



Reprinted  
February 24, 2017

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## HOUSE BILL No. 1128

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DIGEST OF HB 1128 (Updated February 23, 2017 4:31 pm - DI 92)

**Citations Affected:** IC 16-18; IC 16-21; IC 16-34.

**Synopsis:** Abortion matters. Requires that a pregnant woman be informed orally and in writing before an abortion obtained through an abortion inducing drug that the abortion may be possibly reversed. Requires certain Internet websites, referral telephone numbers, language stressing that seeking additional information and aid from a local medical professional should be sought as soon as possible, and a statement that no medical study has confirmed that an abortion may be reversed after taking an abortion inducing drug, be included on the informational form. Requires additional information to be reported to the state department of health (state department) by a health care provider who performs an abortion. Requires that hospitals and physicians report cases of abortion complications to the state department. Instructs the state department to adopt additional rules relating to abortion clinics. Requires that the state department remove all identifying information of a pregnant woman, health care provider, and health care facility from certain forms before releasing the form. Authorizes a private right of action against a person who wrongfully releases certain confidential information. Makes a technical correction.

**Effective:** July 1, 2017.

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### Bacon, Mayfield

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January 5, 2017, read first time and referred to Committee on Public Policy.  
February 21, 2017, amended, reported — Do Pass.  
February 23, 2017, read second time, amended, ordered engrossed.

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HB 1128—LS 6731/DI 107





Reprinted  
February 24, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1128

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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, AS AMENDED BY P.L.213-2016,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 1.5. (a) "Abortion clinic", for purposes of  
4 IC 16-19-3-31, IC 16-21-2, **IC 16-34-2**, IC 16-34-3, and IC 16-41-16,  
5 means a health care provider (as defined in section 163(d)(1) of this  
6 chapter) that:  
7 (1) performs surgical abortion procedures; or  
8 (2) beginning January 1, 2014, provides an abortion inducing  
9 drug for the purpose of inducing an abortion.  
10 (b) The term does not include the following:  
11 (1) A hospital that is licensed as a hospital under IC 16-21-2.  
12 (2) An ambulatory outpatient surgical center that is licensed as an  
13 ambulatory outpatient surgical center under IC 16-21-2.  
14 (3) A health care provider that provides, prescribes, administers,  
15 or dispenses an abortion inducing drug to fewer than five (5)  
16 patients per year for the purposes of inducing an abortion.  
17 SECTION 2. IC 16-18-2-36.5, AS AMENDED BY P.L.138-2014,

HB 1128—LS 6731/DI 107



1 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2017]: Sec. 36.5. (a) "Birthing center", for purposes of  
3 IC 16-21-2, ~~and~~ IC 16-21-11.2, **and IC 16-34-2-9**, means a  
4 freestanding entity that has the sole purpose of delivering a normal or  
5 uncomplicated pregnancy.

6 (b) The term does not include a hospital that is licensed as a hospital  
7 under IC 16-21-2.

8 SECTION 3. IC 16-21-2-2.5, AS AMENDED BY P.L.92-2015,  
9 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2017]: Sec. 2.5. (a) The state department shall adopt rules  
11 under IC 4-22-2 to do the following concerning birthing centers and  
12 abortion clinics:

- 13 (1) Establish minimum license qualifications.  
14 (2) Establish the following requirements:  
15 (A) Sanitation standards.  
16 (B) Staff qualifications.  
17 (C) Necessary emergency equipment.  
18 (D) Procedures to provide emergency care.  
19 **(E) Procedures to monitor patients after the**  
20 **administration of anesthesia.**  
21 **(F) Procedures to provide follow-up care for patient**  
22 **complications.**  
23 ~~(E)~~ **(G) Quality assurance standards.**  
24 ~~(F)~~ **(H) Infection control.**  
25 **(I) Provision of informed consent brochures, as described**  
26 **in IC 16-34-2-1.5, in English, Spanish, and a third language**  
27 **determined by the state department of health, inside**  
28 **abortion clinics.**  
29 **(J) Provision of a hotline telephone number that provides**  
30 **assistance for patients who are:**  
31 **(i) coerced into an abortion; or**  
32 **(ii) victims of sex trafficking.**  
33 **(K) Semiannual training by law enforcement officers or**  
34 **other qualified persons on identifying and assisting women**  
35 **who are:**  
36 **(i) coerced into an abortion; or**  
37 **(ii) victims of sex trafficking.**  
38 (3) Prescribe the operating policies, supervision, and maintenance  
39 of medical records, **including the requirement that all forms**  
40 **that require a patient signature be stored in the patient's**  
41 **medical record.**  
42 (4) Establish procedures for the issuance, renewal, denial, and



1 revocation of licenses under this chapter. The rules adopted under  
2 this subsection must address the following:

3 (A) The form and content of the license.

