

SENATE BILL No. 118

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-34-2-1.1.

Synopsis: Mandatory ultrasound before abortions. Provides that an abortion provider must do the following at least 48 hours before an abortion is performed: (1) Inform the pregnant woman of 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. (2) Immediately perform the fetal ultrasound imaging and allow the pregnant woman to hear the auscultation of the fetal heart tone if the fetal heart tone is audible. Requires the pregnant woman to view the fetal ultrasound imaging and listen to the auscultation of the fetal heart tone if the fetal heart tone is audible. Removes provisions allowing a pregnant woman to decline to view the fetal ultrasound imaging and hear the fetal heart tone.

Effective: July 1, 2017.

Kruse

January 4, 2017, read first time and referred to Committee on Health and Provider Services.



First Regular Session 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.

SENATE BILL No. 118

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

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

17 (A) The name of the physician performing the abortion, the



- 1 physician's medical license number, and an emergency
 2 telephone number where the physician or the physician's
 3 designee may be contacted on a twenty-four (24) hour a day,
 4 seven (7) day a week basis.
- 5 (B) That follow-up care by the physician or the physician's
 6 designee (if the designee is licensed under IC 25-22.5) is
 7 available on an appropriate and timely basis when clinically
 8 necessary.
- 9 (C) The nature of the proposed procedure or information
 10 concerning the abortion inducing drug.
- 11 (D) Objective scientific information of the risks of and
 12 alternatives to the procedure or the use of an abortion inducing
 13 drug, including:
- 14 (i) the risk of infection and hemorrhage;
 - 15 (ii) the potential danger to a subsequent pregnancy; and
 - 16 (iii) the potential danger of infertility.
- 17 (E) That human physical life begins when a human ovum is
 18 fertilized by a human sperm.
- 19 (F) The probable gestational age of the fetus at the time the
 20 abortion is to be performed, including:
- 21 (i) a picture of a fetus;
 - 22 (ii) the dimensions of a fetus; and
 - 23 (iii) relevant information on the potential survival of an
 24 unborn fetus;
- 25 at this stage of development.
- 26 (G) That objective scientific information shows that a fetus
 27 can feel pain at or before twenty (20) weeks of postfertilization
 28 age.
- 29 (H) The medical risks associated with carrying the fetus to
 30 term.
- 31 ~~(I) The availability of fetal ultrasound imaging and~~
 32 ~~auscultation of fetal heart tone services to enable the pregnant~~
 33 ~~woman to view the image and hear the heartbeat of the fetus~~
 34 ~~and how to obtain access to these services.~~
- 35 ~~(I)~~ (I) That the pregnancy of a child less than fifteen (15) years
 36 of age may constitute child abuse under Indiana law if the act
 37 included an adult and must be reported to the department of
 38 child services or the local law enforcement agency under
 39 IC 31-33-5.
- 40 ~~(K)~~ (J) That Indiana does not allow a fetus to be aborted solely
 41 because of the fetus's race, color, national origin, ancestry, sex,
 42 or diagnosis or potential diagnosis of the fetus having Down



- 1 syndrome or any other disability.
- 2 (2) At least eighteen (18) hours before the abortion, the pregnant
3 woman will be informed orally and in writing of the following:
- 4 (A) That medical assistance benefits may be available for
5 prenatal care, childbirth, and neonatal care from the county
6 office of the division of family resources.
- 7 (B) That the father of the unborn fetus is legally required to
8 assist in the support of the child. In the case of rape, the
9 information required under this clause may be omitted.
- 10 (C) That adoption alternatives are available and that adoptive
11 parents may legally pay the costs of prenatal care, childbirth,
12 and neonatal care.
- 13 (D) That there are physical risks to the pregnant woman in
14 having an abortion, both during the abortion procedure and
15 after.
- 16 (E) That Indiana has enacted the safe haven law under
17 IC 31-34-2.5.
- 18 (F) The:
- 19 (i) Internet web site address of the state department of
20 health's web site; and
- 21 (ii) description of the information that will be provided on
22 the web site and that are;
23 described in section 1.5 of this chapter.
- 24 (G) For the facility in which the abortion is to be performed,
25 an emergency telephone number that is available and
26 answered on a twenty-four (24) hour a day, seven (7) day a
27 week basis.
- 28 (H) On a form developed by the state department and as
29 described in IC 16-34-3, that the pregnant woman has a right
30 to determine the final disposition of the remains of the aborted
31 fetus.
- 32 (I) On a form developed by the state department, information
33 concerning the available options for disposition of the aborted
34 fetus.
- 35 (J) On a form developed by the state department, information
36 concerning any counseling that is available to a pregnant
37 woman after having an abortion.
- 38 The state department shall develop and distribute the forms
39 required by clauses (H) through (J).
- 40 (3) The pregnant woman certifies in writing, on a form developed
41 by the state department, before the abortion is performed, that:
- 42 (A) the information required by subdivisions (1) and (2) has



