

SENATE BILL No. 144

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-1.3-4; IC 12-21-5-4; IC 16-34.

Synopsis: Abortion. Establishes the interim study committee on adoption promotion and support. Makes certain findings. Requires a physician to determine whether an unborn human individual has a detectable heartbeat before performing or inducing an abortion, except when in a medical emergency. Requires a pregnant woman to certify in writing certain information if a fetal heartbeat is detected. Requires a physician to document certain information in writing if the physician determined that a medical emergency existed and performed or induced an abortion of an unborn human individual with a detectable heartbeat. Prohibits the performance or inducement of an abortion of an unborn human individual with a detectable heartbeat unless the medical procedure is designed or intended to prevent the death of the pregnant woman or a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. Requires the physician who performed or induced the abortion to maintain specified records in the pregnant woman's medical file. Provides that the following are Level 5 felonies: (1) Performing or inducing an abortion before determining whether the unborn human individual has a detectable heartbeat. (2) The performance or inducement of an abortion after the detection of a fetal heartbeat. Specifies that these provisions may be referred to as the Indiana heartbeat act. Provides for the interpretation and implementation of the Indiana heartbeat act with respect to the issuance of certain court judgments or court orders.

Effective: Upon passage; July 1, 2016.

Banks, Schneider, Tomes, Smith J

January 5, 2016, read first time and referred to Committee on Health & Provider Services.



Second Regular Session 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.

SENATE BILL No. 144

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 2-5-1.3-4, AS ADDED BY P.L.53-2014, SECTION
2 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]: Sec. 4. The following interim study committees are
4 established:
5 **(1) Adoption Promotion and Support.**
6 ~~(1)~~ **(2) Agriculture and Natural Resources.**
7 ~~(2)~~ **(3) Commerce and Economic Development.**
8 ~~(3)~~ **(4) Corrections and Criminal Code.**
9 ~~(4)~~ **(5) Courts and the Judiciary.**
10 ~~(5)~~ **(6) Education.**
11 ~~(6)~~ **(7) Elections.**
12 ~~(7)~~ **(8) Employment and Labor.**
13 ~~(8)~~ **(9) Energy, Utilities, and Telecommunications.**
14 ~~(9)~~ **(10) Environmental Affairs.**
15 ~~(10)~~ **(11) Financial Institutions and Insurance.**
16 ~~(11)~~ **(12) Government.**



- 1 ~~(12)~~ **(13)** Public Safety and Military Affairs.
 2 ~~(13)~~ **(14)** Pension Management Oversight.
 3 ~~(14)~~ **(15)** Public Health, Behavioral Health, and Human Services.
 4 ~~(15)~~ **(16)** Public Policy.
 5 ~~(16)~~ **(17)** Roads and Transportation.
 6 ~~(17)~~ **(18)** Fiscal Policy.
- 7 SECTION 2. IC 12-21-5-4, AS ADDED BY P.L.185-2015,
 8 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: Sec. 4. (a) To the extent that funds are made
 10 available, the division, in consultation with:
 11 (1) the department of education;
 12 (2) the law enforcement training board;
 13 (3) the Indiana Council of Community Mental Health Centers;
 14 (4) Mental Health America-Indiana;
 15 (5) the Indiana emergency medical services commission; and
 16 (6) a private foundation dedicated to the prevention of youth
 17 suicide through education and awareness;
 18 shall develop and administer a mental health first aid training program.
 19 (b) The mental health first aid training program developed under
 20 subsection (a) must do the following:
 21 (1) Train individuals attending the training program to recognize
 22 the risk factors and signs of mental health problems or crises in
 23 children and young adults, including signs that a child or young
 24 adult may be considering suicide.
 25 (2) Train individuals attending the training program to guide
 26 children and young adults who exhibit signs of a mental health
 27 problem or crisis to appropriate behavioral health services.
 28 (3) Train individuals attending the training program to not label
 29 children who are at risk or show signs of mental health problems
 30 in a manner that would stigmatize the child.
 31 (c) The division shall provide training for individuals who will be
 32 instructors in the mental health first aid training program.
 33 (d) The division shall make the mental health first aid training
 34 program available to licensed teachers, school counselors, emergency
 35 medical service providers, law enforcement officers, leaders of
 36 community faith organizations, and other persons interested in
 37 receiving training under the program.
 38 (e) The division, the department of education, and the Indiana
 39 emergency medical services commission may seek federal and state
 40 funding and may accept private contributions to administer and provide
 41 mental health first aid training programs.
 42 (f) Notwithstanding any other law, the division is not required to



1 implement the mental health first aid training program until after June
2 30, 2016.

