



February 25, 2014

ENGROSSED SENATE BILL No. 292

DIGEST OF SB 292 (Updated February 25, 2014 11:34 am - DI 107)

Citations Affected: IC 16-21; IC 16-34.

Synopsis: Abortion providers. Authorizes the state department of health (state department) to inspect an abortion clinic at least one time per year and to conduct complaint inspections as needed. Requires a pregnant woman to be informed orally and in writing at least 18 hours before the abortion of an emergency telephone number for the facility that is available and answered 24 hours a day, seven days a week. Requires a physician who is performing an abortion to have hospital admitting privileges in writing. Requires the abortion clinic to keep at the clinic a copy of the admitting privileges of certain physicians and to provide a copy of the admitting privileges to the state department. Requires the state department to: (1) verify the validity of the admitting privileges documents; (2) remove any identifying information from the admitting privileges document before releasing the document; and (3) confirm to a member of the public, upon request, that admitting privileges have been received by the state department.

Effective: July 1, 2014.

Waterman, Banks

(HOUSE SPONSORS — WASHBURN, RHOADS, DERMODY, MAYFIELD)

January 14, 2014, read first time and referred to Committee on Health and Provider Services.

January 30, 2014, amended, reported favorably — Do Pass.

February 3, 2014, read second time, ordered engrossed. Engrossed.

February 4, 2014, read third time, passed. Yeas 34, nays 14.

HOUSE ACTION

February 10, 2014, read first time and referred to Committee on Public Policy.

February 25, 2014, amended, reported — Do Pass.

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February 25, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 292

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 16-21-2-2.6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 2.6. The state department may inspect an abortion
4 clinic at least one (1) time per calendar year and may conduct a
5 complaint inspection as needed.**

6 SECTION 2. IC 16-34-2-1.1, AS AMENDED BY P.L.232-2013,
7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2014]: Sec. 1.1. (a) An abortion shall not be performed except
9 with the voluntary and informed consent of the pregnant woman upon
10 whom the abortion is to be performed. Except in the case of a medical
11 emergency, consent to an abortion is voluntary and informed only if the
12 following conditions are met:

13 (1) At least eighteen (18) hours before the abortion and in the
14 presence of the pregnant woman, the physician who is to perform
15 the abortion, the referring physician or a physician assistant (as
16 defined in IC 25-27.5-2-10), an advanced practice nurse (as

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1 defined in IC 25-23-1-1(b)), or a certified nurse midwife (as
 2 defined in IC 34-18-2-6.5) to whom the responsibility has been
 3 delegated by the physician who is to perform the abortion or the
 4 referring physician has informed the pregnant woman orally and
 5 in writing of the following:

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

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

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

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

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

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

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

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

31 at this stage of development.

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

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

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

41 (J) That the pregnancy of a child less than fifteen (15) years of
 42 age may constitute child abuse under Indiana law if the act



- 1 included an adult and must be reported to the department of
 2 child services or the local law enforcement agency under
 3 IC 31-33-5.
- 4 (2) At least eighteen (18) hours before the abortion, the pregnant
 5 woman will be informed orally and in writing of the following:
- 6 (A) That medical assistance benefits may be available for
 7 prenatal care, childbirth, and neonatal care from the county
 8 office of the division of family resources.
- 9 (B) That the father of the unborn fetus is legally required to
 10 assist in the support of the child. In the case of rape, the
 11 information required under this clause may be omitted.
- 12 (C) That adoption alternatives are available and that adoptive
 13 parents may legally pay the costs of prenatal care, childbirth,
 14 and neonatal care.
- 15 (D) That there are physical risks to the pregnant woman in
 16 having an abortion, both during the abortion procedure and
 17 after.
- 18 (E) That Indiana has enacted the safe haven law under
 19 IC 31-34-2.5.
- 20 (F) The:
- 21 (i) Internet web site address of the state department of
 22 health's web site; and
- 23 (ii) description of the information that will be provided on
 24 the web site and that are;
 25 described in section 1.5 of this chapter.
- 26 **(G) For the facility in which the abortion is to be**
 27 **performed, an emergency telephone number that is**
 28 **available and answered on a twenty-four (24) hour a day,**
 29 **seven (7) day a week basis.**
- 30 (3) The pregnant woman certifies in writing, on a form developed
 31 by the state department, before the abortion is performed, that:
- 32 (A) the information required by subdivisions (1) and (2) has
 33 been provided to the pregnant woman;
- 34 (B) the pregnant woman has been offered by the provider the
 35 opportunity to view the fetal ultrasound imaging and hear the
 36 auscultation of the fetal heart tone if the fetal heart tone is
 37 audible and that the woman has:
- 38 (i) viewed or refused to view the offered fetal ultrasound
 39 imaging; and
- 40 (ii) listened to or refused to listen to the offered auscultation
 41 of the fetal heart tone if the fetal heart tone is audible; and
- 42 (C) the pregnant woman has been given a written copy of the



