

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1337

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-18-2-1.5, AS AMENDED BY P.L.113-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.5. (a) "Abortion clinic", for purposes of IC 16-19-3-31, IC 16-21-2, and 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 16-18-2-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 18.5. "Any other disability", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-1.**

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SECTION 3. IC 16-18-2-100.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 100.5. "Down syndrome", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-2.**

SECTION 4. IC 16-18-2-128.7, AS ADDED BY P.L.113-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 128.7. "Fetus", for purposes of IC 16-34 **and IC 16-41-16**, means an unborn child, irrespective of gestational age or the duration of the pregnancy.

SECTION 5. IC 16-18-2-201.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 201.5. "Lethal fetal anomaly", for purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth in IC 16-25-4.5-2.**

SECTION 6. IC 16-18-2-237.1, AS ADDED BY P.L.127-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 237.1. "Miscarried fetus", for purposes of IC 16-21-11 **and IC 16-41-16**, has the meaning set forth in IC 16-21-11-2.

SECTION 7. IC 16-18-2-273.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 273.5. "Perinatal hospice", for purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth in IC 16-25-4.5-3.**

SECTION 8. IC 16-18-2-287.9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 287.9. "Potential diagnosis", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-3.**

SECTION 9. IC 16-18-2-328.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 328.6. "Sex selective abortion", for purposes of IC 16-34-4, has the meaning set forth in IC 16-34-4-4.**

SECTION 10. IC 16-21-11-5, AS ADDED BY P.L.127-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Not more than twenty-four (24) hours after a woman has her miscarried fetus expelled or extracted in a health care facility, the health care facility shall:

- (1) disclose to the parent or parents of the miscarried fetus, both orally and in writing, the parent's right to determine the final disposition of the remains of the miscarried fetus;
- (2) provide the parent or parents of the miscarried fetus with



written information concerning the available options for disposition of the miscarried fetus **under section 6 of this chapter and IC 16-41-16-7.6**; and

(3) inform the parent or parents of the miscarried fetus of counseling that may be available concerning the death of the miscarried fetus.

(b) The parent or parents of a miscarried fetus shall inform the health care facility of the parent's decision for final disposition of the miscarried fetus after receiving the information required in subsection (a) but before the parent of the miscarried fetus is discharged from the health care facility. The health care facility shall document the parent's decision in the medical record.

SECTION 11. IC 16-21-11-6, AS ADDED BY P.L.127-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) If the parent or parents choose a **means of location of** final disposition other than the **means location** of final disposition that is usual and customary for the health care facility, the parent or parents are responsible for the costs related to the final disposition of the fetus **at the chosen location.**

(b) ~~If the parent or parents choose a means of final disposition that provides for the interment of a miscarried fetus who has a gestational age of at least twenty (20) weeks of age; A health care facility having possession of a miscarried fetus shall provide for the final disposition of the miscarried fetus. The burial transit permit requirements under IC 16-37-3 apply to the final disposition of the miscarried fetus, which must be cremated or interred. However:~~

~~(1) a person is not required to designate a name for the miscarried fetus on the burial transit permit and the space for a name may remain blank; and~~

~~(2) any information submitted under this section that may be used to identify the parent or parents is confidential and must be redacted from any public records maintained under IC 16-37-3.~~

Miscarried fetuses may be cremated by simultaneous cremation.

(c) Notwithstanding any other law, the parent or parents whose miscarried fetus has a gestational age of less than twenty (20) weeks of age may choose a means of final disposition that provides for the cremation or the interment of the miscarried fetus. If the parent or parents choose the cremation or interment of the miscarried fetus, The local health officer shall provide the person in charge of interment with a permit for the disposition of the body. A certificate of stillbirth is not required to be issued for a final disposition ~~under this subsection. of a~~



miscarried fetus having a gestational age of less than twenty (20) weeks.

(d) IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, and IC 29-2-19-17 concerning the authorization of disposition of human remains apply to this section.

SECTION 12. IC 16-25-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 4.5. Perinatal Hospice

Sec. 1. The purpose of this chapter is to ensure that:

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

Sec. 2. As used in this chapter, "lethal fetal anomaly" means a fetal condition diagnosed before birth that, if the pregnancy results in a live birth, will with reasonable certainty result in the death of the child not more than three (3) months after the child's birth.

