically touching anyone, even when doing so is an attempt to comfort

another individual. In an environment that is emotionally charged or when dealing with individuals who may have already been subjected to violence or mistreatment, it is very easy to misinterpret even a well-meaning touch on the arm or pat on the back.

**Summary:** The GCRTL Sidewalk Counselor, Prayer Partner, or 40 Days for Life participant should be free to do things like pray, offer information, and speak to women, staff, and volunteers at an abortion clinic prior to and following the effective date of 1458-2016. We strongly encourage those individuals who would like to become involved in our programs to go through one of our trainings, and we will be holding Q&A sessions for existing volunteers through the next few months. An unbiased and just application of existing laws has not resulted in any known citation of GCRTL volunteers in recent years, and our internal policies subject program participants to standards that are more stringent than current or soon-to-be-effective municipal laws. The amendments prior to adoption of this ordinance mean that, in our opinion, enactment of 2317.51 merely consolidates existing prohibitions under current law and provides for enhanced penalties of certain prohibited behaviors when they are knowingly engaged in within fifteen feet of an abortion clinic or other “reproductive health care facility.” While this opinion was derived by speaking to numerous legal and policy experts, it should not be deemed as specific legal advice to any individual. Moreover, it is subject to revision as additional information, enforcement standards, or other official guidance becomes available.

**Conclusion:** While this document should be considered general guidance with respect to existing policies and laws, it is not to be considered legal advice to any individual. We will continue to engage the community on issues that relate to the dignity of all innocent human life, including the unborn, and in a way that respects the dignity of all – including those who express beliefs that are contrary to ours, because we are all – born and unborn, made in the image and likeness of God.

A quick reminder to our volunteers that the following behavior is expected of GCRTL Sidewalk Counselors, Prayer Partners, Staff, or Volunteers:

- We will not behave in a violent or abusive manner at any time.
- We will only use peaceful means to achieve our goal of ending abortion.
- Any activities to the contrary disassociate us from GCRTL programs.

Our Sidewalk Counselors also agree to:

- Act in love and with sincerity at all times.
- Behave in accordance with the law at all times.
- Never trespass at any time or for any reason.
- Never block the driveway of or sidewalk to an abortion clinic in any way.
- Never block visibility for vehicle or other traffic.
- Never physically touch a client, volunteer, or employee, even if the gesture is meant to be comforting or compassionate.
- Never resort to physical, verbal, or other violence.
- Never escalate violence or engage in a violent manner.
- Never attempt to provoke another through inflammatory language or hate speech.
- Obey the police at all times and follow-up after-the-fact for improper police instructions.
- Never vandalize city or clinic property.
- Respect the image and likeness of God in every human person, even those with whom I disagree.
- Report to GCRTL and law enforcement as necessary any behaviors that violate our standards or the laws of our community.