- 1 printed materials described in section 1.5 of this chapter.
- 2 (4) At least eighteen (18) hours before the abortion and in the
- 3 presence of the pregnant woman, the physician who is to perform
- 4 the abortion, the referring physician or a physician assistant (as
- 5 defined in IC 25-27.5-2-10), an advanced practice nurse (as
- 6 defined in IC 25-23-1-1(b)), or a midwife (as defined in
- 7 IC 34-18-2-19) to whom the responsibility has been delegated by
- 8 the physician who is to perform the abortion or the referring
- 9 physician has provided the pregnant woman with a color copy of
- 10 the informed consent brochure described in section 1.5 of this
- 11 chapter by printing the informed consent brochure from the state
- 12 department's Internet web site and including the following
- 13 information on the back cover of the brochure:
- 14 (A) The name of the physician performing the abortion and the
- 15 physician's medical license number.
- 16 (B) An emergency telephone number where the physician or
- 17 the physician's designee may be contacted twenty-four (24)
- 18 hours a day, seven (7) days a week.
- 19 (C) A statement that follow-up care by the physician or the
- 20 physician's designee who is licensed under IC 25-22.5 is
- 21 available on an appropriate and timely basis when clinically
- 22 necessary.
- 23 (b) Before an abortion is performed, the provider shall perform, and
- 24 the pregnant woman shall view, the fetal ultrasound imaging and hear
- 25 the auscultation of the fetal heart tone if the fetal heart tone is audible
- 26 unless the pregnant woman certifies in writing, on a form developed by
- 27 the state department, before the abortion is performed, that the
- 28 pregnant woman:
- 29 (1) does not want to view the fetal ultrasound imaging; and
- 30 (2) does not want to listen to the auscultation of the fetal heart
- 31 tone if the fetal heart tone is audible.
- 32 SECTION 3. IC 16-34-2-4.5, AS ADDED BY P.L.193-2011,
- 33 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2014]: Sec. 4.5. (a) A physician may not perform an abortion
- 35 unless the physician:
- 36 (1) has admitting privileges **in writing** at a hospital located in the
- 37 county where abortions are provided or **in** a contiguous county; or
- 38 (2) has entered into **an a written** agreement with a physician who
- 39 has **written** admitting privileges at a hospital in the county or
- 40 contiguous county concerning the management of possible
- 41 complications of the services provided.
- 42 (b) A physician who performs an abortion shall notify the patient of



1 the location of the hospital at which the physician or a physician with
2 whom the physician has entered into an agreement under subsection
3 (a)(2) has admitting privileges and where the patient may receive
4 follow-up care by the physician if complications arise.

5 **(c) An abortion clinic shall:**

6 **(1) keep at the abortion clinic a copy of the admitting**
7 **privileges of a physician described in subsection (a)(1) and**
8 **(a)(2); and**

9 **(2) submit a copy of the admitting privileges described in**
10 **subdivision (1) to the state department as part of the abortion**
11 **clinic's licensure. The state department shall verify the**
12 **validity of the admitting privileges document. The state**
13 **department shall remove any identifying information from**
14 **the admitting privileges document before releasing the**
15 **document under IC 5-14-3.**

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

20 **(e) Notwithstanding IC 5-14-3-6 and IC 5-14-3-6.5, this section**
21 **only allows for the redaction of information that is described in**
22 **subsection (c). This section does not allow the state department to**
23 **limit the disclosure of information in other public documents.**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 292, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete "(a)".

Page 1, line 3, delete "shall" and insert "**may**".

Page 1, line 4, delete "." and insert "**and may conduct a complaint inspection as needed.**".

Page 1, delete lines 5 through 15, begin a new paragraph and insert: "SECTION 2. IC 16-34-2-1.1, AS AMENDED BY P.L.232-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 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.
- (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.

(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.

(D) The name and telephone number of the hospital where the physician who is to perform the abortion has admitting privileges.

(b) Before an abortion is performed, 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) does not want to view the fetal ultrasound imaging; and
- (2) does not want to listen to the auscultation of the fetal heart tone if the fetal heart tone is audible.

SECTION 3. IC 16-34-2-4.5, AS ADDED BY P.L.193-2011, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 **an 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.

(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) provide a copy of the admitting privileges described in subdivision (1) to the state department."

Page 2, delete lines 1 through 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 292 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 8, Nays 2.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 292, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, delete lines 23 through 25.

Page 5, line 12, delete "provide" and insert "**submit**".

Page 5, line 13, delete "." and insert "**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 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) 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."

and when so amended that said bill do pass.

(Reference is to SB 292 as printed January 31, 2014.)

DERMODY, Chair

Committee Vote: yeas 10, nays 1.