Sec. 3. As used in this chapter, "perinatal hospice" means the provision of comprehensive, supportive care to a pregnant woman and her family beginning with the diagnosis of a lethal fetal anomaly and continuing through the live birth and death of the woman's child as a result of the lethal fetal anomaly. The term includes counseling and medical care provided by maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, specialty nurses, clergy, social workers, and others that are focused on alleviating fear and ensuring that the woman and her family experience the life and death of the child in a comfortable and supportive environment.

Sec. 4. (a) The state department shall develop a perinatal hospice brochure and post the perinatal hospice brochure on the state department's Internet web site.

(b) The perinatal brochure developed under this section must include the following:

- (1) A description of the health care and other services available from perinatal hospice.**
- (2) Information that medical assistance benefits may be available for prenatal care, childbirth, and perinatal hospice.**
- (3) Information regarding telephone 211 dialing code services for accessing grief counseling and other human services as described in IC 8-1-19.5, and the types of services that are**



available through this service.

Sec. 5. The state department shall develop and regularly update a list of all perinatal hospice providers and programs in Indiana. The state department may include on the list perinatal hospice providers and programs in other states that provide care to Indiana residents. The state department shall post the list of perinatal hospice providers and programs on the state department's Internet web site.

Sec. 6. (a) The state department shall develop a form on which a pregnant woman certifies, at the time of receiving a diagnosis that the pregnant woman's unborn child has a lethal fetal anomaly, that the pregnant woman has received the following:

(1) A copy of the perinatal hospice brochure developed under this chapter.

(2) A list of the perinatal hospice providers and programs developed under section 5 of this chapter.

(b) The provider diagnosing the pregnant woman's unborn child with the lethal fetal anomaly shall, at the time of diagnosis:

(1) provide the pregnant woman with a written copy of:

(A) the perinatal brochure developed under this chapter; and

(B) the certification form developed by the state department under subsection (a); and

(2) have the pregnant woman complete the certification form.

Sec. 7. This chapter is severable as specified in IC 1-1-1-8.

SECTION 13. IC 16-34-2-1, AS AMENDED BY P.L.136-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) Abortion shall in all instances be a criminal act, except when performed under the following circumstances:

(1) **Except as prohibited in IC 16-34-4**, during the first trimester of pregnancy for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) the abortion is performed by the physician;

(B) the woman submitting to the abortion has filed her consent with her physician. However, if in the judgment of the physician the abortion is necessary to preserve the life of the woman, her consent is not required; and

(C) the woman submitting to the abortion has filed with her physician the written consent of her parent or legal guardian if required under section 4 of this chapter.

However, an abortion inducing drug may not be dispensed, prescribed, administered, or otherwise given to a pregnant woman



after nine (9) weeks of postfertilization age unless the Food and Drug Administration has approved the abortion inducing drug to be used for abortions later than nine (9) weeks of postfertilization age. A physician shall examine a pregnant woman in person before prescribing or dispensing an abortion inducing drug. As used in this subdivision, "in person" does not include the use of telehealth or telemedicine services.

(2) **Except as prohibited by IC 16-34-4**, for an abortion performed by a surgical procedure, after the first trimester of pregnancy and before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal abortion during the first trimester are present and adhered to; and

(B) the abortion is performed in a hospital or ambulatory outpatient surgical center (as defined in IC 16-18-2-14).

(3) **Except as provided in subsection (b) or as prohibited by IC 16-34-4**, and for an abortion performed by a surgical procedure, at the earlier of viability of the fetus or twenty (20) weeks of postfertilization age and any time after, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age are present and adhered to;

(B) the abortion is performed in compliance with section 3 of this chapter; and

(C) before the abortion the attending physician shall certify in writing to the hospital in which the abortion is to be performed, that in the attending physician's professional, medical judgment, after proper examination and review of the woman's history, the abortion is necessary to prevent a substantial permanent impairment of the life or physical health of the pregnant woman. All facts and reasons supporting the certification shall be set forth by the physician in writing and attached to the certificate.

(b) A person may not knowingly or intentionally perform a partial birth abortion unless a physician reasonably believes that:

(1) performing the partial birth abortion is necessary to save the mother's life; and



(2) no other medical procedure is sufficient to save the mother's life.

SECTION 14. IC 16-34-2-1.1, AS AMENDED BY P.L.113-2015, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

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

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

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

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

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

- (i) the risk of infection and hemorrhage;
- (ii) the potential danger to a subsequent pregnancy; and
- (iii) the potential danger of infertility.

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

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

- (i) a picture of a fetus;
- (ii) the dimensions of a fetus; and
- (iii) relevant information on the potential survival of an



unborn fetus;
at this stage of development.