3 (g) Before October 1, 2015, the division shall report to the interim
4 study committee on public health, behavioral health, and human
5 services established by IC ~~2-5-1.3-4(14)~~ **IC 2-5-1.3-4(15)** concerning
6 the status of the development of the mental health first aid training
7 program.

8 SECTION 3. IC 16-34-1-10 IS ADDED TO THE INDIANA CODE
9 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
10 1, 2016]: **Sec. 10. The general assembly finds the following:**

11 **(1) As many as thirty percent (30%) of all natural pregnancies**
12 **end in spontaneous miscarriage.**

13 **(2) Fewer than five percent (5%) of all natural pregnancies**
14 **end in spontaneous miscarriage after detection of fetal cardiac**
15 **activity.**

16 **(3) Over ninety percent (90%) of in vitro pregnancies survive**
17 **the first trimester if cardiac activity is detected in the**
18 **gestational sac.**

19 **(4) Nearly ninety percent (90%) of in vitro pregnancies do not**
20 **survive the first trimester if cardiac activity is not detected in**
21 **the gestational sac.**

22 **(5) Fetal heartbeat is a key medical predictor that an unborn**
23 **human individual will reach live birth.**

24 **(6) Cardiac activity begins at a biologically identifiable**
25 **moment in time, normally when the fetal heart is formed in**
26 **the gestational sac.**

27 **(7) Indiana has legitimate interest from the outset of a**
28 **pregnancy in protecting the health of the woman and the life**
29 **of an unborn human individual who may be born.**

30 **(8) In order to make an informed choice about whether to**
31 **continue her pregnancy, a pregnant woman has a legitimate**
32 **interest in knowing the likelihood of the unborn human**
33 **individual surviving to full-term birth based upon the**
34 **presence of cardiac activity.**

35 SECTION 4. IC 16-34-2-1.1, AS AMENDED BY P.L.113-2015,
36 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2016]: 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 presence of the pregnant woman, the physician who is to perform
 2 the abortion, the referring physician or a physician assistant (as
 3 defined in IC 25-27.5-2-10), an advanced practice nurse (as
 4 defined in IC 25-23-1-1(b)), or a certified nurse midwife (as
 5 defined in IC 34-18-2-6.5) to whom the responsibility has been
 6 delegated by the physician who is to perform the abortion or the
 7 referring physician has informed the pregnant woman orally and
 8 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) and 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 (2) At least eighteen (18) hours before the abortion, the pregnant
- 8 woman will be informed orally and in writing of the following:
- 9 (A) That medical assistance benefits may be available for
- 10 prenatal care, childbirth, and neonatal care from the county
- 11 office of the division of family resources.
- 12 (B) That the father of the unborn fetus is legally required to
- 13 assist in the support of the child. In the case of rape, the
- 14 information required under this clause may be omitted.
- 15 (C) That adoption alternatives are available and that adoptive
- 16 parents may legally pay the costs of prenatal care, childbirth,
- 17 and neonatal care.
- 18 (D) That there are physical risks to the pregnant woman in
- 19 having an abortion, both during the abortion procedure and
- 20 after.
- 21 (E) That Indiana has enacted the safe haven law under
- 22 IC 31-34-2.5.
- 23 (F) The:
- 24 (i) Internet web site address of the state department of
- 25 health's web site; and
- 26 (ii) description of the information that will be provided on
- 27 the web site and that are;
- 28 described in section 1.5 of this chapter.
- 29 (G) For the facility in which the abortion is to be performed,
- 30 an emergency telephone number that is available and
- 31 answered on a twenty-four (24) hour a day, seven (7) day a
- 32 week basis.
- 33 (H) On a form developed by the state department and as
- 34 described in IC 16-34-3, that the pregnant woman has a right
- 35 to determine the final disposition of the remains of the aborted
- 36 fetus.
- 37 (I) On a form developed by the state department, information
- 38 concerning the available options for disposition of the aborted
- 39 fetus.
- 40 (J) On a form developed by the state department, information
- 41 concerning any counseling that is available to a pregnant
- 42 woman after having an abortion.



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

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

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

7 (B) the pregnant woman has been offered by the provider the
8 opportunity to view the fetal ultrasound imaging and hear the
9 auscultation of the fetal heart tone if the fetal ~~heart tone is~~
10 **audible heartbeat is detectable** and that the woman has:

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

13 (ii) listened to or refused to listen to the offered auscultation
14 of the fetal heart tone if the fetal ~~heart tone is audible;~~
15 **heartbeat is detectable;** and

16 (C) the pregnant woman has been given a written copy of the
17 printed materials described in section 1.5 of this chapter.