4 (B) The collection of an annual license fee.

5 (5) Prescribe the procedures and standards for inspections.

6 **(6) Prescribe procedures for:**

7 **(A) implementing a plan of correction to address any**  
8 **violations of any provision of this chapter or any rules**  
9 **adopted under this chapter; and**

10 **(B) implementing a system for the state department to**  
11 **follow if the abortion clinic or birthing center fails to**  
12 **comply with the plan of correction described in clause (A)**  
13 **and disciplinary action is needed.**

14 (b) A person who knowingly or intentionally:

15 (1) operates a birthing center or an abortion clinic that is not  
16 licensed under this chapter; or

17 (2) advertises the operation of a birthing center or an abortion  
18 clinic that is not licensed under this chapter;

19 commits a Class A misdemeanor.

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

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

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

28 **(3) establish procedures regarding the issuance of licenses to**  
29 **abortion clinics that:**

30 **(A) perform only surgical abortions;**

31 **(B) perform abortions only through the provision of an**  
32 **abortion inducing drug; or**

33 **(C) perform both surgical abortions and abortions through**  
34 **the provision of abortion inducing drugs.**

35 SECTION 4. IC 16-34-2-1.1, AS AMENDED BY P.L.213-2016,  
36 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2017]: Sec. 1.1. (a) An abortion shall not be performed except  
38 with the voluntary and informed consent of the pregnant woman upon  
39 whom the abortion is to be performed. Except in the case of a medical  
40 emergency, consent to an abortion is voluntary and informed only if the  
41 following conditions are met:

42 (1) At least eighteen (18) hours before the abortion and in the



1 private, not group, presence of the pregnant woman, the physician  
 2 who is to perform the abortion, the referring physician or a  
 3 physician assistant (as defined in IC 25-27.5-2-10), an advanced  
 4 practice nurse (as defined in IC 25-23-1-1(b)), or a certified nurse  
 5 midwife (as defined in IC 34-18-2-6.5) to whom the responsibility  
 6 has been delegated by the physician who is to perform the  
 7 abortion or the referring physician has informed the pregnant  
 8 woman orally and in writing of the following:

9 (A) The name of the physician performing the abortion, the  
 10 physician's medical license number, and an emergency  
 11 telephone number where the physician or the physician's  
 12 designee may be contacted on a twenty-four (24) hour a day,  
 13 seven (7) day a week basis.

14 (B) That follow-up care by the physician or the physician's  
 15 designee (if the designee is licensed under IC 25-22.5) is  
 16 available on an appropriate and timely basis when clinically  
 17 necessary.

18 (C) The nature of the proposed procedure or information  
 19 concerning the abortion inducing drug.

20 (D) Objective scientific information of the risks of and  
 21 alternatives to the procedure or the use of an abortion inducing  
 22 drug, including:

23 (i) the risk of infection and hemorrhage;

24 (ii) the potential danger to a subsequent pregnancy; and

25 (iii) the potential danger of infertility.

26 (E) That human physical life begins when a human ovum is  
 27 fertilized by a human sperm.

28 (F) The probable gestational age of the fetus at the time the  
 29 abortion is to be performed, including:

30 (i) a picture of a fetus;

31 (ii) the dimensions of a fetus; and

32 (iii) relevant information on the potential survival of an  
 33 unborn fetus;

34 at this stage of development.

35 (G) That objective scientific information shows that a fetus  
 36 can feel pain at or before twenty (20) weeks of postfertilization  
 37 age.

38 (H) The medical risks associated with carrying the fetus to  
 39 term.

40 (I) The availability of fetal ultrasound imaging and  
 41 auscultation of fetal heart tone services to enable the pregnant  
 42 woman to view the image and hear the heartbeat of the fetus