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

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

(I) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(J) That the pregnancy of a child less than fifteen (15) years of age may constitute child abuse under Indiana law if the act included an adult and must be reported to the department of child services or the local law enforcement agency under IC 31-33-5.

(K) That Indiana does not allow a fetus to be aborted solely because of the fetus's race, color, national origin, ancestry, sex, or diagnosis or potential diagnosis of the fetus having Down syndrome or any other disability.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be informed orally and in writing of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the county office of the division of family resources.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(D) That there are physical risks to the pregnant woman in having an abortion, both during the abortion procedure and after.

(E) That Indiana has enacted the safe haven law under IC 31-34-2.5.

(F) The:

(i) Internet web site address of the state department of health's web site; and

(ii) description of the information that will be provided on the web site and that are;

described in section 1.5 of this chapter.



(G) For the facility in which the abortion is to be performed, an emergency telephone number that is available and answered on a twenty-four (24) hour a day, seven (7) day a week basis.

(H) On a form developed by the state department and as described in IC 16-34-3, that the pregnant woman has a right to determine the final disposition of the remains of the aborted fetus.

(I) On a form developed by the state department, information 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.

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

(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 printed materials described in section 1.5 of this chapter.

(4) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined in IC 34-18-2-19) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has provided the pregnant woman with a color copy of the informed consent brochure described in section 1.5 of this chapter by printing the informed consent brochure from the state department's Internet web site and including the following information on the back cover of the brochure:



(A) The name of the physician performing the abortion and the physician's medical license number.

(B) An emergency telephone number where the physician or the physician's designee may be contacted twenty-four (24) hours a day, seven (7) days a week.

(C) A statement that follow-up care by the physician or the physician's designee who is licensed under IC 25-22.5 is available on an appropriate and timely basis when clinically necessary.

~~(b)~~ **(5) At least eighteen (18) hours** before an abortion is performed **and at the same time that the pregnant woman receives the information required by subdivision (1),** the provider shall perform, and the pregnant woman shall view, the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible unless the pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that the pregnant woman:

~~(1)~~ **(A)** does not want to view the fetal ultrasound imaging; and

~~(2)~~ **(B)** does not want to listen to the auscultation of the fetal heart tone if the fetal heart tone is audible.

(b) This subsection applies to a pregnant woman whose unborn child has been diagnosed with a lethal fetal anomaly. The requirements of this subsection are in addition to the other requirements of this section. At least eighteen (18) hours before an abortion is performed on the pregnant woman, the physician who will perform the abortion shall:

(1) orally and in person, inform the pregnant woman of the availability of perinatal hospice services; and

(2) provide the pregnant woman copies of the perinatal hospice brochure developed by the state department under IC 16-25-4.5-4 and the list of perinatal hospice providers and programs developed under IC 16-25-4.5-5, by printing the perinatal hospice brochure and list of perinatal hospice providers from the state department's Internet web site.

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



SECTION 15. IC 16-34-2-4.5, AS AMENDED BY P.L.98-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4.5. (a) A physician may not perform an abortion unless the physician:

- (1) has admitting privileges in writing at a hospital located in the county where abortions are provided or in a contiguous county; or
- (2) has entered into a written agreement with a physician who has written admitting privileges at a hospital in the county or contiguous county concerning the management of possible complications of the services provided.

A written agreement described in subdivision (2) must be renewed annually.

(b) A physician who performs an abortion shall notify the patient of the location of the hospital at which the physician or a physician with whom the physician has entered into an agreement under subsection (a)(2) has admitting privileges and where the patient may receive follow-up care by the physician if complications arise.

(c) An abortion clinic shall:

- (1) keep at the abortion clinic a copy of the admitting privileges of a physician described in subsection (a)(1) and (a)(2); and
- (2) submit a copy of the admitting privileges described in subdivision (1) to the state department as part of the abortion clinic's licensure. The state department shall verify the validity of the admitting privileges document. The state department shall remove any identifying information from the admitting privileges document before releasing the document under IC 5-14-3.

(d) The state department shall annually submit a copy of the admitting privileges described in subsection (a)(1) and a copy of the written agreement described in subsection (a)(2) to:

- (1) each hospital located in the county in which the hospital granting the admitting privileges described in subsection (a) is located; and**
- (2) each hospital located in a county that is contiguous to the county described in subdivision (1);**

where abortions are performed.

~~(d)~~ (e) The state department shall confirm to a member of the public, upon request, that the admitting privileges required to be submitted under this section for an abortion clinic have been received by the state department.

