

# SENATE BILL No. 313

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-25-4.5; IC 16-34; IC 22-9-1-3; IC 25-1-9-4; IC 25-22.5-8-6.

**Synopsis:** Abortion matters. Requires the state department of health to develop certain information concerning perinatal hospice care. Requires physicians to provide information about perinatal hospice care to a pregnant woman who is considering an abortion because the unborn child has been diagnosed with a lethal fetal anomaly. Requires documentation as a matter of informed consent to an abortion that the pregnant woman received the required information about perinatal hospice care. Provides that the medical indication by diagnosis code for the fetus and the mother must be reported on the pregnancy termination form for an early pre-viability termination. Prohibits a person from performing an abortion if the person knows that the pregnant woman is seeking the abortion solely because of: (1) the race, color, national origin, ancestry, or sex of the fetus; or (2) a diagnosis or potential diagnosis of the fetus having Down syndrome or any other disability. Provides for: (1) disciplinary sanctions; and (2) civil liability for wrongful death and medical malpractice; if a person knowingly or intentionally performs a sex selective abortion or an abortion conducted because of a diagnosis or potential diagnosis of Down syndrome or any other disability. Provides that the performance of an abortion solely because of the race, color, sex, disability, national origin, or ancestry of the fetus or a violation of certain statutes protecting the right of conscience regarding abortion is a discriminatory practice for purposes of the civil rights law. Provides for disciplinary action and the revocation of a physician's license if the physician is found to have performed an abortion in violation of the informed consent procedures relating to a pregnant woman's decision to have an abortion or the woman's decision to continue a pregnancy through perinatal hospice care after the unborn child is diagnosed with a lethal fetal anomaly.

**Effective:** July 1, 2016.

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## Holdman

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January 7, 2016, read first time and referred to Committee on Health & Provider Services.

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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. 313

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 16-18-2-18.5 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2016]: **Sec. 18.5. "Any other disability", for**
- 4 **purposes of IC 16-34, has the meaning set forth in IC 16-34-4-1.**
- 5 SECTION 2. IC 16-18-2-100.5 IS ADDED TO THE INDIANA
- 6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2016]: **Sec. 100.5. "Down syndrome", for**
- 8 **purposes of IC 16-34, has the meaning set forth in IC 16-34-4-2.**
- 9 SECTION 3. IC 16-18-2-201.5 IS ADDED TO THE INDIANA
- 10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 11 [EFFECTIVE JULY 1, 2016]: **Sec. 201.5. "Lethal fetal anomaly", for**
- 12 **purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth**
- 13 **in IC 16-25-4.5-3.**
- 14 SECTION 4. IC 16-18-2-273.5 IS ADDED TO THE INDIANA
- 15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 16 [EFFECTIVE JULY 1, 2016]: **Sec. 273.5. "Perinatal hospice", for**
- 17 **purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth**



- 1 **in IC 16-25-4.5-4.**  
 2 SECTION 5. IC 16-18-2-287.9 IS ADDED TO THE INDIANA  
 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 4 [EFFECTIVE JULY 1, 2016]: **Sec. 287.9. "Potential diagnosis", for**  
 5 **purposes of IC 16-34, has the meaning set forth in IC 16-34-4-3.**  
 6 SECTION 6. IC 16-18-2-328.6 IS ADDED TO THE INDIANA  
 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2016]: **Sec. 328.6. "Sex selective abortion",**  
 9 **for purposes of IC 16-34-4, has the meaning set forth in**  
 10 **IC 16-34-4-4.**  
 11 SECTION 7. IC 16-25-4.5 IS ADDED TO THE INDIANA CODE  
 12 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2016]:  
 14 **Chapter 4.5. Perinatal Hospice**  
 15 **Sec. 1. The general assembly finds the following:**  
 16 (1) **As prenatal diagnosis improves, lethal fetal anomalies are**  
 17 **increasingly diagnosed earlier in pregnancy.**  
 18 (2) **Parents of an unborn child diagnosed with a lethal fetal**  
 19 **anomaly are often given only minimal options, such as:**  
 20 (A) **terminating the pregnancy; or**  
 21 (B) **waiting for the child to die.**  
 22 (3) **Only twenty percent (20%) of parents decide to continue**  
 23 **the pregnancy after receiving a diagnosis of a lethal fetal**  
 24 **anomaly.**  
 25 (4) **Studies indicate that choosing to terminate the pregnancy**  
 26 **after receiving a diagnosis of a lethal fetal anomaly can pose**  
 27 **severe long-term psychological risks for the woman, including**  
 28 **the risks of developing posttraumatic stress, depression, and**  
 29 **anxiety.**  
 30 (5) **Parents who, after receiving a diagnosis of a lethal fetal**  
 31 **anomaly, choose to continue pregnancy in the care of a**  
 32 **perinatal hospice team report being emotionally and**  
 33 **spiritually prepared for the deaths of their children.**  
 34 (6) **Studies indicate that at least eighty percent (80%) of the**  
 35 **parents who receive a diagnosis of a lethal fetal anomaly and**  
 36 **are informed of the availability of perinatal hospice care**  
 37 **choose to continue pregnancy.**  
 38 **Sec. 2. The purpose of this chapter is to ensure that:**  
 39 (1) **women considering abortion after receiving a diagnosis of**  
 40 **a lethal fetal anomaly are informed of the availability of**  
 41 **perinatal hospice care; and**  
 42 (2) **women choosing abortion after receiving a diagnosis of a**



