

# HOUSE BILL No. 1097

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-21; IC 16-25-4.5-1; IC 16-31-6.5-2; IC 16-34; IC 16-41-16; IC 16-50; IC 22-9-1-3; IC 23-14-31-39; IC 25-22.5-2-8; IC 25-36.1-2-1; IC 27-8; IC 27-13-7-7.5; IC 31-39; IC 34-23-2-1; IC 35-31.5-2; IC 35-42; IC 35-50-2-9; IC 35-52-16.

**Synopsis:** Protection of life. Repeals the statutes authorizing and regulating abortion. Finds that human physical life begins when a human ovum is fertilized by a human sperm. Asserts a compelling state interest in protecting human physical life from the moment that human physical life begins. Redefines "human being" for purposes of the criminal code to conform to the finding that human physical life begins when a human ovum is fertilized by a human sperm. Makes other conforming changes.

**Effective:** July 1, 2018.

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January 11, 2018, read first time and referred to Committee on Public Policy.

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Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1097

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-18-2-1.5 IS REPEALED [EFFECTIVE JULY  
2 1, 2018]. Sec. 1.5: (a) "Abortion clinic", for purposes of IC 16-19-3-31,  
3 IC 16-21-2, IC 16-34-3, and IC 16-41-16, means a health care provider  
4 (as defined in section 163(d)(1) of this chapter) that:  
5 (1) performs surgical abortion procedures; or  
6 (2) beginning January 1, 2014, provides an abortion inducing  
7 drug for the purpose of inducing an abortion.  
8 (b) The term does not include the following:  
9 (1) A hospital that is licensed as a hospital under IC 16-21-2.  
10 (2) An ambulatory outpatient surgical center that is licensed as an  
11 ambulatory outpatient surgical center under IC 16-21-2.  
12 (3) A health care provider that provides, prescribes, administers,  
13 or dispenses an abortion inducing drug to fewer than five (5)  
14 patients per year for the purposes of inducing an abortion.  
15 SECTION 2. IC 16-18-2-18.5 IS REPEALED [EFFECTIVE JULY  
16 1, 2018]. Sec. 18.5: "Any other disability", for purposes of IC 16-34-  
17 has the meaning set forth in IC 16-34-4-1.



1 SECTION 3. IC 16-18-2-69, AS AMENDED BY P.L.164-2013,  
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2018]: Sec. 69. (a) "Consent", for purposes of IC 16-34;  
 4 means a written agreement to submit to an abortion:

5 (1) after the consenting party has had a full explanation of the  
 6 abortion procedure to be performed; including disclosures and  
 7 information required by IC 16-34-2-1.1; and

8 (2) as evidenced by the signature of the consenting party on a  
 9 consent form prescribed by the state department of health.

10 (b) "Consent", for purposes of IC 16-36-6, has the meaning set forth  
 11 in IC 16-36-6-1.

12 SECTION 4. IC 16-18-2-100.5 IS REPEALED [EFFECTIVE JULY  
 13 1, 2018]. Sec. 100.5: "Down syndrome", for purposes of IC 16-34; has  
 14 the meaning set forth in IC 16-34-4-2.

15 SECTION 5. IC 16-18-2-128.3 IS REPEALED [EFFECTIVE JULY  
 16 1, 2018]. Sec. 128.3: "Fertilization", for purposes of IC 16-34; means  
 17 the fusion of a human spermatozoon with a human ovum.

18 SECTION 6. IC 16-18-2-128.7, AS AMENDED BY P.L.213-2016,  
 19 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2018]: Sec. 128.7. "Fetus", for purposes of IC 16-34 and  
 21 IC 16-41-16, means an unborn child, irrespective of gestational age or  
 22 the duration of the pregnancy.

23 SECTION 7. IC 16-18-2-161, AS AMENDED BY P.L.113-2015,  
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2018]: Sec. 161. (a) "Health care facility" includes:

26 (1) hospitals licensed under IC 16-21-2, private mental health  
 27 institutions licensed under IC 12-25, and tuberculosis hospitals  
 28 established under IC 16-11-1 (before its repeal);

29 (2) health facilities licensed under IC 16-28; and

30 (3) rehabilitation facilities and kidney disease treatment centers.

31 (b) "Health care facility", for purposes of IC 16-21-11, and  
 32 IC 16-34-3, has the meaning set forth in IC 16-21-11-1.

33 (c) "Health care facility", for purposes of IC 16-28-13, has the  
 34 meaning set forth in IC 16-28-13-0.5.

35 SECTION 8. IC 16-18-2-163, AS AMENDED BY P.L.117-2015,  
 36 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2018]: Sec. 163. (a) "Health care provider", for purposes of  
 38 IC 16-21 and IC 16-41, means any of the following:

39 (1) An individual, a partnership, a corporation, a professional  
 40 corporation, a facility, or an institution licensed or legally  
 41 authorized by this state to provide health care or professional  
 42 services as a licensed physician, a psychiatric hospital, a hospital,



1 a health facility, an emergency ambulance service (IC 16-31-3),  
 2 a dentist, a registered or licensed practical nurse, a midwife, an  
 3 optometrist, a pharmacist, a podiatrist, a chiropractor, a physical  
 4 therapist, a respiratory care practitioner, an occupational therapist,  
 5 a psychologist, a paramedic, an emergency medical technician, an  
 6 advanced emergency medical technician, an athletic trainer, or a  
 7 person who is an officer, employee, or agent of the individual,  
 8 partnership, corporation, professional corporation, facility, or  
 9 institution acting in the course and scope of the person's  
 10 employment.

11 (2) A college, university, or junior college that provides health  
 12 care to a student, a faculty member, or an employee, and the  
 13 governing board or a person who is an officer, employee, or agent  
 14 of the college, university, or junior college acting in the course  
 15 and scope of the person's employment.

16 (3) A blood bank, community mental health center, community  
 17 intellectual disability center, community health center, or migrant  
 18 health center.

19 (4) A home health agency (as defined in IC 16-27-1-2).

20 (5) A health maintenance organization (as defined in  
 21 IC 27-13-1-19).

22 (6) A health care organization whose members, shareholders, or  
 23 partners are health care providers under subdivision (1).

24 (7) A corporation, partnership, or professional corporation not  
 25 otherwise qualified under this subsection that:

26 (A) provides health care as one (1) of the corporation's,  
 27 partnership's, or professional corporation's functions;

28 (B) is organized or registered under state law; and

29 (C) is determined to be eligible for coverage as a health care  
 30 provider under IC 34-18 for the corporation's, partnership's, or  
 31 professional corporation's health care function.

32 Coverage for a health care provider qualified under this subdivision is  
 33 limited to the health care provider's health care functions and does not  
 34 extend to other causes of action.

35 (b) "Health care provider", for purposes of IC 16-35, has the  
 36 meaning set forth in subsection (a). However, for purposes of IC 16-35,  
 37 the term also includes a health facility (as defined in section 167 of this  
 38 chapter).

39 (c) "Health care provider", for purposes of IC 16-36-5 and  
 40 IC 16-36-6, means an individual licensed or authorized by this state to  
 41 provide health care or professional services as:

42 (1) a licensed physician;



- 1 (2) a registered nurse;  
 2 (3) a licensed practical nurse;  
 3 (4) an advanced practice nurse;  
 4 (5) a certified nurse midwife;  
 5 (6) a paramedic;  
 6 (7) an emergency medical technician;  
 7 (8) an advanced emergency medical technician; or  
 8 (9) an emergency medical responder, as defined by section 109.8  
 9 of this chapter.
- 10 The term includes an individual who is an employee or agent of a  
 11 health care provider acting in the course and scope of the individual's  
 12 employment.
- 13 (d) "Health care provider", for purposes of ~~section 1-5 of this~~  
 14 ~~chapter and~~ IC 16-40-4, means any of the following:
- 15 (1) An individual, a partnership, a corporation, a professional  
 16 corporation, a facility, or an institution licensed or authorized by  
 17 the state to provide health care or professional services as a  
 18 licensed physician, a psychiatric hospital, a hospital, a health  
 19 facility, an emergency ambulance service (IC 16-31-3), an  
 20 ambulatory outpatient surgical center, a dentist, an optometrist, a  
 21 pharmacist, a podiatrist, a chiropractor, a psychologist, or a  
 22 person who is an officer, employee, or agent of the individual,  
 23 partnership, corporation, professional corporation, facility, or  
 24 institution acting in the course and scope of the person's  
 25 employment.
- 26 (2) A blood bank, laboratory, community mental health center,  
 27 community intellectual disability center, community health  
 28 center, or migrant health center.
- 29 (3) A home health agency (as defined in IC 16-27-1-2).
- 30 (4) A health maintenance organization (as defined in  
 31 IC 27-13-1-19).
- 32 (5) A health care organization whose members, shareholders, or  
 33 partners are health care providers under subdivision (1).
- 34 (6) A corporation, partnership, or professional corporation not  
 35 otherwise specified in this subsection that:
- 36 (A) provides health care as one (1) of the corporation's,  
 37 partnership's, or professional corporation's functions;  
 38 (B) is organized or registered under state law; and  
 39 (C) is determined to be eligible for coverage as a health care  
 40 provider under IC 34-18 for the corporation's, partnership's, or  
 41 professional corporation's health care function.
- 42 (7) A person that is designated to maintain the records of a person



1 described in subdivisions (1) through (6).