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

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

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

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

39 (b) Before an abortion is performed, the provider shall **do the**
40 **following:**

41 **(1) Determine under IC 16-34-2.3 whether the fetal heartbeat**
42 **of the unborn human individual is detectable.**



1 (2) Perform, and the pregnant woman shall view, the fetal
2 ultrasound imaging and hear the auscultation of the fetal heart
3 tone if the fetal ~~heart tone is audible~~ **heartbeat is detectable**
4 unless the pregnant woman certifies in writing, on a form
5 developed by the state department, before the abortion is
6 performed, that the pregnant woman:

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

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

11 SECTION 5. IC 16-34-2.3 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2016]:

14 **Chapter 2.3. Detection of Fetal Heartbeat**

15 **Sec. 1. A physician who intends to perform or induce an**
16 **abortion on a pregnant woman shall determine whether the**
17 **unborn human individual carried by the pregnant woman has a**
18 **detectable fetal heartbeat.**

19 **Sec. 2. The method of determining whether an unborn human**
20 **individual has a detectable fetal heartbeat must be consistent with**
21 **the physician's good faith understanding of standard medical**
22 **practice.**

23 **Sec. 3. A physician who determines whether an unborn human**
24 **individual has a detectable fetal heartbeat shall record the**
25 **following information in the pregnant woman's medical record:**

26 (1) The estimated gestational age of the unborn human
27 individual.

28 (2) The method used to test for a fetal heartbeat.

29 (3) The date and time of the test for a fetal heartbeat.

30 (4) The results of the test for a fetal heartbeat.

31 **Sec. 4. A physician who determines whether an unborn human**
32 **individual has a detectable fetal heartbeat shall inform the**
33 **pregnant woman in writing of the statistical probability of carrying**
34 **the unborn human individual to term.**

35 SECTION 6. IC 16-34-2.5 IS ADDED TO THE INDIANA CODE
36 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2016]:

38 **Chapter 2.5. Prohibition of Abortion if Heartbeat is Detected**

39 **Sec. 1. (a) This chapter does not have the effect of repealing or**
40 **limiting any other provision of this article that restricts or**
41 **regulates the performance or inducement of an abortion by a**
42 **particular method or during a particular stage of a pregnancy.**



1 (b) This chapter does not prohibit the sale, use, prescription, or
2 administration of a drug, device, or chemical that is designed for
3 contraceptive purposes.

4 Sec. 2. (a) Except as provided in section 3 of this chapter, a
5 physician may not knowingly or intentionally perform or induce an
6 abortion on a pregnant woman before determining whether an
7 unborn human individual carried by the pregnant woman has a
8 detectable heartbeat.

9 (b) Except as provided in section 3 of this chapter, a physician
10 who violates this section by performing or inducing an abortion
11 before determining whether the unborn human individual has a
12 detectable heartbeat commits a Level 5 felony. The violation may
13 also result in any of the following:

14 (1) Disciplinary action under IC 25-1-9 for an individual who
15 is or should be licensed under IC 25.

16 (2) Civil penalties for compensatory and exemplary damages.

17 (c) If a fetal heartbeat is detected, the pregnant woman shall
18 certify in writing, on a form prescribed by the state department,
19 that the pregnant woman has:

20 (1) received information from the physician intending to
21 perform or induce the abortion that the unborn human
22 individual has a detectable heartbeat; and

23 (2) been informed of the statistical probability of carrying the
24 unborn human individual to term.

25 Sec. 3. (a) This chapter does not apply to a physician licensed
26 under IC 25-22.5 who performs or induces the abortion if the
27 physician believes that a medical emergency exists that prevents
28 compliance with this chapter.

29 (b) A physician who performs or induces an abortion on a
30 pregnant woman based on a medical emergency shall include the
31 following in the pregnant woman's medical records:

32 (1) The physician's belief that a medical emergency required
33 that the abortion occur.

34 (2) The medical condition of the pregnant woman that
35 prevented compliance with this chapter.

36 (c) A physician shall maintain any medical records of a
37 pregnant woman reflecting a medical emergency described in this
38 section for at least seven (7) years.

39 Sec. 4. (a) Except as provided in section 5 of this chapter, a
40 physician may not knowingly or intentionally perform or induce an
41 abortion on a pregnant woman with the intent of causing or
42 abetting the termination of the unborn human individual that the



1 pregnant woman is carrying if a fetal heartbeat has been detected.

2 (b) Except as provided in section 5 of this chapter, a physician
3 who violates this section commits the performance or inducement
4 of an abortion after detection of a fetal heartbeat, a Level 5 felony.

