

HOUSE BILL No. 1287

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-21-2-17.

Synopsis: Protection of born alive infants. Provides that when a woman who is in premature labor presents to a hospital, the hospital must inform the woman of the hospital's capabilities of treating the born alive infant and managing a high risk pregnancy and, if the hospital's capabilities interfere with the woman's care, the hospital must provide this information before the woman is admitted to the hospital. Provides that if a born alive infant is transported to a hospital with an appropriate perinatal level of care, the woman must be offered an opportunity to be transported to the same hospital. Provides that if the local prosecuting attorney has probable cause to believe that a health care provider may have knowingly or intentionally: (1) violated the requirements concerning the treatment and care of a born alive infant or mother or the professional standards of practice, through the health care provider's actions or inactions; and (2) caused harm or death to the born alive infant or mother; the prosecuting attorney shall investigate the health care provider for appropriate criminal prosecution.

Effective: July 1, 2024.

Sweet, Cash, Haggard

January 9, 2024, read first time and referred to Committee on Public Health.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1287

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 16-21-2-17, AS ADDED BY P.L.198-2021,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 17. (a) As used in this section, "born alive" means
4 the complete expulsion or extraction from the infant's mother, at any
5 stage of development or gestational age, of an infant who after the
6 expulsion or extraction:
7 (1) breathes;
8 (2) has a beating heart or pulsation of the umbilical cord; or
9 (3) has a definite movement of voluntary muscles;
10 regardless of whether the umbilical cord has been cut or whether the
11 expulsion or extraction occurs as a result of natural or induced labor,
12 cesarean section, or induced abortion.
13 (b) If a woman who is in premature labor presents to a hospital, the
14 hospital must inform the woman of the hospital's capabilities of treating
15 the born alive infant and managing a high risk pregnancy **and, if the**
16 **hospital's capabilities interfere with the woman's care, the hospital**
17 **must provide this information before the woman is admitted to the**



1 **hospital.** If the hospital does not have the capability to treat the
 2 premature born alive infant or the ability to manage a high risk
 3 pregnancy, the hospital must provide the woman options to get to a
 4 hospital with the appropriate level of care under the perinatal level of
 5 care designation established under IC 16-21-13.

6 (c) A hospital must provide:

- 7 (1) a medical screening examination; and
- 8 (2) any needed stabilizing treatment;

9 to an infant who is born alive, including born prematurely or with a
 10 disability, or a woman who is in premature labor.

11 (d) After a hospital has provided a medical screening examination
 12 under subsection (c)(1), the hospital must inform:

- 13 (1) a parent of the born alive infant of the:
 - 14 (A) infant's treatment options; and
 - 15 (B) hospital's determination of the appropriate level of care
 16 under the perinatal level of care designation established under
 17 IC 16-21-13; and

- 18 (2) the woman who is in premature labor of the:

- 19 (A) woman's treatment options; and
- 20 (B) hospital's determination of the appropriate level of care
 21 under the perinatal level of care designation established under
 22 IC 16-21-13.

23 (e) Subject to the requirements under the federal Emergency
 24 Medical Treatment and Labor Act, a hospital shall determine what
 25 perinatal level of care under IC 16-21-13 is appropriate for the born
 26 alive infant and mother and arrange for transport consistent with
 27 requirements adopted under IC 16-21-13-5. **If a born alive infant is
 28 transported to a hospital with the appropriate perinatal level of
 29 care, the woman must be offered an opportunity to be transported
 30 to the same hospital.**

31 (f) A hospital that violates this section is subject to the penalties
 32 under IC 16-21-3-1.

33 (g) A health care provider who is:

- 34 (1) licensed or certified under IC 25;
- 35 (2) employed or under contract with a hospital; and
- 36 (3) responsible for providing treatment or an examination to a
 37 born alive infant or woman with a high risk pregnancy under this
 38 chapter;

39 is subject to the standards of practice under IC 25-1-9. A health care
 40 provider who violates the standards of practice is subject to disciplinary
 41 sanctions under IC 25-1-9-9.

42 **(h) If the local prosecuting attorney has probable cause to**



1 believe that a health care provider may have knowingly or
2 intentionally:
3 (1) violated the requirements in this section or the standards
4 of practice under IC 25-1-9, through the health care
5 provider's actions or inactions; and
6 (2) caused harm or death to the born alive infant or mother;
7 the prosecuting attorney shall investigate the health care provider
8 for appropriate criminal prosecution.