2 (e) "Health care provider", for purposes of IC 16-45-4, has the  
3 meaning set forth in 47 CFR 54.601(a).

4 SECTION 9. IC 16-18-2-179, AS AMENDED BY P.L.99-2007,  
5 SECTION 154, IS AMENDED TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2018]: Sec. 179. (a) "Hospital", except as  
7 provided in subsections (b) through ~~(g)~~; **(f)**, means a hospital that is  
8 licensed under IC 16-21-2.

9 (b) "Hospital", for purposes of IC 16-21, means an institution, a  
10 place, a building, or an agency that holds out to the general public that  
11 it is operated for hospital purposes and that it provides care,  
12 accommodations, facilities, and equipment, in connection with the  
13 services of a physician, to individuals who may need medical or  
14 surgical services. The term does not include the following:

- 15 (1) Freestanding health facilities.  
16 (2) Hospitals or institutions specifically intended to diagnose,  
17 care, and treat the following:  
18 (A) Individuals with a mental illness (as defined in  
19 IC 12-7-2-117.6).  
20 (B) Individuals with developmental disabilities (as defined in  
21 IC 12-7-2-61).  
22 (3) Offices of physicians where patients are not regularly kept as  
23 bed patients.

24 (4) Convalescent homes, boarding homes, or homes for the aged.  
25 (c) "Hospital", for purposes of IC 16-22-8, has the meaning set forth  
26 in IC 16-22-8-5.

27 (d) "Hospital", for purposes of IC 16-23.5, has the meaning set forth  
28 in IC 16-23.5-1-9.

29 (e) "Hospital" or "tuberculosis hospital", for purposes of IC 16-24,  
30 means an institution or a facility for the treatment of individuals with  
31 tuberculosis.

32 ~~(f) "Hospital", for purposes of IC 16-34, means a hospital (as~~  
33 ~~defined in subsection (b)) that:~~

- 34 ~~(1) is required to be licensed under IC 16-21-2; or~~  
35 ~~(2) is operated by an agency of the United States.~~

36 ~~(g)~~ **(f)** "Hospital", for purposes of IC 16-41-12, has the meaning set  
37 forth in IC 16-41-12-6.

38 SECTION 10. IC 16-18-2-201.5, AS ADDED BY P.L.213-2016,  
39 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2018]: Sec. 201.5. "Lethal fetal anomaly", for purposes of  
41 IC 16-25-4.5, ~~and IC 16-34~~, has the meaning set forth in  
42 IC 16-25-4.5-2.



1 SECTION 11. IC 16-18-2-223.5 IS REPEALED [EFFECTIVE  
2 JULY 1, 2018]. Sec. 223.5: "Medical emergency", for purposes of  
3 IC 16-34, means a condition that, on the basis of the attending  
4 physician's good faith clinical judgment, complicates the medical  
5 condition of a pregnant woman so that it necessitates the immediate  
6 termination of her pregnancy to avert her death or for which a delay  
7 would create serious risk of substantial and irreversible impairment of  
8 a major bodily function.

9 SECTION 12. IC 16-18-2-254.2 IS REPEALED [EFFECTIVE  
10 JULY 1, 2018]. Sec. 254.2: "Objective scientific information", for  
11 purposes of IC 16-34, means data that have been reasonably derived  
12 from scientific literature and verified or supported by research in  
13 compliance with scientific methods.

14 SECTION 13. IC 16-18-2-267 IS REPEALED [EFFECTIVE JULY  
15 1, 2018]. Sec. 267: "Parental consent", for purposes of IC 16-34, means  
16 the written consent of the parent or legal guardian of an unemancipated  
17 pregnant woman less than eighteen (18) years of age to the  
18 performance of an abortion on the minor pregnant woman.

19 SECTION 14. IC 16-18-2-267.5 IS REPEALED [EFFECTIVE  
20 JULY 1, 2018]. Sec. 267.5: "Partial birth abortion" means an abortion  
21 in which the person performing the abortion partially vaginally delivers  
22 a living fetus before killing the fetus and completing the delivery.

23 SECTION 15. IC 16-18-2-273.5, AS ADDED BY P.L.213-2016,  
24 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2018]: Sec. 273.5. "Perinatal hospice", for purposes of  
26 IC 16-25-4.5, and IC 16-34, has the meaning set forth in  
27 IC 16-25-4.5-3.

28 SECTION 16. IC 16-18-2-287.5 IS REPEALED [EFFECTIVE  
29 JULY 1, 2018]. Sec. 287.5: "Postfertilization age", for purposes of  
30 IC 16-34, means the age of the fetus calculated from the date of the  
31 fertilization of the ovum.

32 SECTION 17. IC 16-18-2-287.9 IS REPEALED [EFFECTIVE  
33 JULY 1, 2018]. Sec. 287.9: "Potential diagnosis", for purposes of  
34 IC 16-34, has the meaning set forth in IC 16-34-4-3.

35 SECTION 18. IC 16-18-2-293.5 IS REPEALED [EFFECTIVE  
36 JULY 1, 2018]. Sec. 293.5: "Probable gestational age of the fetus", for  
37 purposes of IC 16-34, means what, in the judgment of the attending  
38 physician, will with reasonable probability be the gestational age of the  
39 fetus at the time an abortion is planned to be performed.

40 SECTION 19. IC 16-18-2-328.6 IS REPEALED [EFFECTIVE  
41 JULY 1, 2018]. Sec. 328.6: "Sex selective abortion", for purposes of  
42 IC 16-34-4, has the meaning set forth in IC 16-34-4-4.



1 SECTION 20. IC 16-18-2-355 IS REPEALED [EFFECTIVE JULY  
2 1, 2018]. Sec. 355: "Trimester", for purposes of IC 16-34, means any  
3 one (1) of three (3) equal periods of time of normal gestation period of  
4 a pregnant woman derived by dividing the period of gestation into three  
5 (3) equal parts of three (3) months each and to be designated as the first  
6 trimester; second trimester; and the third trimester, respectively.

7 SECTION 21. IC 16-18-2-365 IS REPEALED [EFFECTIVE JULY  
8 1, 2018]. Sec. 365: "Viability", for purposes of IC 16-34, means the  
9 ability of a fetus to live outside the mother's womb.

10 SECTION 22. IC 16-21-1-7, AS AMENDED BY P.L.141-2014,  
11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2018]: Sec. 7. The executive board may adopt rules under  
13 IC 4-22-2 necessary to protect the health, safety, rights, and welfare of  
14 patients, including the following:

15 (1) Rules pertaining to the operation and management of  
16 hospitals, ambulatory outpatient surgical centers, ~~abortion clinics,~~  
17 and birthing centers.

18 (2) Rules establishing standards for equipment, facilities, and  
19 staffing required for efficient and quality care of patients.

20 SECTION 23. IC 16-21-2-1, AS AMENDED BY P.L.96-2005,  
21 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2018]: Sec. 1. (a) Except as provided in subsection (b), this  
23 chapter applies to all hospitals, ambulatory outpatient surgical centers,  
24 ~~abortion clinics,~~ and birthing centers.

25 (b) This chapter does not apply to a hospital operated by the federal  
26 government.

27 (c) This chapter does not affect a statute pertaining to the placement  
28 and adoption of children.

29 SECTION 24. IC 16-21-2-2, AS AMENDED BY P.L.96-2005,  
30 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2018]: Sec. 2. The state department shall license and regulate:

32 (1) hospitals;

33 (2) ambulatory outpatient surgical centers; **and**

34 (3) birthing centers. **and**

35 ~~(4) abortion clinics.~~

36 SECTION 25. IC 16-21-2-2.5, AS AMENDED BY P.L.173-2017,  
37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2018]: Sec. 2.5. (a) The state department shall adopt rules  
39 under IC 4-22-2 to do the following concerning birthing centers: **and**  
40 ~~abortion clinics:~~

41 (1) Establish minimum license qualifications.