5 Sec. 5. (a) This chapter does not apply to a physician licensed
6 under IC 25-22.5 who performs a medical procedure that, in the
7 physician's reasonable medical judgment, is designed or intended
8 to prevent:

9 (1) the death of the pregnant woman; or

10 (2) a serious risk of the substantial and irreversible
11 impairment of a major bodily function of the pregnant
12 woman.

13 (b) A physician who performs a medical procedure described in
14 subsection (a) shall certify in writing that the medical procedure is
15 necessary to the best of the physician's reasonable medical
16 judgment to prevent:

17 (1) the death of the pregnant woman; or

18 (2) a serious risk of the substantial and irreversible
19 impairment of a major bodily function of the pregnant
20 woman.

21 The physician shall also include in the certification the pregnant
22 woman's medical condition that the medical procedure is asserted
23 to address and the medical rationale for the physician's conclusion
24 that the medical procedure is necessary to prevent the death of the
25 pregnant woman or to prevent a serious risk of the substantial and
26 irreversible impairment of a major bodily function of the pregnant
27 woman.

28 (c) The physician who performs a medical procedure described
29 in this section shall:

30 (1) keep a copy of the written document required under
31 subsection (b) in the pregnant woman's medical records; and

32 (2) maintain a copy of the written document in the physician's
33 own records for at least seven (7) years from the date the
34 document is created.

35 Sec. 6. (a) A physician who performs or induces an abortion on
36 a pregnant woman shall do any of the following that are applicable
37 not more than seventy-two (72) hours after the initiation of the
38 procedure to perform or induce an abortion:

39 (1) If the abortion is being performed to preserve the health
40 of the pregnant woman, the physician shall specify in writing:

41 (A) the medical condition that the abortion is asserted to
42 address; and



- 1 **(B) the medical rationale for the physician's conclusion**
 2 **that the abortion is necessary to address the condition.**
 3 **(2) If the reason for the abortion is other than to preserve the**
 4 **health of the pregnant woman, the physician shall specify in**
 5 **writing that the maternal health of the pregnant woman is not**
 6 **the purpose of the abortion.**
 7 **(b) The physician who specifies the information in the document**
 8 **described in subsection (a) shall:**
 9 **(1) include the document in the pregnant woman's medical**
 10 **records; and**
 11 **(2) maintain a copy of the document in the physician's own**
 12 **records for at least seven (7) years from the date the**
 13 **document is created.**
 14 SECTION 7. IC 16-34-2.7 IS ADDED TO THE INDIANA CODE
 15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2016]:
 17 **Chapter 2.7. Interpretation and Implementation of the Indiana**
 18 **Heartbeat Act**
 19 **Sec. 1. IC 16-34-1-10, IC 16-34-2-1.1(b)(1), IC 16-34-2.3, and**
 20 **IC 16-34-2.5 may be collectively referred to as the Indiana**
 21 **heartbeat act.**
 22 **Sec. 2. As used in this chapter, "act" refers to the Indiana**
 23 **heartbeat act.**
 24 **Sec. 3. The act is severable in accordance with IC 1-1-1-8.**
 25 **Sec. 4. A court judgment or court order suspending enforcement**
 26 **of the act or any particular statute within the act may not be**
 27 **construed as a repeal of the act or of a particular statute within the**
 28 **act.**
 29 **Sec. 5. (a) This section applies after the date of any of the**
 30 **following:**
 31 **(1) The date that the Supreme Court of the United States**
 32 **issues a decision overruling *Roe v. Wade*, 410 U.S. 113 (1973).**
 33 **(2) The date of a court judgment or court order restoring,**
 34 **expanding, or clarifying the authority of the states to regulate**
 35 **or prohibit abortion, entirely or in part.**
 36 **(3) The effective date of an amendment to the United States**
 37 **Constitution restoring, expanding, or clarifying the authority**
 38 **of the states to regulate or prohibit abortion, entirely or in**
 39 **part.**
 40 **(b) Not more than thirty (30) days after the occurrence of an**
 41 **event described in subsection (a), the attorney general shall apply**
 42 **to the appropriate state or federal court for either or both of the**



1 following:
2 (1) A declaration the act or a particular provision of the act is
3 constitutional.
4 (2) A court judgment or court order lifting any injunction
5 against the enforcement of the act or the enforcement of a
6 particular statute within the act.
7 (c) If the attorney general fails to submit the application before
8 the expiration of the thirty (30) day period granted by subsection
9 (b), the prosecuting attorney of any county may submit the
10 application described by subsection (b) to an appropriate state or
11 federal court.
12 SECTION 8. An emergency is declared for this act.