- 1 and how to obtain access to these services.
- 2 (J) That the pregnancy of a child less than fifteen (15) years of
- 3 age may constitute child abuse under Indiana law if the act
- 4 included an adult and must be reported to the department of
- 5 child services or the local law enforcement agency under
- 6 IC 31-33-5.
- 7 (K) That Indiana does not allow a fetus to be aborted solely
- 8 because of the fetus's race, color, national origin, ancestry, sex,
- 9 or diagnosis or potential diagnosis of the fetus having Down
- 10 syndrome or any other disability.
- 11 (2) At least eighteen (18) hours before the abortion, the pregnant
- 12 woman will be informed orally and in writing of the following:
- 13 (A) That medical assistance benefits may be available for
- 14 prenatal care, childbirth, and neonatal care from the county
- 15 office of the division of family resources.
- 16 (B) That the father of the unborn fetus is legally required to
- 17 assist in the support of the child. In the case of rape, the
- 18 information required under this clause may be omitted.
- 19 (C) That adoption alternatives are available and that adoptive
- 20 parents may legally pay the costs of prenatal care, childbirth,
- 21 and neonatal care.
- 22 (D) That there are physical risks to the pregnant woman in
- 23 having an abortion, both during the abortion procedure and
- 24 after.
- 25 (E) That Indiana has enacted the safe haven law under
- 26 IC 31-34-2.5.
- 27 (F) The:
- 28 (i) Internet web site address of the state department of
- 29 health's web site; and
- 30 (ii) description of the information that will be provided on
- 31 the web site and that are;
- 32 described in section 1.5 of this chapter.
- 33 (G) For the facility in which the abortion is to be performed,
- 34 an emergency telephone number that is available and
- 35 answered on a twenty-four (24) hour a day, seven (7) day a
- 36 week basis.
- 37 (H) On a form developed by the state department and as
- 38 described in IC 16-34-3, that the pregnant woman has a right
- 39 to determine the final disposition of the remains of the aborted
- 40 fetus.
- 41 (I) On a form developed by the state department, information
- 42 concerning the available options for disposition of the aborted



fetus.

(J) On a form developed by the state department, information concerning any counseling that is available to a pregnant woman after having an abortion.

**(K) On a form developed by the state department, information concerning possibly reversing the effects of an abortion obtained through an abortion inducing drug. The form must also include:**

**(i) Internet web sites and referral telephone numbers that can provide additional information and local medical professionals who can aid in the possible reversal of an abortion obtained through an abortion inducing drug;**

**(ii) language stressing that seeking additional information and aid from a local medical professional in possibly arresting or reversing an abortion obtained through an abortion inducing drug should be sought as soon as possible;**

**(iii) the following statement: "No scientifically validated medical study confirms that an abortion may be reversed after taking abortion inducing drugs."; and**

**(iv) the Internet web site and toll free telephone number for the American Congress of Obstetricians and Gynecologists (ACOG).**

**This clause applies only to a pregnant woman who is considering an abortion obtained through an abortion inducing drug.**

The state department shall develop and distribute the forms required by clauses (H) through ~~(J)~~: **(K)**.

(3) The pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that:

(A) the information required by subdivisions (1) and (2) has been provided to the pregnant woman;

(B) the pregnant woman has been offered by the provider the opportunity to view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible and that the woman has:

(i) viewed or refused to view the offered fetal ultrasound imaging; and

(ii) listened to or refused to listen to the offered auscultation of the fetal heart tone if the fetal heart tone is audible; and

(C) the pregnant woman has been given a written copy of the





- 1 printed materials described in section 1.5 of this chapter.
- 2 (4) At least eighteen (18) hours before the abortion and in the
- 3 presence of the pregnant woman, the physician who is to perform
- 4 the abortion, the referring physician or a physician assistant (as
- 5 defined in IC 25-27.5-2-10), an advanced practice nurse (as
- 6 defined in IC 25-23-1-1(b)), or a **certified nurse** midwife (as
- 7 defined in ~~IC 34-18-2-19~~ **IC 34-18-2-6.5**) to whom the
- 8 responsibility has been delegated by the physician who is to
- 9 perform the abortion or the referring physician has provided the
- 10 pregnant woman with a color copy of the informed consent
- 11 brochure described in section 1.5 of this chapter by printing the
- 12 informed consent brochure from the state department's Internet
- 13 web site and including the following information on the back
- 14 cover of the brochure:
- 15 (A) The name of the physician performing the abortion and the
- 16 physician's medical license number.
- 17 (B) An emergency telephone number where the physician or
- 18 the physician's designee may be contacted twenty-four (24)
- 19 hours a day, seven (7) days a week.
- 20 (C) A statement that follow-up care by the physician or the
- 21 physician's designee who is licensed under IC 25-22.5 is
- 22 available on an appropriate and timely basis when clinically
- 23 necessary.
- 24 (5) At least eighteen (18) hours before an abortion is performed
- 25 and at the same time that the pregnant woman receives the
- 26 information required by subdivision (1), the provider shall
- 27 perform, and the pregnant woman shall view, the fetal ultrasound
- 28 imaging and hear the auscultation of the fetal heart tone if the
- 29 fetal heart tone is audible unless the pregnant woman certifies in
- 30 writing, on a form developed by the state department, before the
- 31 abortion is performed, that the pregnant woman:
- 32 (A) does not want to view the fetal ultrasound imaging; and
- 33 (B) does not want to listen to the auscultation of the fetal heart
- 34 tone if the fetal heart tone is audible.
- 35 (b) This subsection applies to a pregnant woman whose unborn
- 36 child has been diagnosed with a lethal fetal anomaly. The requirements
- 37 of this subsection are in addition to the other requirements of this
- 38 section. At least eighteen (18) hours before an abortion is performed on
- 39 the pregnant woman, the physician who will perform the abortion shall:
- 40 (1) orally and in person, inform the pregnant woman of the
- 41 availability of perinatal hospice services; and
- 42 (2) provide the pregnant woman copies of the perinatal hospice