1           lethal fatal anomaly are making a fully informed decision.

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

6           **Sec. 4.** As used in this chapter, "perinatal hospice" means the  
7 provision of comprehensive, supportive care to a pregnant woman  
8 and her family beginning with the diagnosis of a lethal fetal  
9 anomaly and continuing through the live birth and death of the  
10 woman's child as a result of the lethal fetal anomaly. The term  
11 includes counseling and medical care provided by maternal-fetal  
12 medical specialists, obstetricians, neonatologists, anesthesia  
13 specialists, specialty nurses, clergy, and social workers that are  
14 focused on alleviating fear and ensuring that the woman and her  
15 family experience the life and death of the child in a comfortable  
16 and supportive environment.

17           **Sec. 5. (a)** The state department shall develop a perinatal  
18 hospice brochure and post the perinatal hospice brochure on the  
19 state department's Internet web site.

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

22           (1) A description of the health care and other services  
23 available from perinatal hospice.

24           (2) Objective scientific information concerning the  
25 psychological risks associated with terminating a pregnancy  
26 because of the diagnosis of a lethal fetal anomaly.

27           (3) Objective scientific information concerning the outcomes  
28 of parents who have received perinatal hospice care.

29           (4) Information that medical assistance benefits may be  
30 available for prenatal care, childbirth, and perinatal hospice.

31           (5) Information regarding telephone 211 dialing code services  
32 for accessing grief counseling and other human services as  
33 described in IC 8-1-19.5, and the types of services that are  
34 available through this service.

35           **Sec. 6.** The state department shall publish the perinatal hospice  
36 brochure in English, Spanish, and any other language considered  
37 appropriate by the state department.

38           **Sec. 7.** The state department shall develop and regularly update  
39 a list of all perinatal hospice providers in the United States. The  
40 state department shall organize the list by state and by region to  
41 include out-of-state providers offering perinatal hospice care to  
42 Indiana residents. The state department shall post the list of



1 perinatal hospice providers on the state department's Internet web  
2 site.

3 **Sec. 8. The state department shall develop a form on which a**  
4 **pregnant woman whose unborn child has been diagnosed with a**  
5 **lethal fetal anomaly may certify in writing under IC 16-34-2-1.1(d)**  
6 **that the pregnant woman has:**

7 (1) received copies of the perinatal hospice brochure  
8 developed under section 5 of this chapter and the list of  
9 perinatal hospice providers developed under section 7 of this  
10 chapter;

11 (2) decided not to continue the pregnancy through perinatal  
12 hospice care; and

13 (3) chosen to have an abortion.

14 **Sec. 9. This chapter is severable as specified in IC 1-1-1-8.**

15 SECTION 8. IC 16-34-2-1, AS AMENDED BY P.L.136-2013,  
16 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2016]: Sec. 1. (a) Abortion shall in all instances be a criminal  
18 act, except when performed under the following circumstances:

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

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

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

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

30 However, an abortion inducing drug may not be dispensed,  
31 prescribed, administered, or otherwise given to a pregnant woman  
32 after nine (9) weeks of postfertilization age unless the Food and  
33 Drug Administration has approved the abortion inducing drug to  
34 be used for abortions later than nine (9) weeks of postfertilization  
35 age. A physician shall examine a pregnant woman in person  
36 before prescribing or dispensing an abortion inducing drug. As  
37 used in this subdivision, "in person" does not include the use of  
38 telehealth or telemedicine services.