~~(e)~~ (f) Notwithstanding IC 5-14-3-6 and IC 5-14-3-6.5, this section only allows for the redaction of information that is described in subsection (c). This section does not allow the state department to limit



the disclosure of information in other public documents.

SECTION 16. IC 16-34-2-5, AS AMENDED BY P.L.92-2015, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: 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 name of the father if known.
- (5) The age of the father, or the approximate age of the father if the father's age is unknown.
- (6) **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. ~~and,~~**
 - (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.**



(7) 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) For a nonsurgical abortion, the precise drugs provided, prescribed, administered, or dispensed, and the means of delivery of the drugs to the patient.

(9) For an early pre-viability termination, the medical indication by diagnosis code for the fetus and the mother.

~~(9)~~ **(10)** The mother's obstetrical history, including dates of other abortions, if any.

~~(10)~~ **(11)** The results of pathological examinations if performed.

~~(11)~~ **(12)** For a surgical abortion, whether the fetus was delivered alive, and if so, how long the fetus lived.

~~(12)~~ **(13)** 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.

~~(13)~~ **(14)** 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. However, if an abortion is for a female who is less than fourteen (14) 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 17. IC 16-34-2-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5.1. 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.**

SECTION 18. IC 16-34-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. **(a)** No experiments except pathological examinations may be conducted on any fetus aborted under this chapter. ~~nor may any fetus so aborted be transported out of Indiana for experimental purposes.~~ A person who conducts such an experiment ~~or so transports such a fetus~~ commits a Class A misdemeanor.

(b) Except as provided by subsection (c), a person who knowingly transports an aborted fetus into, or out of, Indiana commits a Class A misdemeanor.

(c) A person may transport an aborted fetus into, or out of, Indiana for the sole purpose of conducting the final disposition of the aborted fetus by cremation or interment under IC 16-34-3-4.

SECTION 19. IC 16-34-3-2, AS ADDED BY P.L.113-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) A pregnant woman who has an abortion under this article has the right to determine the final disposition of the aborted fetus.

(b) After receiving the notification and information required by ~~IC 16-34-2-1.1(a)(2)(H)~~ **IC 16-34-2-1.1(2)(H)** and ~~IC 16-34-2-1.1(a)(2)(I)~~, **IC 16-34-2-1.1(2)(I)**, the pregnant woman shall inform the abortion clinic or the health care facility:

- (1) in writing; and

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(2) on a form prescribed by the state department; of the pregnant woman's decision for final disposition of the aborted fetus before the aborted fetus may be discharged from the abortion clinic or the health care facility.

(c) If the pregnant woman is a minor, the abortion clinic or health care facility shall obtain parental consent in the disposition of the aborted fetus unless the minor has received a waiver of parental consent under IC 16-34-2-4.

(d) The abortion clinic or the health care facility shall document the pregnant woman's decision concerning disposition of the aborted fetus in the pregnant woman's medical record.

SECTION 20. IC 16-34-3-3, AS ADDED BY P.L.113-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. If the pregnant woman chooses a **means location** for final disposition ~~that is not required by law or by rule of other than the location of final disposition that is usual and customary for~~ an abortion clinic or a health care facility, the pregnant woman is responsible for the costs related to the final disposition of the aborted fetus **at the chosen location.**

SECTION 21. IC 16-34-3-4, AS ADDED BY P.L.113-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) **An abortion clinic or health care facility having possession of an aborted fetus shall provide for the final disposition of the aborted fetus. The burial transit permit requirements of IC 16-37-3 apply to the final disposition of an aborted fetus, with a gestational age of at least twenty (20) weeks of age, which must be interred or cremated. However:**

(1) **a person is not required to designate a name for the aborted fetus on the burial transit permit and the space for a name may remain blank; and**

(2) **any information submitted under this section that may be used to identify the pregnant woman is confidential and must be redacted from any public records maintained under IC 16-37-3.**

Aborted fetuses may be cremated by simultaneous cremation.

(b) ~~A pregnant woman may decide to cremate or inter an aborted fetus with a gestational age of less than twenty (20) weeks of age.~~

(e) **(b)** The local health officer shall issue a permit for the disposition of the aborted fetus to the person in charge of interment for the interment of ~~an the~~ aborted fetus. ~~described in subsection (b):~~ A certificate of stillbirth is not required to be issued for an aborted fetus with a gestational age of less than twenty (20) weeks of age.