1 brochure developed by the state department under IC 16-25-4.5-4  
 2 and the list of perinatal hospice providers and programs  
 3 developed under IC 16-25-4.5-5, by printing the perinatal hospice  
 4 brochure and list of perinatal hospice providers from the state  
 5 department's Internet web site.

6 (c) If a pregnant woman described in subsection (b) chooses to have  
 7 an abortion rather than continuing the pregnancy in perinatal hospice  
 8 care, the pregnant woman shall certify in writing, on a form developed  
 9 by the state department under IC 16-25-4.5-6, at least eighteen (18)  
 10 hours before the abortion is performed, that the pregnant woman has  
 11 been provided the information described in subsection (b) in the  
 12 manner required by subsection (b).

13 SECTION 5. IC 16-34-2-5, AS AMENDED BY P.L.213-2016,  
 14 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2017]: Sec. 5. (a) Every health care provider who performs a  
 16 surgical abortion or provides, prescribes, administers, or dispenses an  
 17 abortion inducing drug for the purposes of inducing an abortion shall  
 18 report the performance of the abortion or the provision, prescribing,  
 19 administration, or dispensing of an abortion inducing drug on a form  
 20 drafted by the state department, the purpose and function of which shall  
 21 be the improvement of maternal health and life through the compilation  
 22 of relevant maternal life and health factors and data, and a further  
 23 purpose and function shall be to monitor all abortions performed in  
 24 Indiana to assure the abortions are done only under the authorized  
 25 provisions of the law. For each abortion performed and abortion  
 26 inducing drug provided, prescribed, administered, or dispensed, the  
 27 report shall include, among other things, the following:

- 28 (1) The age of the patient.  
 29 (2) The date and location the abortion was performed or the  
 30 abortion inducing drug was provided, prescribed, administered,  
 31 or dispensed.  
 32 (3) The health care provider's full name and address, including the  
 33 name of the physicians performing the abortion or providing,  
 34 prescribing, administering, or dispensing the abortion inducing  
 35 drug.  
 36 **(4) The patient's county and state of residence.**  
 37 **(5) The patient's marital status.**  
 38 **(6) The patient's education level.**  
 39 **(7) The patient's race.**  
 40 **(8) The patient's ethnicity.**  
 41 ~~(4) The name of the father if known.~~  
 42 ~~(5)~~ **(9) The age of the father, or the approximate age of the father**



- 1 if the father's age is unknown.
- 2 ~~(6)~~ (10) The following information concerning the abortion or the
- 3 provision, prescribing, administration, or dispensing of the
- 4 abortion inducing drug:
- 5 (A) The postfertilization age of the fetus.
- 6 (B) The manner in which the postfertilization age was
- 7 determined.
- 8 (C) The gender of the fetus, if detectable.
- 9 (D) Whether the fetus has been diagnosed with or has a
- 10 potential diagnosis of having Down syndrome or any other
- 11 disability.
- 12 (E) If after the earlier of the time the fetus obtains viability or
- 13 the time the postfertilization age of the fetus is at least twenty
- 14 (20) weeks, the medical reason for the performance of the
- 15 abortion or the provision, prescribing, administration, or
- 16 dispensing of the abortion inducing drug.
- 17 **(F) If after the earlier of the time the fetus obtains viability**
- 18 **or the time the postfertilization age of the fetus is at least**
- 19 **twenty (20) weeks, the name of the second doctor present**
- 20 **under section 3(a)(3) of this chapter.**
- 21 ~~(7)~~ (11) For a surgical abortion, the medical procedure used for
- 22 the abortion and, if the fetus was viable or had a postfertilization
- 23 age of at least twenty (20) weeks:
- 24 (A) whether the procedure, in the reasonable judgment of the
- 25 health care provider, gave the fetus the best opportunity to
- 26 survive; and
- 27 (B) the basis for the determination that the pregnant woman
- 28 had a condition described in this chapter that required the
- 29 abortion to avert the death of or serious impairment to the
- 30 pregnant woman.
- 31 ~~(8)~~ (12) For a nonsurgical abortion, the precise drugs provided,
- 32 prescribed, administered, or dispensed, and the means of delivery
- 33 of the drugs to the patient.
- 34 ~~(9)~~ (13) For an early pre-viability termination, the medical
- 35 indication by diagnosis code for the fetus and the mother.
- 36 ~~(10)~~ (14) The mother's obstetrical history, including:
- 37 (A) **number of previous live births, if any;**
- 38 (B) **number of deceased children, if any;**
- 39 (C) **number of miscarriages, if any;**
- 40 (D) **date of last menses; and**
- 41 (E) **dates of other abortions, if any.**
- 42 ~~(11)~~ (15) The results of pathological examinations if performed.