39 (2) **Except as prohibited by IC 16-34-4**, for an abortion  
40 performed by a surgical procedure, after the first trimester of  
41 pregnancy and before the earlier of viability of the fetus or twenty  
42 (20) weeks of postfertilization age, for reasons based upon the



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

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

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

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

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

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

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

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

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

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

34 SECTION 9. IC 16-34-2-1.1, AS AMENDED BY P.L.113-2015,  
35 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2016]: Sec. 1.1. (a) An abortion shall not be performed except  
37 with the voluntary and informed consent of the pregnant woman upon  
38 whom the abortion is to be performed. Except in the case of a medical  
39 emergency, consent to an abortion is voluntary and informed only if the  
40 following conditions are met:

41 (1) At least eighteen (18) hours before the abortion and in the  
42 presence of the pregnant woman, the physician who is to perform



1 the abortion, the referring physician or a physician assistant (as  
 2 defined in IC 25-27.5-2-10), an advanced practice nurse (as  
 3 defined in IC 25-23-1-1(b)), or a certified nurse midwife (as  
 4 defined in IC 34-18-2-6.5) to whom the responsibility has been  
 5 delegated by the physician who is to perform the abortion or the  
 6 referring physician has informed the pregnant woman orally and  
 7 in writing of the following:

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

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

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

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

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

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

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

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

33 at this stage of development.

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

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

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



- 1 (J) That the pregnancy of a child less than fifteen (15) years of  
 2 age may constitute child abuse under Indiana law if the act  
 3 included an adult and must be reported to the department of  
 4 child services or the local law enforcement agency under  
 5 IC 31-33-5.
- 6 **(K) That Indiana does not allow a fetus to be aborted solely**  
 7 **because of the fetus's race, color, national origin, ancestry,**  
 8 **sex, or diagnosis or potential diagnosis of the fetus having**  
 9 **Down syndrome or any other disability.**
- 10 (2) At least eighteen (18) hours before the abortion, the pregnant  
 11 woman will be informed orally and in writing of the following:
- 12 (A) That medical assistance benefits may be available for  
 13 prenatal care, childbirth, and neonatal care from the county  
 14 office of the division of family resources.
- 15 (B) That the father of the unborn fetus is legally required to  
 16 assist in the support of the child. In the case of rape, the  
 17 information required under this clause may be omitted.
- 18 (C) That adoption alternatives are available and that adoptive  
 19 parents may legally pay the costs of prenatal care, childbirth,  
 20 and neonatal care.
- 21 (D) That there are physical risks to the pregnant woman in  
 22 having an abortion, both during the abortion procedure and  
 23 after.
- 24 (E) That Indiana has enacted the safe haven law under  
 25 IC 31-34-2.5.
- 26 (F) The:
- 27 (i) Internet web site address of the state department of  
 28 health's web site; and
- 29 (ii) description of the information that will be provided on  
 30 the web site and that are;
- 31 described in section 1.5 of this chapter.
- 32 (G) For the facility in which the abortion is to be performed,  
 33 an emergency telephone number that is available and  
 34 answered on a twenty-four (24) hour a day, seven (7) day a  
 35 week basis.
- 36 (H) On a form developed by the state department and as  
 37 described in IC 16-34-3, that the pregnant woman has a right  
 38 to determine the final disposition of the remains of the aborted  
 39 fetus.
- 40 (I) On a form developed by the state department, information  
 41 concerning the available options for disposition of the aborted  
 42 fetus.





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



1 the auscultation of the fetal heart tone if the fetal heart tone is audible  
 2 unless the pregnant woman certifies in writing, on a form developed by  
 3 the state department, before the abortion is performed, that the  
 4 pregnant woman:

- 5 (1) does not want to view the fetal ultrasound imaging; and
- 6 (2) does not want to listen to the auscultation of the fetal heart  
 7 tone if the fetal heart tone is audible.