42 (2) Establish the following requirements:





- 1 (A) Sanitation standards.  
 2 (B) Staff qualifications.  
 3 (C) Necessary emergency equipment.  
 4 (D) Procedures to provide emergency care.  
 5 (E) Procedures to monitor patients after the administration of  
 6 anesthesia.  
 7 (F) Procedures to provide follow-up care for patient  
 8 complications.  
 9 (G) Quality assurance standards.  
 10 (H) Infection control.  
 11 ~~(I) Provision of informed consent brochures, as described in~~  
 12 ~~IC 16-34-2-1.5, in English, Spanish, and a third language~~  
 13 ~~determined by the state department, inside abortion clinics.~~  
 14 ~~(I)~~ (I) Provision of a hotline telephone number that provides  
 15 assistance for patients who are  
 16 (i) ~~coerced into an abortion;~~ or  
 17 (ii) victims of sex trafficking.  
 18 ~~(K)~~ (J) Annual training by law enforcement officers on  
 19 identifying and assisting women who are  
 20 (i) ~~coerced into an abortion;~~ or  
 21 (ii) victims of sex trafficking.  
 22 (3) Prescribe the operating policies, supervision, and maintenance  
 23 of medical records, including the requirement that all forms that  
 24 require a patient signature be stored in the patient's medical  
 25 record.  
 26 (4) Establish procedures for the issuance, renewal, denial, and  
 27 revocation of licenses under this chapter. The rules adopted under  
 28 this subsection must address the following:  
 29 (A) The form and content of the license.  
 30 (B) The collection of an annual license fee.  
 31 (5) Prescribe the procedures and standards for inspections.  
 32 (6) Prescribe procedures for:  
 33 (A) implementing a plan of correction to address any  
 34 violations of any provision of this chapter or any rules adopted  
 35 under this chapter; and  
 36 (B) implementing a system for the state department to follow  
 37 if the ~~abortion clinic~~ or birthing center fails to comply with the  
 38 plan of correction described in clause (A) and disciplinary  
 39 action is needed.  
 40 (b) A person who knowingly or intentionally:  
 41 (1) operates a birthing center ~~or an abortion clinic~~ that is not  
 42 licensed under this chapter; or



1 (2) advertises the operation of a birthing center or an abortion  
 2 clinic that is not licensed under this chapter;  
 3 commits a Class A misdemeanor.

4 (c) Not later than January 1, 2019, the state department shall:

5 (1) adopt separate rules under IC 4-22-2, including those required  
 6 under subsection (a), for abortion clinics that perform only  
 7 surgical abortions;

8 (2) adopt separate rules under IC 4-22-2, including those required  
 9 under subsection (a), for abortion clinics that perform abortions  
 10 only through the provision of an abortion inducing drug; and

11 (3) establish procedures regarding the issuance of licenses to  
 12 abortion clinics that:

13 (A) perform only surgical abortions;

14 (B) perform abortions only through the provision of an  
 15 abortion inducing drug; or

16 (C) perform both surgical abortions and abortions through the  
 17 provision of abortion inducing drugs.

18 SECTION 26. IC 16-21-2-2.6 IS REPEALED [EFFECTIVE JULY  
 19 1, 2018]. Sec. 2.6: The state department may inspect an abortion clinic  
 20 at least one (1) time per calendar year and may conduct a complaint  
 21 inspection as needed.

22 SECTION 27. IC 16-21-2-10, AS AMENDED BY P.L.96-2005,  
 23 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2018]: Sec. 10. A:

25 (1) person;

26 (2) state, county, or local governmental unit; or

27 (3) division, a department, a board, or an agency of a state,  
 28 county, or local governmental unit;

29 must obtain a license from the state health commissioner under  
 30 IC 4-21.5-3-5 before establishing, conducting, operating, or  
 31 maintaining a hospital, an ambulatory outpatient surgical center, an  
 32 abortion clinic, or a birthing center.

33 SECTION 28. IC 16-21-2-11, AS AMENDED BY P.L.172-2011,  
 34 SECTION 114, IS AMENDED TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) An applicant must submit  
 36 an application for a license on a form prepared by the state department  
 37 showing that:

38 (1) the applicant is of reputable and responsible character;

39 (2) the applicant is able to comply with the minimum standards  
 40 for a hospital, an ambulatory outpatient surgical center, an  
 41 abortion clinic, or a birthing center, and with rules adopted under  
 42 this chapter; and



- 1 (3) the applicant has complied with section 15.4 of this chapter.
- 2 (b) The application must contain the following additional
- 3 information:
- 4 (1) The name of the applicant.
- 5 (2) The type of institution to be operated.
- 6 (3) The location of the institution.
- 7 (4) The name of the person to be in charge of the institution.
- 8 (5) If the applicant is a hospital, the range and types of services to
- 9 be provided under the general hospital license, including any
- 10 service that would otherwise require licensure by the state
- 11 department under the authority of IC 16-19.
- 12 (6) Other information the state department requires.
- 13 (c) If the department of state revenue notifies the department that a
- 14 person is on the most recent tax warrant list, the department shall not
- 15 issue or renew the person's license until:
- 16 (1) the person provides to the department a statement from the
- 17 department of state revenue that the person's tax warrant has been
- 18 satisfied; or
- 19 (2) the department receives a notice from the commissioner of the
- 20 department of state revenue under IC 6-8.1-8-2(k).
- 21 SECTION 29. IC 16-21-2-14, AS AMENDED BY P.L.197-2011,
- 22 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2018]: Sec. 14. A license to operate a hospital, an ambulatory
- 24 outpatient surgical center, ~~an abortion clinic~~, or a birthing center:
- 25 (1) expires one (1) year after the date of issuance;
- 26 (2) is not assignable or transferable;
- 27 (3) is issued only for the premises named in the application;
- 28 (4) must be posted in a conspicuous place in the facility; and
- 29 (5) may be renewed each year upon the payment of a renewal fee
- 30 at the rate adopted by the state department under IC 4-22-2.
- 31 SECTION 30. IC 16-21-2-16, AS AMENDED BY P.L.96-2005,
- 32 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2018]: Sec. 16. A hospital, an ambulatory outpatient surgical
- 34 center, ~~an abortion clinic~~, or a birthing center that provides to a patient
- 35 notice concerning a third party billing for a service provided to the
- 36 patient shall ensure that the notice:
- 37 (1) conspicuously states that the notice is not a bill;
- 38 (2) does not include a tear-off portion; and
- 39 (3) is not accompanied by a return mailing envelope.
- 40 SECTION 31. IC 16-25-4.5-1 IS REPEALED [EFFECTIVE JULY
- 41 1, 2018]. ~~Sec. 1. The purpose of this chapter is to ensure that:~~
- 42 ~~(1) women considering abortion after receiving a diagnosis of a~~



1           lethal fetal anomaly are informed of the availability of perinatal  
2           hospice care; and  
3           ~~(2) women choosing abortion after receiving a diagnosis of a~~  
4           ~~lethal fetal anomaly are making a fully informed decision.~~

5           SECTION 32. IC 16-31-6.5-2, AS AMENDED BY P.L.96-2005,  
6           SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7           JULY 1, 2018]: Sec. 2. This chapter does not apply to the following:

- 8           (1) A licensed physician.
- 9           (2) A hospital, an ambulatory outpatient surgical center, ~~an~~  
10           ~~abortion clinic~~; or a birthing center.
- 11           (3) A person providing health care in a hospital, an ambulatory  
12           outpatient surgical center, ~~an abortion clinic~~; or a birthing center  
13           licensed under IC 16-21.
- 14           (4) A person or entity certified under IC 16-31-3.

