

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7427

BILL NUMBER: HB 1577

NOTE PREPARED: Apr 5, 2021

BILL AMENDED: Apr 1, 2021

SUBJECT: Telemedicine and Abortion Related Services.

FIRST AUTHOR: Rep. Mayfield

FIRST SPONSOR: Sen. Brown L

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Mental Health Providers:* The bill adds mental health providers to the list of persons who may not be required to participate in specified procedures and practices concerning abortion or aborted remains if the mental health provider objects to such procedures and practices on the basis of ethical, moral, or religious belief.

Abortion Inducing Drug: The bill provides that an abortion inducing drug may not be dispensed, prescribed, or given to a woman after eight weeks of postfertilization age. It also requires a physician to dispense the abortion inducing drug in person and have the pregnant woman consume the drug in the presence of the physician. It removes FDA guidelines from a provision concerning manufacturer instruction sheets and patient agreement forms pertaining to abortion inducing drugs.

Information: The bill requires certain information concerning the reversal of specified abortion inducing drugs to be provided to a pregnant woman in certain instances. It also requires a specified report to identify the: (1) facility; and (2) city or town; where required information concerning an abortion was provided.

Ultrasound Image: It requires an ultrasound image of a pregnant woman's fetus to be provided:

- (1) to a pregnant woman for her to keep; and
- (2) at no cost or charge to the pregnant woman;

in the event of fetal ultrasound imaging. It requires specified individuals to include, or to ensure the inclusion of, a copy of a pregnant woman's ultrasound report in the applicable patient file.

Licensing Prohibitions: It prohibits an abortion clinic from receiving an annual license renewal if ultrasound reports are not included in a pregnant woman's patient file. It prohibits the Indiana State Department of

Health (ISDH) from renewing an abortion clinic's license if noncompliance discovered during an annual inspection is not remedied.

Notarized Consent: The bill provides that the written parental consent for purposes of abortion laws concerning an unemancipated pregnant woman less than 18 years of age must be notarized.

Telemedicine: The bill prohibits the use of telemedicine to provide any abortion, including the writing or filling of a prescription for any purpose that is intended to result in an abortion.

The bill defines certain terms and it makes conforming amendments.

Effective Date: July 1, 2021

Explanation of State Expenditures: *Summary* - The Indiana State Department of Health (ISDH) will have increased workload to address additional considerations in the renewal of facility licenses. The Professional Licensing Agency (PLA) or the ISDH will also have increased workload if healthcare providers violate the prohibition on abortion inducing drugs, telemedicine services, or fail to provide the added information or ultrasound imaging requirements.

The notarization of parent or guardian written consent may reduce the number of people who may be convicted of intentionally avoiding the parental notification requirements or providing a pregnancy termination without parental consent.

Additional Information - ISDH and PLA: A violation of the requirements concerning abortion, abortion inducing drugs, or telemedicine services would be subject to administrative orders and procedures by the board or commission within the PLA that governs the violating practitioner's profession. The nature of the violation and the corrective actions of the practitioner will determine the cost to PLA. Additionally, ISDH and PLA would likely need to notify license holders of the requirements established by the bill and post updates to the ISDH and PLA website. These actions are within the ISDH's and PLA's routine administrative functions and should be able to be implemented with no additional appropriations.

Court Costs: The bill may limit access to abortion. To the extent that there is federal court action, the Attorney General would be responsible for the state's legal defense. If plaintiffs would prevail on a federal lawsuit that would be filed on claims that the statute violated constitutionally protected civil rights, the state may be required to pay the legal bills of the plaintiffs. In 2013 and 2015, Indiana paid the legal costs for similar types of cases in the amount of \$170,342 and \$122,945, respectively. Overturn of a verdict will negate any award by a lower court. If the state would prevail, only the court filing fees for an appeal may be recovered.

Criminal Penalties: A Level 6 felony for falsely claiming to be the parent or legal guardian of an unemancipated pregnant minor to avoid parental notification requirements is unlikely to have an overall impact on incarceration, although fewer people may be charged with the offense. A Level 6 felony is punishable by a prison term ranging from 6 to 30 months, with an advisory sentence of 1 year. The sentence depends on mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,524 annually, or \$9.66 daily, per prisoner. However, any additional expenditures are likely to be small.

Explanation of State Revenues: *License Fees:* If violations occurs, the Professional Licensing

Board/Commission or the ISDH may take an action that could impact state revenue. If the violator has a license denied or revoked, fee revenue would decrease to the General Fund. Health care practitioner license fees typically range between \$40 and \$200 biennially. The annual abortion clinic license fee of \$4,500 is deposited to the state General Fund. The Professional Licensing Board/Commission may also impose a fine of up to \$1,000 and the ISDH may impose a fine of up to \$10,000, which would be deposited in the state General Fund.

Criminal Provisions: A Class A misdemeanor for performing an abortion on an unemancipated minor woman without the consent of a parent or guardian may be avoided by requiring notarized written consent. Criminal fine revenue is deposited in the state Common School Fund. The maximum fine for a felony is \$10,000 and for a Class A misdemeanor is \$5,000. A violation of provisions concerning drug reversal information, and ultrasound imaging availability and retention is punishable as a Class A infraction. The maximum judgment for a Class A infraction is \$10,000, which would be deposited in the state General Fund.

Explanation of Local Expenditures: *Criminal Convictions:* Persons who are convicted and sentenced for violent crimes generally are held in jail prior to trial for longer periods of time. A Class A misdemeanor is punishable by up to one year in a county jail. Local expenditures for jail operations may have small indeterminate change.

Explanation of Local Revenues: *Felony and Civil Action Provisions:* The bill will have indeterminate impact on court fee revenue, depending on any changes in violations and convictions.

State Agencies Affected: ISDH, PLA, Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

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