- 1 been provided to the pregnant woman;
- 2 (B) the pregnant woman has ~~been offered by the provider the~~
3 ~~opportunity to view~~ **viewed** the fetal ultrasound imaging and
4 **hear heard** the auscultation of the fetal heart tone if the fetal
5 heart tone is audible; ~~and that the woman has:~~
- 6 (i) ~~viewed or refused to view the offered fetal ultrasound~~
7 ~~imaging; and~~
- 8 (ii) ~~listened to or refused to listen to the offered auscultation~~
9 ~~of the fetal heart tone if the fetal heart tone is audible; and~~
- 10 (C) the pregnant woman has been given a written copy of the
11 printed materials described in section 1.5 of this chapter.
- 12 (4) At least eighteen (18) hours before the abortion and in the
13 presence of the pregnant woman, the physician who is to perform
14 the abortion, the referring physician or a physician assistant (as
15 defined in IC 25-27.5-2-10), an advanced practice nurse (as
16 defined in IC 25-23-1-1(b)), or a **certified nurse** midwife (as
17 defined in ~~IC 34-18-2-19~~ **IC 34-18-2-6.5**) to whom the
18 responsibility has been delegated by the physician who is to
19 perform the abortion or the referring physician has provided the
20 pregnant woman with a color copy of the informed consent
21 brochure described in section 1.5 of this chapter by printing the
22 informed consent brochure from the state department's Internet
23 web site and including the following information on the back
24 cover of the brochure:
- 25 (A) The name of the physician performing the abortion and the
26 physician's medical license number.
- 27 (B) An emergency telephone number where the physician or
28 the physician's designee may be contacted twenty-four (24)
29 hours a day, seven (7) days a week.
- 30 (C) A statement that follow-up care by the physician or the
31 physician's designee who is licensed under IC 25-22.5 is
32 available on an appropriate and timely basis when clinically
33 necessary.
- 34 (5) At least ~~eighteen (18)~~ **forty-eight (48)** hours before an
35 abortion is performed, ~~and at the same time that the pregnant~~
36 ~~woman receives the information required by subdivision (1);~~ **the**
37 **physician who is to perform the abortion, the referring**
38 **physician or a physician assistant (as defined in**
39 **IC 25-27.5-2-10), an advanced practice nurse (as defined in**
40 **IC 25-23-1-1(b)), or a certified nurse midwife (as defined in**
41 **IC 34-18-2-6.5) to whom the responsibility has been delegated**
42 **by the physician who is to perform the abortion or the**



1 **referring physician has informed the pregnant woman orally**
 2 **and in writing of the availability of fetal ultrasound imaging**
 3 **and auscultation of fetal heart tone services to enable the**
 4 **pregnant woman to view the image and hear the heartbeat of**
 5 **the fetus. After providing the information required by this**
 6 **subdivision, the provider shall immediately perform and the**
 7 ~~pregnant woman shall view;~~ the fetal ultrasound imaging and
 8 **allow the pregnant woman to** hear the auscultation of the fetal
 9 heart tone if the fetal heart tone is audible. ~~unless the pregnant~~
 10 ~~woman certifies in writing, on a form developed by the state~~
 11 ~~department, before the abortion is performed, that the pregnant~~
 12 ~~woman:~~

13 ~~(A) does not want to view the fetal ultrasound imaging; and~~
 14 ~~(B) does not want to listen to the auscultation of the fetal heart~~
 15 ~~tone if the fetal heart tone is audible. The pregnant woman~~
 16 **shall view the fetal ultrasound imaging and listen to the**
 17 **auscultation of the fetal heart tone if the fetal heart tone is**
 18 **audible.**

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

- 24 (1) orally and in person, inform the pregnant woman of the
 25 availability of perinatal hospice services; and
 26 (2) provide the pregnant woman copies of the perinatal hospice
 27 brochure developed by the state department under IC 16-25-4.5-4
 28 and the list of perinatal hospice providers and programs
 29 developed under IC 16-25-4.5-5, by printing the perinatal hospice
 30 brochure and list of perinatal hospice providers from the state
 31 department's Internet web site.

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