15           SECTION 33. IC 16-34 IS REPEALED [EFFECTIVE JULY 1,  
16           2018]. (Abortion).

17           SECTION 34. IC 16-41-16-1, AS AMENDED BY P.L.213-2016,  
18           SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19           JULY 1, 2018]: Sec. 1. (a) This chapter applies to persons and facilities  
20           that handle infectious waste, including the following:

- 21           (1) Hospitals.
- 22           (2) Ambulatory surgical facilities.
- 23           (3) Medical laboratories.
- 24           (4) Diagnostic laboratories.
- 25           (5) Blood centers.
- 26           (6) Pharmaceutical companies.
- 27           (7) Academic research laboratories.
- 28           (8) Industrial research laboratories.
- 29           (9) Health facilities.
- 30           (10) Offices of health care providers.
- 31           (11) Diet or health care clinics.
- 32           (12) Offices of veterinarians.
- 33           (13) Veterinary hospitals.
- 34           (14) Emergency medical services providers.
- 35           (15) Mortuaries.
- 36           ~~(16) Abortion clinics.~~

37           (b) Except as provided in sections 2, 4, and 7.5 of this chapter, this  
38           chapter does not apply to:

- 39           (1) home health agencies; or
- 40           (2) hospice services delivered in the home of a hospice patient.

41           SECTION 35. IC 16-41-16-4, AS AMENDED BY P.L.213-2016,  
42           SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2018]: Sec. 4. (a) Except as provided in subsections (c) and  
 2 (d), as used in this chapter, "infectious waste" means waste that  
 3 epidemiologic evidence indicates is capable of transmitting a  
 4 dangerous communicable disease (as defined by rule adopted under  
 5 IC 16-41-2-1).

6 (b) The term includes the following:

- 7 (1) Pathological wastes.
- 8 (2) Biological cultures and associated biologicals.
- 9 (3) Contaminated sharps.
- 10 (4) Infectious agent stock and associated biologicals.
- 11 (5) Blood and blood products in liquid or semiliquid form.
- 12 (6) Laboratory animal carcasses, body parts, and bedding.
- 13 (7) Wastes (as described under section 8 of this chapter).

14 (c) "Infectious waste", as the term applies to a:

- 15 (1) home health agency; or
- 16 (2) hospice service delivered in the home of a hospice patient;

17 includes only contaminated sharps.

18 (d) The term does not include ~~an aborted fetus or~~ a miscarried fetus.

19 SECTION 36. IC 16-41-16-5, AS AMENDED BY P.L.213-2016,  
 20 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2018]: Sec. 5. As used in this chapter, "pathological waste"  
 22 includes:

- 23 (1) tissues;
- 24 (2) organs;
- 25 (3) body parts; and
- 26 (4) blood or body fluids in liquid or semiliquid form;

27 that are removed during surgery, biopsy, or autopsy. The term does not  
 28 include ~~an aborted fetus or~~ a miscarried fetus.

29 SECTION 37. IC 16-41-16-7.6, AS ADDED BY P.L.213-2016,  
 30 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2018]: Sec. 7.6. (a) This section applies to a person or facility  
 32 possessing ~~either an aborted fetus or~~ a miscarried fetus.

33 (b) Within ten (10) business days after a miscarriage occurs, ~~or an~~  
 34 ~~abortion is performed~~, a person or facility described in subsection (a)  
 35 shall:

- 36 (1) conduct the final disposition of ~~a~~ **the** miscarried fetus ~~or an~~  
 37 ~~aborted fetus~~ in the manner required by IC 16-21-11-6; ~~or~~  
 38 ~~IC 16-34-3-4~~; or
- 39 (2) ensure that the miscarried fetus ~~or aborted fetus~~ is preserved  
 40 until final disposition under IC 16-21-11-6 ~~or IC 16-34-3-4~~  
 41 occurs.

42 SECTION 38. IC 16-50 IS ADDED TO THE INDIANA CODE AS



1 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
2 2018]:

3 **ARTICLE 50. THE PROTECTION OF LIFE**

4 **Chapter 1. General Assembly Findings**

5 **Sec. 1. The general assembly finds that human physical life**  
6 **begins when a human ovum is fertilized by a human sperm.**

7 **Chapter 2. State Interest in Protecting Human Physical Life**

8 **Sec. 1. Indiana asserts a compelling state interest in protecting**  
9 **human physical life from the moment that human physical life**  
10 **begins.**

11 **Sec. 2. Indiana's authority to assert its interest in protecting**  
12 **human physical life from the moment that human physical life**  
13 **begins is drawn from the following:**

14 **(1) The Tenth Amendment to the Constitution of the United**  
15 **States, which provides that all powers not delegated to the**  
16 **United States elsewhere in the Constitution are reserved to the**  
17 **states or to the people.**

18 **(2) The Ninth Amendment to the Constitution of the United**  
19 **States, which provides that the enumeration of certain rights**  
20 **within the Constitution must not be construed to deny or**  
21 **disparage other rights retained by the people.**

22 **(3) The Declaration of Independence, which acknowledges**  
23 **that life is endowed to all persons as an inalienable right.**

24 **(4) The fact that the governments of the United States and**  
25 **Indiana were instituted by the consent of the people in 1787**  
26 **and 1816, respectively, to secure the inalienable rights**  
27 **acknowledged by the Declaration of Independence.**

28 **Sec. 3. Any act, law, treaty, order, rule, or regulation of the**  
29 **United States government that fails to protect a person's**  
30 **inalienable right to life is null, void, and unenforceable in Indiana.**  
31 **The courts of the United States have no jurisdiction to interfere**  
32 **with Indiana's interest in protecting human physical life from the**  
33 **moment that human physical life begins.**

34 **Sec. 4. It is unlawful for any official, agent, or employee of the**  
35 **United States government or an employee of a private entity**  
36 **providing services to the United States government to enforce any**  
37 **act, law, treaty, order, rule, or regulation of the United States**  
38 **government that interferes with Indiana's interest in protecting**  
39 **human physical life from the moment that human physical life**  
40 **begins.**

41 **Sec. 5. A prosecuting attorney may seek injunctive relief in the**  
42 **circuit court of the county in which the prosecuting attorney serves**



1 to enjoin any official, agent, or employee of the United States  
 2 government or an employee of a private entity providing services  
 3 to the United States government from enforcing any act, law,  
 4 treaty, order, rule, or regulation of the United States government  
 5 that interferes with Indiana's interest in protecting human physical  
 6 life from the moment that human physical life begins.

7 **Chapter 3. Nonseverability**

8 **Sec. 1. The severability provisions of IC 1-1-1-8 do not apply to**  
 9 **the following:**

10 (1) **A bill enacting this article.**

11 (2) **The repeal of a statute relating to abortion or the death or**  
 12 **loss of a fetus in a bill described in subdivision (1).**

13 (3) **The amendment of any statute relating to abortion or the**  
 14 **death or loss of a fetus in a bill described in subdivision (1).**

15 SECTION 39. IC 22-9-1-3, AS AMENDED BY P.L.213-2016,  
 16 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2018]: Sec. 3. As used in this chapter:

18 (a) "Person" means one (1) or more individuals, partnerships,  
 19 associations, organizations, limited liability companies, corporations,  
 20 labor organizations, cooperatives, legal representatives, trustees,  
 21 trustees in bankruptcy, receivers, and other organized groups of  
 22 persons.

23 (b) "Commission" means the civil rights commission created under  
 24 section 4 of this chapter.

25 (c) "Director" means the director of the civil rights commission.

26 (d) "Deputy director" means the deputy director of the civil rights  
 27 commission.

28 (e) "Commission attorney" means the deputy attorney general, such  
 29 assistants of the attorney general as may be assigned to the  
 30 commission, or such other attorney as may be engaged by the  
 31 commission.

32 (f) "Consent agreement" means a formal agreement entered into in  
 33 lieu of adjudication.

34 (g) "Affirmative action" means those acts that the commission  
 35 determines necessary to assure compliance with the Indiana civil rights  
 36 law.

