

HOUSE BILL No. 1557

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-365; IC 16-34.

Synopsis: Abortion. Defines viability for purposes of the abortion law as the earlier of the time of each postfertilization age of the fetus that is less than 21 weeks or the time of conception. Provides that the definition is severable to preserve the earliest possible time that viability is determined. Specifies that abortions are permitted in certain circumstances before the earlier of viability or the end of the first trimester of pregnancy. (Current law specifies that abortions are permitted in certain circumstances during the first trimester of pregnancy.)

Effective: July 1, 2021.

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January 14, 2021, read first time and referred to Committee on Judiciary.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1557

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 16-18-2-365 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 365. "Viability", for
3 purposes of IC 16-34, ~~means the ability of a fetus to live outside the~~
4 ~~mother's womb.~~ **has the meaning set forth in IC 16-34-0.5-1.**

5 SECTION 2. IC 16-34-0.5 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2021]:

- 8 **Chapter 0.5. Definitions**
9 **Sec. 1. As used in this article, "viability" means the earlier of:**
10 **(1) the time the postfertilization age of the fetus is at least**
11 **twenty (20) weeks;**
12 **(2) the time the postfertilization age of the fetus is at least**
13 **nineteen (19) weeks;**
14 **(3) the time the postfertilization age of the fetus is at least**
15 **eighteen (18) weeks;**
16 **(4) the time the postfertilization age of the fetus is at least**
17 **seventeen (17) weeks;**



- 1 (5) the time the postfertilization age of the fetus is at least
 2 sixteen (16) weeks;
 3 (6) the time the postfertilization age of the fetus is at least
 4 fifteen (15) weeks;
 5 (7) the time the postfertilization age of the fetus is at least
 6 fourteen (14) weeks;
 7 (8) the time the postfertilization age of the fetus is at least
 8 thirteen (13) weeks;
 9 (9) the time the postfertilization age of the fetus is at least
 10 twelve (12) weeks;
 11 (10) the time the postfertilization age of the fetus is at least
 12 eleven (11) weeks;
 13 (11) the time the postfertilization age of the fetus is at least ten
 14 (10) weeks;
 15 (12) the time the postfertilization age of the fetus is at least
 16 nine (9) weeks;
 17 (13) the time the postfertilization age of the fetus is at least
 18 eight (8) weeks;
 19 (14) the time the postfertilization age of the fetus is at least
 20 seven (7) weeks;
 21 (15) the time the postfertilization age of the fetus is at least six
 22 (6) weeks;
 23 (16) the time the postfertilization age of the fetus is at least
 24 five (5) weeks;
 25 (17) the time the postfertilization age of the fetus is at least
 26 four (4) weeks;
 27 (18) the time the postfertilization age of the fetus is at least
 28 three (3) weeks;
 29 (19) the time the postfertilization age of the fetus is at least
 30 two (2) weeks;
 31 (20) the time the postfertilization age of the fetus is at least
 32 one (1) week; or
 33 (21) the time of conception.

34 **Sec. 2. Section 1 of this chapter is severable as specified in**
 35 **IC 1-1-1-8 to preserve the earliest possible time that viability is**
 36 **determined.**

37 SECTION 3. IC 16-34-2-1, AS AMENDED BY P.L.93-2019,
 38 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2021]: Sec. 1. (a) Abortion shall in all instances be a criminal
 40 act, except when performed under the following circumstances:

- 41 (1) Except as prohibited in IC 16-34-4, ~~during~~ **before the earlier**
 42 **of viability or the end of** the first trimester of pregnancy for



1 reasons based upon the professional, medical judgment of the
2 pregnant woman's physician if:

3 (A) the abortion is performed by the physician;

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

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

11 However, an abortion inducing drug may not be dispensed,
12 prescribed, administered, or otherwise given to a pregnant woman
13 after nine (9) weeks of postfertilization age unless the Food and
14 Drug Administration has approved the abortion inducing drug to
15 be used for abortions later than nine (9) weeks of postfertilization
16 age. A physician shall examine a pregnant woman in person
17 before prescribing or dispensing an abortion inducing drug. In
18 accordance with FDA guidelines, the physician shall provide the
19 pregnant woman with a copy of the manufacturer's instruction
20 sheets and require that the pregnant woman sign the
21 manufacturer's patient agreement form. The physician shall retain
22 a copy of the signed patient agreement form, and the signed
23 physician's agreement form required by the manufacturer, in the
24 patient's file. As used in this subdivision, "in person" does not
25 include the use of telehealth or telemedicine services.

26 (2) Except as prohibited by IC 16-34-4, after the first trimester of
27 pregnancy and before the earlier of viability of the fetus or twenty
28 (20) weeks of postfertilization age, for reasons based upon the
29 professional, medical judgment of the pregnant woman's
30 physician if:

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

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

36 (3) Except as provided in subsection (b) or as prohibited by
37 IC 16-34-4, at the earlier of viability of the fetus or twenty (20)
38 weeks of postfertilization age and any time after, for reasons
39 based upon the professional, medical judgment of the pregnant
40 woman's physician if:

41 (A) all the circumstances and provisions required for legal
42 abortion before the earlier of viability of the fetus or twenty



- 1 (20) weeks of postfertilization age are present and adhered to;
2 (B) the abortion is performed in compliance with section 3 of
3 this chapter; and
4 (C) before the abortion the attending physician shall certify in
5 writing to the hospital in which the abortion is to be
6 performed, that in the attending physician's professional,
7 medical judgment, after proper examination and review of the
8 woman's history, the abortion is necessary to prevent a
9 substantial permanent impairment of the life or physical health
10 of the pregnant woman. All facts and reasons supporting the
11 certification shall be set forth by the physician in writing and
12 attached to the certificate.
- 13 (b) A person may not knowingly or intentionally perform a partial
14 birth abortion unless a physician reasonably believes that:
- 15 (1) performing the partial birth abortion is necessary to save the
16 mother's life; and
17 (2) no other medical procedure is sufficient to save the mother's
18 life.
- 19 (c) A person may not knowingly or intentionally perform a
20 dismemberment abortion unless reasonable medical judgment dictates
21 that performing the dismemberment abortion is necessary:
- 22 (1) to prevent any serious health risk to the mother; or
23 (2) to save the mother's life.