1           ~~(12)~~ **(16)** For a surgical abortion, whether the fetus was delivered  
2           alive, and if so, how long the fetus lived.

3           ~~(13)~~ **(17)** Records of all maternal deaths occurring at the location  
4           where the abortion was performed or the abortion inducing drug  
5           was provided, prescribed, administered, or dispensed.

6           ~~(14)~~ **(18)** The date the form was transmitted to the state  
7           department and, if applicable, separately to the department of  
8           child services.

9           (b) The health care provider shall complete the form provided for in  
10          subsection (a) and shall transmit the completed form to the state  
11          department, in the manner specified on the form, ~~not later than July 30~~  
12          ~~for each abortion occurring in the first six (6) months of that year and~~  
13          ~~not later than January 30 for each abortion occurring in the last six (6)~~  
14          ~~months of the preceding year.~~ **within thirty (30) days after the date**  
15          **of each abortion.** However, if an abortion is for a female who is less  
16          than ~~fourteen (14)~~ **sixteen (16)** years of age, the health care provider  
17          shall transmit the form to the state department of health and separately  
18          to the department of child services within three (3) days after the  
19          abortion is performed.

20          (c) The dates supplied on the form may not be redacted for any  
21          reason before the form is transmitted as provided in this section.

22          (d) Each failure to complete or timely transmit a form, as required  
23          under this section, for each abortion performed or abortion inducing  
24          drug that was provided, prescribed, administered, or dispensed, is a  
25          Class B misdemeanor.

26          (e) Not later than June 30 of each year, the state department shall  
27          compile a public report providing the following:

28               (1) Statistics for the previous calendar year from the information  
29               submitted under this section.

30               (2) Statistics for previous calendar years compiled by the state  
31               department under this subsection, with updated information for  
32               the calendar year that was submitted to the state department after  
33               the compilation of the statistics.

34          The state department shall ensure that no identifying information of a  
35          pregnant woman is contained in the report.

36          SECTION 6. IC 16-34-2-5.1, AS ADDED BY P.L.213-2016,  
37          SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38          JULY 1, 2017]: Sec. 5.1. **(a)** Each form or other written document that  
39          must be completed or provided by a physician or other provider under  
40          this chapter, including a signed copy retained in the pregnant woman's  
41          patient file, must include the following:

42               (1) A line for the signature of the physician or other provider.



- 1 (2) A line for the professional credentials and license number of  
 2 the physician or other provider.
- 3 (b) **The state department shall remove all identifying**  
 4 **information of a pregnant woman, physician or other provider,**  
 5 **and health care facility from each form or other written document**  
 6 **that must be completed or provided under this chapter before**  
 7 **releasing the form or document under IC 5-14-3.**
- 8 SECTION 7. IC 16-34-2-8 IS ADDED TO THE INDIANA CODE  
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 10 1, 2017]: **Sec. 8. (a) The following persons shall report to the state**  
 11 **department each case involving a patient suffering from**  
 12 **complications due to an abortion (as defined in IC 16-18-2-1):**
- 13 (1) A licensed physician.  
 14 (2) A hospital licensed under IC 16-21.
- 15 (b) **The report to the state department must indicate, if known:**  
 16 (1) **whether the individual had:**  
 17 (A) **a surgical abortion; or**  
 18 (B) **an abortion through the provision of an abortion**  
 19 **inducing drug;**  
 20 (2) **the date of the abortion;**  
 21 (3) **a description of the complications; and**  
 22 (4) **the abortion clinic or other facility where the abortion was**  
 23 **performed.**
- 24 (c) **A report under this section shall be submitted to the state**  
 25 **department on a form developed by the state department.**
- 26 SECTION 8. IC 16-34-2-9 IS ADDED TO THE INDIANA CODE  
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 28 1, 2017]: **Sec. 9. (a) This section applies to a person who is**  
 29 **employed by:**
- 30 (1) **the state department;**  
 31 (2) **a birthing center;**  
 32 (3) **a hospital that is licensed under IC 16-21-2; or**  
 33 (4) **an abortion clinic.**
- 34 (b) **A person described in subsection (a) shall not release to**  
 35 **another person any patient or employee information of a birthing**  
 36 **center, hospital, or abortion clinic that is confidential under:**  
 37 (1) **the federal Health Insurance Portability and**  
 38 **Accountability Act (HIPAA) (P.L. 104-191);**  
 39 (2) **Indiana law; or**  
 40 (3) **rules adopted by the state department.**
- 41 (c) **Except as provided in subsection (d), a patient or employee**  
 42 **has a private right of action for damages against a person who**