37 (h) "Employer" means the state or any political or civil subdivision  
 38 thereof and any person employing six (6) or more persons within the  
 39 state, except that the term "employer" does not include:

40 (1) any nonprofit corporation or association organized exclusively  
 41 for fraternal or religious purposes;

42 (2) any school, educational, or charitable religious institution



- 1 owned or conducted by or affiliated with a church or religious
- 2 institution; or
- 3 (3) any exclusively social club, corporation, or association that is
- 4 not organized for profit.
- 5 (i) "Employee" means any person employed by another for wages or
- 6 salary. However, the term does not include any individual employed:
- 7 (1) by the individual's parents, spouse, or child; or
- 8 (2) in the domestic service of any person.
- 9 (j) "Labor organization" means any organization that exists for the
- 10 purpose in whole or in part of collective bargaining or of dealing with
- 11 employers concerning grievances, terms, or conditions of employment
- 12 or for other mutual aid or protection in relation to employment.
- 13 (k) "Employment agency" means any person undertaking with or
- 14 without compensation to procure, recruit, refer, or place employees.
- 15 (l) "Discriminatory practice" means:
- 16 (1) the exclusion of a person from equal opportunities because of
- 17 race, religion, color, sex, disability, national origin, ancestry, or
- 18 status as a veteran;
- 19 (2) a system that excludes persons from equal opportunities
- 20 because of race, religion, color, sex, disability, national origin,
- 21 ancestry, or status as a veteran;
- 22 (3) the promotion of racial segregation or separation in any
- 23 manner, including but not limited to the inducing of or the
- 24 attempting to induce for profit any person to sell or rent any
- 25 dwelling by representations regarding the entry or prospective
- 26 entry in the neighborhood of a person or persons of a particular
- 27 race, religion, color, sex, disability, national origin, or ancestry;
- 28 **or**
- 29 (4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is
- 30 committed by a covered entity (as defined in IC 22-9-5-4).
- 31 ~~(5) the performance of an abortion solely because of the race,~~
- 32 ~~color, sex, disability, national origin, or ancestry of the fetus; or~~
- 33 ~~(6) a violation of any of the following statutes protecting the right~~
- 34 ~~of conscience regarding abortion:~~
- 35 ~~(A) IC 16-34-1-4.~~
- 36 ~~(B) IC 16-34-1-5.~~
- 37 ~~(C) IC 16-34-1-6.~~
- 38 Every discriminatory practice relating to the acquisition or sale of real
- 39 estate, education, public accommodations, employment, or the
- 40 extending of credit (as defined in IC 24-4.5-1-301.5) shall be
- 41 considered unlawful unless it is specifically exempted by this chapter.
- 42 (m) "Public accommodation" means any establishment that caters





1 or offers its services or facilities or goods to the general public.

2 (n) "Complainant" means:

- 3 (1) any individual charging on the individual's own behalf to have  
 4 been personally aggrieved by a discriminatory practice; or  
 5 (2) the director or deputy director of the commission charging that  
 6 a discriminatory practice was committed against a person (other  
 7 than the director or deputy director) or a class of people, in order  
 8 to vindicate the public policy of the state (as defined in section 2  
 9 of this chapter).

10 (o) "Complaint" means any written grievance that is:

- 11 (1) sufficiently complete and filed by a complainant with the  
 12 commission; or  
 13 (2) filed by a complainant as a civil action in the circuit or  
 14 superior court having jurisdiction in the county in which the  
 15 alleged discriminatory practice occurred.

16 The original of any complaint filed under subdivision (1) shall be  
 17 signed and verified by the complainant.

18 (p) "Sufficiently complete" refers to a complaint that includes:

- 19 (1) the full name and address of the complainant;  
 20 (2) the name and address of the respondent against whom the  
 21 complaint is made;  
 22 (3) the alleged discriminatory practice and a statement of  
 23 particulars thereof;  
 24 (4) the date or dates and places of the alleged discriminatory  
 25 practice and if the alleged discriminatory practice is of a  
 26 continuing nature the dates between which continuing acts of  
 27 discrimination are alleged to have occurred; and  
 28 (5) a statement as to any other action, civil or criminal, instituted  
 29 in any other form based upon the same grievance alleged in the  
 30 complaint, together with a statement as to the status or disposition  
 31 of the other action.

32 No complaint shall be valid unless filed within one hundred eighty  
 33 (180) days from the date of the occurrence of the alleged  
 34 discriminatory practice.

35 (q) "Sex" as it applies to segregation or separation in this chapter  
 36 applies to all types of employment, education, public accommodations,  
 37 and housing. However:

- 38 (1) it shall not be a discriminatory practice to maintain separate  
 39 restrooms;  
 40 (2) it shall not be an unlawful employment practice for an  
 41 employer to hire and employ employees, for an employment  
 42 agency to classify or refer for employment any individual, for a



1 labor organization to classify its membership or to classify or refer  
 2 for employment any individual, or for an employer, labor  
 3 organization, or joint labor management committee controlling  
 4 apprenticeship or other training or retraining programs to admit  
 5 or employ any other individual in any program on the basis of sex  
 6 in those certain instances where sex is a bona fide occupational  
 7 qualification reasonably necessary to the normal operation of that  
 8 particular business or enterprise; and

9 (3) it shall not be a discriminatory practice for a private or  
 10 religious educational institution to continue to maintain and  
 11 enforce a policy of admitting students of one (1) sex only.

12 (r) "Disabled" or "disability" means the physical or mental condition  
 13 of a person that constitutes a substantial disability. In reference to  
 14 employment under this chapter, "disabled or disability" also means the  
 15 physical or mental condition of a person that constitutes a substantial  
 16 disability unrelated to the person's ability to engage in a particular  
 17 occupation.

18 (s) "Veteran" means:

19 (1) a veteran of the armed forces of the United States;

20 (2) a member of the Indiana National Guard; or

21 (3) a member of a reserve component.

22 SECTION 40. IC 23-14-31-39, AS AMENDED BY P.L.213-2016,  
 23 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2018]: Sec. 39. (a) Except as provided in IC 16-21-11-6, ~~and~~  
 25 ~~IC 16-34-3-4~~, a crematory authority shall not perform the simultaneous  
 26 cremation of the human remains of more than one (1) individual within  
 27 the same cremation chamber unless it has obtained the prior written  
 28 consent of the authorizing agents.

29 (b) Subsection (a) does not prevent the simultaneous cremation  
 30 within the same cremation chamber of body parts delivered to the  
 31 crematory authority from multiple sources, or the use of cremation  
 32 equipment that contains more than one (1) cremation chamber.

33 SECTION 41. IC 25-22.5-2-8, AS AMENDED BY P.L.177-2015,  
 34 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2018]: Sec. 8. (a) The board shall implement a program to  
 36 investigate and assess a civil penalty of not more than one thousand  
 37 dollars (\$1,000) against a physician licensed under this article for the  
 38 following violations:

39 (1) Licensure renewal fraud.

40 (2) Improper termination of a physician and patient relationship.

41 (3) Practicing with an expired medical license.

42 (4) Providing office based anesthesia without the proper



- 1 accreditation.
- 2 (5) Failure to perform duties required for issuing birth or death  
3 certificates.
- 4 (6) Failure to disclose, or negligent omission of, documentation  
5 requested for licensure renewal.
- 6 ~~(7) Failure to complete or timely transmit a pregnancy termination  
7 form under IC 16-34-2-5, with each failure constituting a separate  
8 violation.~~
- 9 (b) An individual who is investigated by the board and found by the  
10 board to have committed a violation specified in subsection (a) may  
11 appeal the determination made by the board in accordance with  
12 IC 4-21.5.
- 13 (c) In accordance with the federal Health Care Quality Improvement  
14 Act (42 U.S.C. 11132), the board shall report a disciplinary board  
15 action that is subject to reporting to the National Practitioner Data  
16 Bank. However, the board may not report board action against a  
17 physician for only an administrative penalty described in subsection  
18 (a). The board's action concerning disciplinary action or an  
19 administrative penalty described in subsection (a) shall be conducted  
20 at a hearing that is open to the public.
- 21 (d) The physician compliance fund is established to provide funds  
22 for administering and enforcing the investigation of violations specified  
23 in subsection (a). The fund shall be administered by the Indiana  
24 professional licensing agency.
- 25 (e) The expenses of administering the physician compliance fund  
26 shall be paid from the money in the fund. The fund consists of penalties  
27 collected through investigations and assessments by the board  
28 concerning violations specified in subsection (a). Money in the fund at  
29 the end of a state fiscal year does not revert to the state general fund.
- 30 SECTION 42. IC 25-22.5-8-6 IS REPEALED [EFFECTIVE JULY  
31 1, 2018]. Sec. 6. (a) ~~As used in this section, "abortion" has the meaning  
32 set forth in IC 16-18-2-1.~~
- 33 (b) ~~Notwithstanding IC 25-1-9, the board may revoke the license of  
34 a physician if, after appropriate notice and an opportunity for a hearing,  
35 the attorney general proves by a preponderance of the evidence that the  
36 physician:~~
- 37 ~~(1) failed to transmit the form to the state department of health as  
38 described in IC 16-34-2-5(b); or~~
- 39 ~~(2) performed an abortion in violation of IC 16-34-2-7(a) through  
40 IC 16-34-2-7(c) with the intent to avoid the requirements of  
41 IC 16-34-2.~~
- 42 SECTION 43. IC 25-36.1-2-1, AS ADDED BY P.L.97-2009,



1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2018]: Sec. 1. As used in this chapter, "health care facility"  
3 means the following:

- 4 (1) A hospital that is licensed under IC 16-21-2.
- 5 (2) An ambulatory outpatient surgical center licensed under  
6 IC 16-21-2.
- 7 (3) A birthing center licensed under IC 16-21-2.
- 8 ~~(4) An abortion clinic licensed under IC 16-21-2.~~

9 SECTION 44. IC 27-8-13.4 IS REPEALED [EFFECTIVE JULY 1,  
10 2018]. (Coverage for Abortion).

11 SECTION 45. IC 27-8-33 IS REPEALED [EFFECTIVE JULY 1,  
12 2018]. (Health Care Exchanges and Abortion).

13 SECTION 46. IC 27-13-7-7.5 IS REPEALED [EFFECTIVE JULY  
14 1, 2018]. ~~Sec. 7.5: (a) A health maintenance organization that provides  
15 coverage for basic health care services and that is entered into;  
16 delivered; amended; or renewed after December 31, 2014; under a  
17 group contract or an individual contract may not provide coverage for  
18 abortion; except in the following cases:~~

- 19 ~~(1) The pregnant woman became pregnant through an act of rape  
20 or incest.~~
- 21 ~~(2) An abortion is necessary to avert the pregnant woman's death  
22 or a substantial and irreversible impairment of a major bodily  
23 function of the pregnant woman.~~

24 ~~(b) A health maintenance organization that enters into a group  
25 contract or an individual contract described in subsection (a) may offer  
26 coverage for abortion through a rider or an endorsement.~~

27 SECTION 47. IC 31-39-1-1, AS AMENDED BY P.L.1-2014,  
28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2018]: Sec. 1. (a) This chapter applies to all records of the  
30 juvenile court except the following:

- 31 (1) Records involving an adult charged with a crime or criminal  
32 contempt of court.
- 33 (2) Records involving a pregnant minor or her physician seeking  
34 a waiver of the requirement under IC 35-1-58.5-2.5 (before its  
35 repeal) or IC 16-34-2-4 (**before its repeal**) that a physician who  
36 performs an abortion on an unemancipated minor first obtain the  
37 written consent of the minor's parent or guardian.
- 38 (3) Records involving proceedings that pertain to:  
39 (A) paternity issues;  
40 (B) custody issues;  
41 (C) parenting time issues; or  
42 (D) child support issues;



- 1 concerning a child born to parents who are not married to each  
 2 other.  
 3 (b) The legal records subject to this chapter include the following:  
 4 (1) Chronological case summaries.  
 5 (2) Index entries.  
 6 (3) Summonses.  
 7 (4) Warrants.  
 8 (5) Petitions.  
 9 (6) Orders.  
 10 (7) Motions.  
 11 (8) Decrees.

12 SECTION 48. IC 31-39-2-1, AS AMENDED BY P.L.1-2014,  
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2018]: Sec. 1. (a) This chapter applies to all records of the  
 15 juvenile court except the following:

- 16 (1) Records involving an adult charged with a crime or criminal  
 17 contempt of court.  
 18 (2) Records involving a pregnant minor or her physician seeking  
 19 a waiver of the requirement under IC 35-1-58.5-2.5 (before its  
 20 repeal) or IC 16-34-2-4 (**before its repeal**) that a physician who  
 21 performs an abortion on an unemancipated minor first obtain the  
 22 written consent of the minor's parent or guardian.  
 23 (3) Records involving proceedings that pertain to:  
 24 (A) paternity issues;  
 25 (B) custody issues;  
 26 (C) parenting time issues; or  
 27 (D) child support issues;  
 28 concerning a child born to parents who are not married to each  
 29 other.

- 30 (b) The legal records subject to this chapter include the following:  
 31 (1) Chronological case summaries.  
 32 (2) Index summaries.  
 33 (3) Summonses.  
 34 (4) Warrants.  
 35 (5) Petitions.  
 36 (6) Orders.  
 37 (7) Motions.  
 38 (8) Decrees.

39 SECTION 49. IC 34-23-2-1, AS AMENDED BY P.L.129-2009,  
 40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2018]: Sec. 1. ~~(a) This section does not apply to an abortion~~  
 42 ~~performed in compliance with:~~



1           (+) IC 16-34; or

2           (2) IC 35-1-58.5 (before its repeal);

3           (+) (a) As used in this section, "child" means an unmarried  
4 individual without dependents who is:

5           (1) less than twenty (20) years of age; or

6           (2) less than twenty-three (23) years of age and is enrolled in a  
7 postsecondary educational institution or a career and technical  
8 education school or program that is not a postsecondary  
9 educational program.

10          The term includes a fetus that has attained viability (as defined in  
11 ~~IC 16-18-2-365~~): **an unborn child.**

12          (+) (b) An action may be maintained under this section against the  
13 person whose wrongful act or omission caused the injury or death of a  
14 child. The action may be maintained by:

15           (1) the father and mother jointly, or either of them by naming the  
16 other parent as a codefendant to answer as to **his or her the**  
17 **parent's** interest;

18           (2) in case of divorce or dissolution of marriage, the person to  
19 whom custody of the child was awarded; and

20           (3) a guardian, for the injury or death of a protected person.

21          (+) (c) In case of death of the person to whom custody of a child was  
22 awarded, a personal representative shall be appointed to maintain the  
23 action for the injury or death of the child.

24          (+) (d) In an action brought by a guardian for an injury to a protected  
25 person, the damages inure to the benefit of the protected person.

26          (+) (e) In an action to recover for the death of a child, the plaintiff  
27 may recover damages:

28           (1) for the loss of the child's services;

29           (2) for the loss of the child's love and companionship; and

30           (3) to pay the expenses of:

31           (A) health care and hospitalization necessitated by the  
32 wrongful act or omission that caused the child's death;

33           (B) the child's funeral and burial;

34           (C) the reasonable expense of psychiatric and psychological  
35 counseling incurred by a surviving parent or minor sibling of  
36 the child that is required because of the death of the child;

37           (D) uninsured debts of the child, including debts for which a  
38 parent is obligated on behalf of the child; and

39           (E) the administration of the child's estate, including  
40 reasonable attorney's fees.

41          (+) (f) Damages may be awarded under this section only with  
42 respect to the period of time from the death of the child until:



- 1 (1) the date that the child would have reached:  
 2 (A) twenty (20) years of age; or  
 3 (B) twenty-three (23) years of age, if the child was enrolled in  
 4 a postsecondary educational institution or in a career and  
 5 technical education school or program that is not a  
 6 postsecondary educational program; or  
 7 (2) the date of the child's last surviving parent's death;

8 whichever first occurs.

9 ~~(f)~~ **(g)** Damages may be awarded under subsection ~~(f)(2)~~ **(e)(2)** only  
 10 with respect to the period of time from the death of the child until the  
 11 date of the child's last surviving parent's death.

12 ~~(f)~~ **(h)** Damages awarded under subsection ~~(f)(1); (f)(2); (f)(3)(C);~~  
 13 ~~and (f)(3)(D)~~ **(e)(1), (e)(2), (e)(3)(C), and (e)(3)(D)** inure to the benefit  
 14 of:

- 15 (1) the father and mother jointly if both parents had custody of the  
 16 child;  
 17 (2) the custodial parent, or custodial grandparent, and the  
 18 noncustodial parent of the deceased child as apportioned by the  
 19 court according to their respective losses; or  
 20 (3) a custodial grandparent of the child if the child was not  
 21 survived by a parent entitled to benefit under this section.

22 However, a parent or grandparent who abandoned a deceased child  
 23 while the child was alive is not entitled to any recovery under this  
 24 chapter.

25 ~~(f)~~ **(i)** This section does not affect or supersede any other right,  
 26 remedy, or defense provided by any other law.