(c) IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, and IC 29-2-19-17 concerning the authorization of disposition of human remains apply to this section.

SECTION 22. IC 16-34-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 4. Sex Selective and Disability Abortion Ban

Sec. 1. (a) As used in this chapter, "any other disability" means any disease, defect, or disorder that is genetically inherited. The term includes the following:

- (1) A physical disability.
- (2) A mental or intellectual disability.
- (3) A physical disfigurement.
- (4) Scoliosis.
- (5) Dwarfism.
- (6) Down syndrome.
- (7) Albinism.
- (8) Amelia.
- (9) A physical or mental disease.

(b) The term does not include a lethal fetal anomaly.

Sec. 2. As used in this chapter, "Down syndrome" means a chromosomal disorder associated with an extra chromosome 21 or an effective trisomy for chromosome 21.

Sec. 3. As used in this chapter, "potential diagnosis" refers to the presence of some risk factors that indicate that a health problem may occur.

Sec. 4. As used in this chapter, "sex selective abortion" means an abortion that is performed solely because of the sex of the fetus.

Sec. 5. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking a sex selective abortion.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking a sex selective abortion.

(c) This section is severable as specified in IC 1-1-1-8.

Sec. 6. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential



diagnosis of Down syndrome.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome.

(c) This section is severable as specified in IC 1-1-1-8.

Sec. 7. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability.

(c) This section is severable as specified in IC 1-1-1-8.

Sec. 8. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because of the race, color, national origin, or ancestry of the fetus.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because of the race, color, national origin, or ancestry of the fetus.

(c) This section is severable as specified in IC 1-1-1-8.

Sec. 9. (a) A person who knowingly or intentionally performs an abortion in violation of this chapter may be subject to:

- (1) disciplinary sanctions under IC 25-1-9; and
- (2) civil liability for wrongful death.

(b) A pregnant woman upon whom an abortion is performed in violation of this chapter may not be prosecuted for violating or conspiring to violate this chapter.

SECTION 23. IC 16-41-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) This chapter applies to persons and facilities that handle infectious waste, including



the following:

- (1) Hospitals.
- (2) Ambulatory surgical facilities.
- (3) Medical laboratories.
- (4) Diagnostic laboratories.
- (5) Blood centers.
- (6) Pharmaceutical companies.
- (7) Academic research laboratories.
- (8) Industrial research laboratories.
- (9) Health facilities.
- (10) Offices of health care providers.
- (11) Diet or health care clinics.
- (12) Offices of veterinarians.
- (13) Veterinary hospitals.
- (14) Emergency medical services providers.
- (15) Mortuaries.
- (16) Abortion clinics.**

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

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

SECTION 24. IC 16-41-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) Except as provided in ~~subsection~~ **subsections (c) and (d)**, as used in this chapter, "infectious waste" means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease (as defined by rule adopted under IC 16-41-2-1).

(b) The term includes the following:

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

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

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

includes only contaminated sharps.

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

SECTION 25. IC 16-41-16-5 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. As used in this chapter, "pathological waste" includes:

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

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

SECTION 26. IC 16-41-16-7.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]: **Sec. 7.6. (a) This section applies to a person or facility possessing either an aborted fetus or a miscarried fetus.**

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

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

SECTION 27. IC 22-9-1-3, AS AMENDED BY P.L.136-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. As used in this chapter:

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

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

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

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

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

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

(g) "Affirmative action" means those acts that the commission

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determines necessary to assure compliance with the Indiana civil rights law.

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

- (1) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;
- (2) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or
- (3) any exclusively social club, corporation, or association that is not organized for profit.

(i) "Employee" means any person employed by another for wages or salary. However, the term does not include any individual employed:

- (1) by the individual's parents, spouse, or child; or
- (2) in the domestic service of any person.

(j) "Labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or for other mutual aid or protection in relation to employment.

(k) "Employment agency" means any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(l) "Discriminatory practice" means:

- (1) the exclusion of a person from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;
- (2) a system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;
- (3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry;

or

- (4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is committed by a covered entity (as defined in IC 22-9-5-4);

(5) the performance of an abortion solely because of the race, color, sex, disability, national origin, or ancestry of the fetus;

or

- (6) a violation of any of the following statutes protecting the**



right of conscience regarding abortion:**(A) IC 16-34-1-4.****(B) IC 16-34-1-5.****(C) IC 16-34-1-6.**

Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the extending of credit (as defined in IC 24-4.5-1-301.5) shall be considered unlawful unless it is specifically exempted by this chapter.