1 releases the patient's or employee's confidential information under  
2 subsection (b).

3 (d) There is no private right of action under subsection (c) if:

4 (1) the patient or employee authorized the release of the  
5 confidential information described in subsection (b); or

6 (2) the release of the confidential information described in  
7 subsection (b) is required or expressly authorized by law or  
8 court order.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1128, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-21-2-2.5, AS AMENDED BY P.L.92-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers and abortion clinics:

- (1) Establish minimum license qualifications.
- (2) Establish the following requirements:
  - (A) Sanitation standards.
  - (B) Staff qualifications.
  - (C) Necessary emergency equipment.
  - (D) Procedures to provide emergency care.
  - (E) Procedures to monitor patients after the administration of anesthesia.**
  - (F) Procedures to provide follow-up care for patient complications.**
  - ~~(F)~~ **(G) Quality assurance standards.**
  - ~~(G)~~ **(H) Infection control.**
  - (I) Provision of informed consent brochures, as described in IC 16-34-2-1.5, in English, Spanish, and a third language determined by the state department of health, inside abortion clinics.**
  - (J) Provision of a hotline telephone number that provides assistance for patients who are:**
    - (i) coerced into an abortion; or**
    - (ii) victims of sex trafficking.**
  - (K) Semiannual training by law enforcement officers or other qualified persons on identifying and assisting women who are:**
    - (i) coerced into an abortion; or**
    - (ii) victims of sex trafficking.**
- (3) Prescribe the operating policies, supervision, and maintenance of medical records, **including the requirement that all forms that require a patient signature be stored in the patient's medical record.**
- (4) Establish procedures for the issuance, renewal, denial, and



revocation of licenses under this chapter. The rules adopted under this subsection must address the following:

- (A) The form and content of the license.
- (B) The collection of an annual license fee.
- (5) Prescribe the procedures and standards for inspections.
- (6) Prescribe procedures for:**
  - (A) implementing a plan of correction to address any violations of any provision of this chapter or any rules adopted under this chapter; and**
  - (B) implementing a system for the state department to follow if the abortion clinic or birthing center fails to comply with the plan of correction described in clause (A) and disciplinary action is needed.**
- (b) A person who knowingly or intentionally:
  - (1) operates a birthing center or an abortion clinic that is not licensed under this chapter; or
  - (2) advertises the operation of a birthing center or an abortion clinic that is not licensed under this chapter;

commits a Class A misdemeanor.

- (c) Not later than January 1, 2019, the state department shall:**
  - (1) adopt separate rules under IC 4-22-2, including those required under subsection (a), for abortion clinics that perform only surgical abortions;**
  - (2) adopt separate rules under IC 4-22-2, including those required under subsection (a), for abortion clinics that perform abortions only through the provision of an abortion inducing drug; and**
  - (3) establish procedures regarding the issuance of licenses to abortion clinics that:**
    - (A) perform only surgical abortions;**
    - (B) perform abortions only through the provision of an abortion inducing drug; or**
    - (C) perform both surgical abortions and abortions through the provision of abortion inducing drugs."**

Page 3, line 38, delete "That after taking an abortifacient pill, a chemical" and insert "**On a form developed by the state department, information concerning possibly reversing the effects of an abortion obtained through an abortion inducing drug. The form must also include:**

- (i) Internet web sites and referral telephone numbers that can provide additional information and local medical professionals who can aid in the possible**





**reversal of an abortion obtained through an abortion inducing drug;**

**(ii) language stressing that seeking additional information and aid from a local medical professional in possibly arresting or reversing an abortion obtained through an abortion inducing drug should be sought as soon as possible;**

**(iii) the following statement: "No scientifically validated medical study confirms that an abortion may be reversed after taking abortion inducing drugs."; and**

**(iv) the Internet web site and toll free telephone number for the American Congress of Obstetricians and Gynecologists (ACOG).**

**This clause applies only to a pregnant woman who is considering an abortion obtained through an abortion inducing drug."**

Page 3, delete lines 39 through 41.