27 SECTION 50. IC 35-31.5-2-132 IS REPEALED [EFFECTIVE  
 28 JULY 1, 2018]. ~~Sec. 132: "Fetus", for purposes of IC 35-42-1-4, has the~~  
 29 ~~meaning set forth in IC 35-42-1-4(a).~~

30 SECTION 51. IC 35-31.5-2-160, AS ADDED BY P.L.114-2012,  
 31 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2018]: Sec. 160. "Human being" means an individual ~~who has~~  
 33 ~~been born and is alive: having human physical life (as described by~~  
 34 **IC 16-50-1-1), regardless of whether the individual has been born.**

35 SECTION 52. IC 35-42-1-0.5 IS REPEALED [EFFECTIVE JULY  
 36 1, 2018]. ~~Sec. 0.5: Sections 1, 3, and 4 of this chapter do not apply to~~  
 37 ~~an abortion performed in compliance with:~~

- 38 ~~(1) IC 16-34; or~~  
 39 ~~(2) IC 35-1-58.5 (before its repeal):~~

40 SECTION 53. IC 35-42-1-1, AS AMENDED BY P.L.252-2017,  
 41 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2018]: Sec. 1. A person who:



- 1 (1) knowingly or intentionally kills another human being;  
 2 (2) kills another human being while committing or attempting to  
 3 commit arson, burglary, child molesting, consumer product  
 4 tampering, criminal deviate conduct (under IC 35-42-4-2 before  
 5 its repeal), kidnapping, rape, robbery, human trafficking,  
 6 promotion of human trafficking, sexual trafficking of a minor, or  
 7 carjacking (before its repeal); **or**  
 8 (3) kills another human being while committing or attempting to  
 9 commit:  
 10 (A) dealing in or manufacturing cocaine or a narcotic drug  
 11 (IC 35-48-4-1);  
 12 (B) dealing in methamphetamine (IC 35-48-4-1.1);  
 13 (C) manufacturing methamphetamine (IC 35-48-4-1.2);  
 14 (D) dealing in a schedule I, II, or III controlled substance  
 15 (IC 35-48-4-2);  
 16 (E) dealing in a schedule IV controlled substance  
 17 (IC 35-48-4-3); or  
 18 (F) dealing in a schedule V controlled substance; ~~or~~  
 19 ~~(4) knowingly or intentionally kills a fetus that has attained~~  
 20 ~~viability (as defined in IC 16-18-2-365);~~  
 21 commits murder, a felony.  
 22 SECTION 54. IC 35-42-1-3, AS AMENDED BY P.L.158-2013,  
 23 SECTION 413, IS AMENDED TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) A person who knowingly or  
 25 intentionally  
 26 ~~(1) kills another human being or~~  
 27 ~~(2) kills a fetus that has attained viability (as defined in~~  
 28 ~~IC 16-18-2-365);~~  
 29 while acting under sudden heat commits voluntary manslaughter, a  
 30 Level 2 felony.  
 31 (b) The existence of sudden heat is a mitigating factor that reduces  
 32 what otherwise would be murder under section 1(1) of this chapter to  
 33 voluntary manslaughter.  
 34 SECTION 55. IC 35-42-1-4, AS AMENDED BY P.L.65-2016,  
 35 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2018]: Sec. 4. ~~(a) As used in this section, "fetus" means a~~  
 37 ~~fetus that has attained viability (as defined in IC 16-18-2-365);~~  
 38 ~~(b) A person who kills another human being while committing or~~  
 39 ~~attempting to commit:~~  
 40 (1) a Level 5 or Level 6 felony that inherently poses a risk of  
 41 serious bodily injury;  
 42 (2) a Class A misdemeanor that inherently poses a risk of serious





1           bodily injury; or  
 2           (3) battery;  
 3       commits involuntary manslaughter, a Level 5 felony.  
 4       (c) A person who kills a fetus while committing or attempting to  
 5       commit:  
 6           (1) a Level 5 or Level 6 felony that inherently poses a risk of  
 7           serious bodily injury;  
 8           (2) a Class A misdemeanor that inherently poses a risk of serious  
 9           bodily injury;  
 10          (3) a battery offense included in IC 35-42-2; or  
 11          (4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a  
 12          vehicle while intoxicated);  
 13       commits involuntary manslaughter, a Level 5 felony.  
 14       SECTION 56. IC 35-42-1-6 IS REPEALED [EFFECTIVE JULY 1,  
 15       2018]. Sec. 6. A person who knowingly or intentionally terminates a  
 16       human pregnancy with an intention other than to produce a live birth  
 17       or to remove a dead fetus commits feticide, a Level 3 felony. This  
 18       section does not apply to an abortion performed in compliance with:  
 19           (1) IC 16-34; or  
 20           (2) IC 35-1-58.5 (before its repeal).  
 21       SECTION 57. IC 35-42-2-1.5, AS AMENDED BY P.L.158-2013,  
 22       SECTION 422, IS AMENDED TO READ AS FOLLOWS  
 23       [EFFECTIVE JULY 1, 2018]: Sec. 1.5. A person who knowingly or  
 24       intentionally inflicts injury on a person that creates a substantial risk of  
 25       death or causes:  
 26           (1) serious permanent disfigurement; **or**  
 27           (2) protracted loss or impairment of the function of a bodily  
 28           member or organ; **or**  
 29           (3) ~~the loss of a fetus~~;  
 30       commits aggravated battery, a Level 3 felony. However, the offense is  
 31       a Level 1 felony if it results in the death of a child less than fourteen  
 32       (14) years of age and is committed by a person at least eighteen (18)  
 33       years of age.  
 34       SECTION 58. IC 35-50-2-9, AS AMENDED BY P.L.65-2016,  
 35       SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36       JULY 1, 2018]: Sec. 9. (a) The state may seek either a death sentence  
 37       or a sentence of life imprisonment without parole for murder by  
 38       alleging, on a page separate from the rest of the charging instrument,  
 39       the existence of at least one (1) of the aggravating circumstances listed  
 40       in subsection (b). In the sentencing hearing after a person is convicted  
 41       of murder, the state must prove beyond a reasonable doubt the  
 42       existence of at least one (1) of the aggravating circumstances alleged.



1 However, the state may not proceed against a defendant under this  
 2 section if a court determines at a pretrial hearing under IC 35-36-9 that  
 3 the defendant is an individual with an intellectual disability.

4 (b) The aggravating circumstances are as follows:

5 (1) The defendant committed the murder by intentionally killing  
 6 the victim while committing or attempting to commit any of the  
 7 following:

8 (A) Arson (IC 35-43-1-1).

9 (B) Burglary (IC 35-43-2-1).

10 (C) Child molesting (IC 35-42-4-3).

11 (D) Criminal deviate conduct (IC 35-42-4-2) (before its  
 12 repeal).

13 (E) Kidnapping (IC 35-42-3-2).

14 (F) Rape (IC 35-42-4-1).

15 (G) Robbery (IC 35-42-5-1).

16 (H) Carjacking (IC 35-42-5-2) (before its repeal).

17 (I) Criminal organization activity (IC 35-45-9-3).

18 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

19 (K) Criminal confinement (IC 35-42-3-3).

20 (2) The defendant committed the murder by the unlawful  
 21 detonation of an explosive with intent to injure a person or  
 22 damage property.

23 (3) The defendant committed the murder by lying in wait.

24 (4) The defendant who committed the murder was hired to kill.

25 (5) The defendant committed the murder by hiring another person  
 26 to kill.

27 (6) The victim of the murder was a corrections employee,  
 28 probation officer, parole officer, community corrections worker,  
 29 home detention officer, fireman, judge, or law enforcement  
 30 officer, and either:

31 (A) the victim was acting in the course of duty; or

32 (B) the murder was motivated by an act the victim performed  
 33 while acting in the course of duty.

34 (7) The defendant has been convicted of another murder.

35 (8) The defendant has committed another murder, at any time,  
 36 regardless of whether the defendant has been convicted of that  
 37 other murder.

38 (9) The defendant was:

39 (A) under the custody of the department of correction;

40 (B) under the custody of a county sheriff;

41 (C) on probation after receiving a sentence for the commission  
 42 of a felony; or



- 1 (D) on parole;  
 2 at the time the murder was committed.  
 3 (10) The defendant dismembered the victim.  
 4 (11) The defendant:  
 5 (A) burned, mutilated, or tortured the victim; or  
 6 (B) decapitated or attempted to decapitate the victim;  
 7 while the victim was alive.  
 8 (12) The victim of the murder was less than twelve (12) years of  
 9 age.  
 10 (13) The victim was a victim of any of the following offenses for  
 11 which the defendant was convicted:  
 12 (A) A battery offense included in IC 35-42-2 committed before  
 13 July 1, 2014, as a Class D felony or as a Class C felony, or a  
 14 battery offense included in IC 35-42-2 committed after June  
 15 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4  
 16 felony, or a Level 3 felony.  
 17 (B) Kidnapping (IC 35-42-3-2).  
 18 (C) Criminal confinement (IC 35-42-3-3).  
 19 (D) A sex crime under IC 35-42-4.  
 20 (14) The victim of the murder was listed by the state or known by  
 21 the defendant to be a witness against the defendant and the  
 22 defendant committed the murder with the intent to prevent the  
 23 person from testifying.  
 24 (15) The defendant committed the murder by intentionally  
 25 discharging a firearm (as defined in IC 35-47-1-5):  
 26 (A) into an inhabited dwelling; or  
 27 (B) from a vehicle.  
 28 (16) The victim of the murder was pregnant and the murder  
 29 resulted in the intentional killing of a fetus that has attained  
 30 viability (as defined in IC 16-18-2-365): **the victim's unborn**  
 31 **child.**  
 32 (17) The defendant knowingly or intentionally:  
 33 (A) committed the murder:  
 34 (i) in a building primarily used for an educational purpose;  
 35 (ii) on school property; and  
 36 (iii) when students are present; or  
 37 (B) committed the murder:  
 38 (i) in a building or other structure owned or rented by a state  
 39 educational institution or any other public or private  
 40 postsecondary educational institution and primarily used for  
 41 an educational purpose; and  
 42 (ii) at a time when classes are in session.