(m) "Public accommodation" means any establishment that caters or offers its services or facilities or goods to the general public.

(n) "Complainant" means:

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

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

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

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

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

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

No complaint shall be valid unless filed within one hundred eighty (180) days from the date of the occurrence of the alleged



discriminatory practice.

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

(1) it shall not be a discriminatory practice to maintain separate restrooms;

(2) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and

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

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

(s) "Veteran" means:

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

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

(3) a member of a reserve component.

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

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

SECTION 29. IC 35-46-5-1, AS AMENDED BY P.L.158-2013,

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SECTION 570, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. ~~(a)~~ **As used in this section, "fetal tissue" means tissue from an infant or a fetus who is stillborn or aborted.**

~~(b)~~ **(a)** As used in this section, "human organ" means the kidney, liver, heart, lung, cornea, eye, bone marrow, bone, pancreas, or skin of a human body.

~~(c)~~ **(b)** As used in this section, "item of value" means money, real estate, funeral related services, and personal property. "Item of value" does not include:

- (1) the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ; or
- (2) the reimbursement of travel, housing, lost wages, and other expenses incurred by the donor of a human organ related to the donation of the human organ.

~~(d)~~ **(c)** A person who intentionally acquires, receives, sells, or transfers, in exchange for an item of value,

- ~~(1)~~ a human organ for use in human organ transplantation ~~or~~
- ~~(2)~~ fetal tissue;

commits unlawful transfer of human ~~tissue~~; **organs**, a Level 5 felony.

SECTION 30. IC 35-46-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 1.5. (a) As used in this section, "aborted" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus. The term includes abortions by surgical procedures and by abortion inducing drugs.**

(b) As used in this section, "fetal tissue" includes tissue, organs, or any other part of an aborted fetus.

(c) This section does not apply to the proper medical disposal of fetal tissue.

(d) A person who intentionally acquires, receives, sells, or transfers fetal tissue commits unlawful transfer of fetal tissue, a Level 5 felony.

(e) A person may not alter the timing, method, or procedure used to terminate a pregnancy for the purpose of obtaining or collecting fetal tissue. A person who violates this subsection commits the unlawful collection of fetal tissue, a Level 5 felony.

SECTION 31. IC 35-46-5-3, AS AMENDED BY P.L.158-2013, SECTION 572, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. **(a) As used in this section,**



"lethal fetal anomaly" means a fetal condition diagnosed before birth that, if the pregnancy results in a live birth, will with reasonable certainty result in the death of the child not more than three (3) months after the child's birth.

~~(a)~~ **(b)** As used in this section, "qualified third party" means a fertility clinic or similar medical facility that:

- (1) is accredited by an entity approved by the medical licensing board;
- (2) is registered under 21 CFR 1271 with the United States Food and Drug Administration; and
- (3) employs a physician licensed under IC 25-22.5 who:
 - (A) is board certified in obstetrics and gynecology; and
 - (B) performs oocyte cryopreservation at the facility.

~~(b)~~ **(c)** A person who knowingly or intentionally purchases or sells a human ovum, zygote, embryo, or fetus commits unlawful transfer of a human organism, a Level 5 felony.

~~(c)~~ **(d)** This section does not apply to the following:

- (1) The transfer to or receipt by either a woman donor of an ovum or a qualified third party of an amount for:
 - (A) earnings lost due to absence from employment;
 - (B) travel expenses;
 - (C) hospital expenses;
 - (D) medical expenses; and
 - (E) recovery time in an amount not to exceed four thousand dollars (\$4,000);

concerning a treatment or procedure to enhance human reproductive capability through in vitro fertilization, gamete intrafallopian transfer, or zygote intrafallopian transfer.

(2) The following types of stem cell research:

- (A) Adult stem cell.
- (B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long as the biological parent has given written consent for the use of the fetal stem cells.

(3) The transfer or receipt of a fetus if:

- (A) the fetus was diagnosed with a lethal fetal anomaly and written medical documentation verifies the diagnosis; and**
- (B) a biological parent has requested, in writing, the transfer of the fetus for purposes of an autopsy.**

~~(d)~~ **(e)** Any person who recklessly, knowingly, or intentionally uses a human embryo created with an ovum provided to a qualified third party under this section for purposes of embryonic stem cell research commits unlawful use of an embryo, a Level 5 felony.



SECTION 32. IC 35-52-16-22, AS ADDED BY P.L.169-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 22. IC 16-34-2-6 defines a ~~crime~~ **crimes** concerning abortion.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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