Page 4, line 1, strike "(J)." and insert "(K)."

Page 5, after line 26, begin a new paragraph and insert:

"SECTION 3. IC 16-34-2-5, AS AMENDED BY P.L.213-2016, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) Every health care provider who performs a surgical abortion or provides, prescribes, administers, or dispenses an abortion inducing drug for the purposes of inducing an abortion shall report the performance of the abortion or the provision, prescribing, administration, or dispensing of an abortion inducing drug on a form drafted by the state department, the purpose and function of which shall be the improvement of maternal health and life through the compilation of relevant maternal life and health factors and data, and a further purpose and function shall be to monitor all abortions performed in Indiana to assure the abortions are done only under the authorized provisions of the law. For each abortion performed and abortion inducing drug provided, prescribed, administered, or dispensed, the report shall include, among other things, the following:

- (1) The age of the patient.
- (2) The date and location the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.
- (3) The health care provider's full name and address, including the name of the physicians performing the abortion or providing, prescribing, administering, or dispensing the abortion inducing drug.



- (4) The patient's county and state of residence.**
- (5) The patient's marital status.**
- (6) The patient's education level.**
- (7) The patient's race.**
- (8) The patient's ethnicity.**
- ~~(4)~~ **The name of the father if known.**
- ~~(5)~~ **(9) The age of the father, or the approximate age of the father if the father's age is unknown.**
- ~~(6)~~ **(10) The following information concerning the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug:**
  - (A) The postfertilization age of the fetus.
  - (B) The manner in which the postfertilization age was determined.
  - (C) The gender of the fetus, if detectable.
  - (D) Whether the fetus has been diagnosed with or has a potential diagnosis of having Down syndrome or any other disability.
  - (E) If after the earlier of the time the fetus obtains viability or the time the postfertilization age of the fetus is at least twenty (20) weeks, the medical reason for the performance of the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug.
  - (F) If after the earlier of the time the fetus obtains viability or the time the postfertilization age of the fetus is at least twenty (20) weeks, the name of the second doctor present under section 3(a)(3) of this chapter.**
- ~~(7)~~ **(11) For a surgical abortion, the medical procedure used for the abortion and, if the fetus was viable or had a postfertilization age of at least twenty (20) weeks:**
  - (A) whether the procedure, in the reasonable judgment of the health care provider, gave the fetus the best opportunity to survive; and
  - (B) the basis for the determination that the pregnant woman had a condition described in this chapter that required the abortion to avert the death of or serious impairment to the pregnant woman.
- ~~(8)~~ **(12) For a nonsurgical abortion, the precise drugs provided, prescribed, administered, or dispensed, and the means of delivery of the drugs to the patient.**
- ~~(9)~~ **(13) For an early pre-viability termination, the medical indication by diagnosis code for the fetus and the mother.**



~~(10)~~ **(14)** The mother's obstetrical history, including:

- (A) number of previous live births, if any;**
- (B) number of deceased children, if any;**
- (C) number of miscarriages, if any;**
- (D) date of last menses; and**
- (E) dates of other abortions, if any.**

~~(11)~~ **(15)** The results of pathological examinations if performed.

~~(12)~~ **(16)** For a surgical abortion, whether the fetus was delivered alive, and if so, how long the fetus lived.

~~(13)~~ **(17)** Records of all maternal deaths occurring at the location where the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.

~~(14)~~ **(18)** The date the form was transmitted to the state department and, if applicable, separately to the department of child services.

(b) The health care provider shall complete the form provided for in subsection (a) and shall transmit the completed form to the state department, in the manner specified on the form, not later than ~~July 30~~ **for each abortion occurring in the first six (6) months of that year and not later than January 30 for each abortion occurring in the last six (6) months of the preceding year. the tenth day of each month following the date of each abortion.** However, if an abortion is for a female who is less than ~~fourteen (14)~~ **sixteen (16)** years of age, the health care provider shall transmit the form to the state department of health and separately to the department of child services within three (3) days after the abortion is performed.

(c) The dates supplied on the form may not be redacted for any reason before the form is transmitted as provided in this section.