- 1 (18) The murder is committed:  
2 (A) in a building that is primarily used for religious worship;  
3 and  
4 (B) at a time when persons are present for religious worship or  
5 education.
- 6 (c) The mitigating circumstances that may be considered under this  
7 section are as follows:
- 8 (1) The defendant has no significant history of prior criminal  
9 conduct.
- 10 (2) The defendant was under the influence of extreme mental or  
11 emotional disturbance when the murder was committed.
- 12 (3) The victim was a participant in or consented to the defendant's  
13 conduct.
- 14 (4) The defendant was an accomplice in a murder committed by  
15 another person, and the defendant's participation was relatively  
16 minor.
- 17 (5) The defendant acted under the substantial domination of  
18 another person.
- 19 (6) The defendant's capacity to appreciate the criminality of the  
20 defendant's conduct or to conform that conduct to the  
21 requirements of law was substantially impaired as a result of  
22 mental disease or defect or of intoxication.
- 23 (7) The defendant was less than eighteen (18) years of age at the  
24 time the murder was committed.
- 25 (8) Any other circumstances appropriate for consideration.
- 26 (d) If the defendant was convicted of murder in a jury trial, the jury  
27 shall reconvene for the sentencing hearing. If the trial was to the court,  
28 or the judgment was entered on a guilty plea, the court alone shall  
29 conduct the sentencing hearing. The jury or the court may consider all  
30 the evidence introduced at the trial stage of the proceedings, together  
31 with new evidence presented at the sentencing hearing. The court shall  
32 instruct the jury concerning the statutory penalties for murder and any  
33 other offenses for which the defendant was convicted, the potential for  
34 consecutive or concurrent sentencing, and the availability of  
35 educational credit, good time credit, and clemency. The court shall  
36 instruct the jury that, in order for the jury to recommend to the court  
37 that the death penalty or life imprisonment without parole should be  
38 imposed, the jury must find at least one (1) aggravating circumstance  
39 beyond a reasonable doubt as described in subsection (l) and shall  
40 provide a special verdict form for each aggravating circumstance  
41 alleged. The defendant may present any additional evidence relevant  
42 to:



1 (1) the aggravating circumstances alleged; or

2 (2) any of the mitigating circumstances listed in subsection (c).

3 (e) For a defendant sentenced after June 30, 2002, except as  
4 provided by IC 35-36-9, if the hearing is by jury, the jury shall  
5 recommend to the court whether the death penalty or life imprisonment  
6 without parole, or neither, should be imposed. The jury may  
7 recommend:

8 (1) the death penalty; or

9 (2) life imprisonment without parole;

10 only if it makes the findings described in subsection (l). If the jury  
11 reaches a sentencing recommendation, the court shall sentence the  
12 defendant accordingly. After a court pronounces sentence, a  
13 representative of the victim's family and friends may present a  
14 statement regarding the impact of the crime on family and friends. The  
15 impact statement may be submitted in writing or given orally by the  
16 representative. The statement shall be given in the presence of the  
17 defendant.

18 (f) If a jury is unable to agree on a sentence recommendation after  
19 reasonable deliberations, the court shall discharge the jury and proceed  
20 as if the hearing had been to the court alone.

21 (g) If the hearing is to the court alone, except as provided by  
22 IC 35-36-9, the court shall:

23 (1) sentence the defendant to death; or

24 (2) impose a term of life imprisonment without parole;

25 only if it makes the findings described in subsection (l).

26 (h) If a court sentences a defendant to death, the court shall order  
27 the defendant's execution to be carried out not later than one (1) year  
28 and one (1) day after the date the defendant was convicted. The  
29 supreme court has exclusive jurisdiction to stay the execution of a  
30 death sentence. If the supreme court stays the execution of a death  
31 sentence, the supreme court shall order a new date for the defendant's  
32 execution.

33 (i) If a person sentenced to death by a court files a petition for  
34 post-conviction relief, the court, not later than ninety (90) days after the  
35 date the petition is filed, shall set a date to hold a hearing to consider  
36 the petition. If a court does not, within the ninety (90) day period, set  
37 the date to hold the hearing to consider the petition, the court's failure  
38 to set the hearing date is not a basis for additional post-conviction  
39 relief. The attorney general shall answer the petition for post-conviction  
40 relief on behalf of the state. At the request of the attorney general, a  
41 prosecuting attorney shall assist the attorney general. The court shall  
42 enter written findings of fact and conclusions of law concerning the



1 petition not later than ninety (90) days after the date the hearing  
 2 concludes. However, if the court determines that the petition is without  
 3 merit, the court may dismiss the petition within ninety (90) days  
 4 without conducting a hearing under this subsection.

5 (j) A death sentence is subject to automatic review by the supreme  
 6 court. The review, which shall be heard under rules adopted by the  
 7 supreme court, shall be given priority over all other cases. The supreme  
 8 court's review must take into consideration all claims that the:

9 (1) conviction or sentence was in violation of the:

10 (A) Constitution of the State of Indiana; or

11 (B) Constitution of the United States;

12 (2) sentencing court was without jurisdiction to impose a  
 13 sentence; and

14 (3) sentence:

15 (A) exceeds the maximum sentence authorized by law; or

16 (B) is otherwise erroneous.

17 If the supreme court cannot complete its review by the date set by the  
 18 sentencing court for the defendant's execution under subsection (h), the  
 19 supreme court shall stay the execution of the death sentence and set a  
 20 new date to carry out the defendant's execution.

21 (k) A person who has been sentenced to death and who has  
 22 completed state post-conviction review proceedings may file a written  
 23 petition with the supreme court seeking to present new evidence  
 24 challenging the person's guilt or the appropriateness of the death  
 25 sentence if the person serves notice on the attorney general. The  
 26 supreme court shall determine, with or without a hearing, whether the  
 27 person has presented previously undiscovered evidence that  
 28 undermines confidence in the conviction or the death sentence. If  
 29 necessary, the supreme court may remand the case to the trial court for  
 30 an evidentiary hearing to consider the new evidence and its effect on  
 31 the person's conviction and death sentence. The supreme court may not  
 32 make a determination in the person's favor nor make a decision to  
 33 remand the case to the trial court for an evidentiary hearing without  
 34 first providing the attorney general with an opportunity to be heard on  
 35 the matter.

36 (l) Before a sentence may be imposed under this section, the jury,  
 37 in a proceeding under subsection (e), or the court, in a proceeding  
 38 under subsection (g), must find that:

39 (1) the state has proved beyond a reasonable doubt that at least  
 40 one (1) of the aggravating circumstances listed in subsection (b)  
 41 exists; and

42 (2) any mitigating circumstances that exist are outweighed by the



1           aggravating circumstance or circumstances.  
2           SECTION 59. IC 35-52-16-20.7 IS REPEALED [EFFECTIVE  
3 JULY 1, 2018]. ~~Sec. 20.7. IC 16-34-2-4 defines a crime concerning~~  
4 ~~abortion.~~  
5           SECTION 60. IC 35-52-16-21 IS REPEALED [EFFECTIVE JULY  
6 1, 2018]. ~~Sec. 21. IC 16-34-2-5 defines a crime concerning abortion.~~  
7           SECTION 61. IC 35-52-16-22 IS REPEALED [EFFECTIVE JULY  
8 1, 2018]. ~~Sec. 22. IC 16-34-2-6 defines crimes concerning abortion.~~  
9           SECTION 62. IC 35-52-16-23 IS REPEALED [EFFECTIVE JULY  
10 1, 2018]. ~~Sec. 23. IC 16-34-2-7 defines a crime concerning abortion.~~