(d) Each failure to complete or timely transmit a form, as required under this section, for each abortion performed or abortion inducing drug that was provided, prescribed, administered, or dispensed, is a Class B misdemeanor.

(e) Not later than June 30 of each year, the state department shall compile a public report providing the following:

- (1) Statistics for the previous calendar year from the information submitted under this section.
- (2) Statistics for previous calendar years compiled by the state department under this subsection, with updated information for the calendar year that was submitted to the state department after the compilation of the statistics.

The state department shall ensure that no identifying information of a pregnant woman is contained in the report.



SECTION 4. IC 16-34-2-5.1, AS ADDED BY P.L.213-2016, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5.1. **(a)** Each form or other written document that must be completed or provided by a physician or other provider under this chapter, including a signed copy retained in the pregnant woman's patient file, must include the following:

- (1) A line for the signature of the physician or other provider.
- (2) A line for the professional credentials and license number of the physician or other provider.

**(b) The state department shall remove all identifying information of a pregnant woman, physician or other provider, and health care facility from each form or other written document that must be completed or provided under this chapter before releasing the form or document under IC 5-14-3.**

SECTION 5. IC 16-34-2-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. **(a) The following persons shall report to the state department each case involving a patient suffering from complications due to an abortion (as defined in IC 16-18-2-1):**

- (1) A licensed physician.**
- (2) A hospital licensed under IC 16-21.**
- (b) The report to the state department must indicate, if known:**
  - (1) whether the individual had:**
    - (A) a surgical abortion; or**
    - (B) an abortion through the provision of an abortion inducing drug;**
  - (2) the date of the abortion;**
  - (3) a description of the complications; and**
  - (4) the abortion clinic or other facility where the abortion was performed.**

**(c) A report under this section shall be submitted to the state department on a form developed by the state department."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1128 as introduced.)

SMALTZ

Committee Vote: yeas 7, nays 6.

HB 1128—LS 6731/DI 107



## HOUSE MOTION

Mr. Speaker: I move that House Bill 1128 be amended to read as follows:

Page 9, line 29, strike "not later than".

Page 9, line 32, delete "the tenth day of each month following" and insert "**within thirty (30) days after**".

(Reference is to HB 1128 as printed February 21, 2017.)

ERRINGTON

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1128 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-1.5, AS AMENDED BY P.L.213-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1.5. (a) "Abortion clinic", for purposes of IC 16-19-3-31, IC 16-21-2, **IC 16-34-2**, IC 16-34-3, and IC 16-41-16, means a health care provider (as defined in section 163(d)(1) of this chapter) that:

- (1) performs surgical abortion procedures; or
- (2) beginning January 1, 2014, provides an abortion inducing drug for the purpose of inducing an abortion.
- (b) The term does not include the following:
  - (1) A hospital that is licensed as a hospital under IC 16-21-2.
  - (2) An ambulatory outpatient surgical center that is licensed as an ambulatory outpatient surgical center under IC 16-21-2.
  - (3) A health care provider that provides, prescribes, administers, or dispenses an abortion inducing drug to fewer than five (5) patients per year for the purposes of inducing an abortion.

SECTION 2. IC 16-18-2-36.5, AS AMENDED BY P.L.138-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 36.5. (a) "Birthing center", for purposes of IC 16-21-2, ~~and~~ IC 16-21-11.2, **and IC 16-34-2-9**, means a freestanding entity that has the sole purpose of delivering a normal or uncomplicated pregnancy.

(b) The term does not include a hospital that is licensed as a hospital under IC 16-21-2."

**HB 1128—LS 6731/DI 107**



Page 11, after line 1, begin a new paragraph and insert:

"SECTION 7. IC 16-34-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 9. (a) This section applies to a person who is employed by:**

- (1) the state department;**
- (2) a birthing center;**
- (3) a hospital that is licensed under IC 16-21-2; or**
- (4) an abortion clinic.**

**(b) A person described in subsection (a) shall not release to another person any patient or employee information of a birthing center, hospital, or abortion clinic that is confidential under:**

- (1) the federal Health Insurance Portability and Accountability Act (HIPAA) (P.L. 104-191);**
- (2) Indiana law; or**
- (3) rules adopted by the state department.**

**(c) Except as provided in subsection (d), a patient or employee has a private right of action for damages against a person who releases the patient's or employee's confidential information under subsection (b).**

**(d) There is no private right of action under subsection (c) if:**

- (1) the patient or employee authorized the release of the confidential information described in subsection (b); or**
- (2) the release of the confidential information described in subsection (b) is required or expressly authorized by law or court order."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1128 as printed February 21, 2017.)

AUSTIN