8 **(c) This subsection applies to a pregnant woman whose unborn**  
 9 **child has been diagnosed with a lethal fetal anomaly. The**  
 10 **requirements of this subsection are in addition to the other**  
 11 **requirements of this section. At least twenty-four (24) hours before**  
 12 **an abortion is performed on the pregnant woman, the referring**  
 13 **physician or the physician who will perform the abortion shall:**

- 14 (1) orally and in person, inform the pregnant woman of the  
 15 availability of perinatal hospice services; and
- 16 (2) provide the pregnant woman copies of the perinatal  
 17 hospice brochure developed by the state department under  
 18 IC 16-25-4.5-5 and the list of perinatal hospice providers  
 19 developed under IC 16-25-4.5-7, by printing the perinatal  
 20 hospice brochure and list of perinatal hospice providers from  
 21 the state department's Internet web site.

22 **(d) If a pregnant woman described in subsection (c) chooses to**  
 23 **have an abortion rather than continuing the pregnancy in perinatal**  
 24 **hospice care, the pregnant woman shall certify in writing, on a**  
 25 **form developed by the state department under IC 16-25-4.5-8,**  
 26 **before the abortion is performed, that the pregnant woman has:**

- 27 (1) been provided the information described in subsection (c)  
 28 in the manner required by subsection (c);
- 29 (2) decided not to continue the pregnancy through perinatal  
 30 hospice care; and
- 31 (3) chosen to have an abortion.

32 SECTION 10. IC 16-34-2-5, AS AMENDED BY P.L.92-2015,  
 33 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2016]: Sec. 5. (a) Every health care provider who performs a  
 35 surgical abortion or provides, prescribes, administers, or dispenses an  
 36 abortion inducing drug for the purposes of inducing an abortion shall  
 37 report the performance of the abortion or the provision, prescribing,  
 38 administration, or dispensing of an abortion inducing drug on a form  
 39 drafted by the state department, the purpose and function of which shall  
 40 be the improvement of maternal health and life through the compilation  
 41 of relevant maternal life and health factors and data, and a further  
 42 purpose and function shall be to monitor all abortions performed in



1 Indiana to assure the abortions are done only under the authorized  
 2 provisions of the law. For each abortion performed and abortion  
 3 inducing drug provided, prescribed, administered, or dispensed, the  
 4 report shall include, among other things, the following:

5 (1) The age of the patient.

6 (2) The date and location the abortion was performed or the  
 7 abortion inducing drug was provided, prescribed, administered,  
 8 or dispensed.

9 (3) The health care provider's full name and address, including the  
 10 name of the physicians performing the abortion or providing,  
 11 prescribing, administering, or dispensing the abortion inducing  
 12 drug.

13 (4) The name of the father if known.

14 (5) The age of the father, or the approximate age of the father if  
 15 the father's age is unknown.

16 (6) **The following information concerning the abortion or the**  
 17 **provision, prescribing, administration, or dispensing of the**  
 18 **abortion inducing drug:**

19 (A) The postfertilization age of the fetus.

20 (B) The manner in which the postfertilization age was  
 21 determined. ~~and,~~

22 (C) **Whether the fetus has been diagnosed with or has a**  
 23 **potential diagnosis of having Down syndrome or any other**  
 24 **disability.**

25 (D) If after the earlier of the time the fetus obtains viability or  
 26 the time the postfertilization age of the fetus is at least twenty  
 27 (20) weeks, the medical reason for the performance of the  
 28 abortion or the provision, prescribing, administration, or  
 29 dispensing of the abortion inducing drug.

30 (7) For a surgical abortion, the medical procedure used for the  
 31 abortion and, if the fetus was viable or had a postfertilization age  
 32 of at least twenty (20) weeks:

33 (A) whether the procedure, in the reasonable judgment of the  
 34 health care provider, gave the fetus the best opportunity to  
 35 survive; and

36 (B) the basis for the determination that the pregnant woman  
 37 had a condition described in this chapter that required the  
 38 abortion to avert the death of or serious impairment to the  
 39 pregnant woman.

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



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

3           ~~(9)~~ **(10)** The mother's obstetrical history, including dates of other  
 4           abortions, if any.

5           ~~(10)~~ **(11)** The results of pathological examinations if performed.

6           ~~(11)~~ **(12)** For a surgical abortion, whether the fetus was delivered  
 7           alive, and if so, how long the fetus lived.

8           ~~(12)~~ **(13)** Records of all maternal deaths occurring at the location  
 9           where the abortion was performed or the abortion inducing drug  
 10          was provided, prescribed, administered, or dispensed.

11          ~~(13)~~ **(14)** The date the form was transmitted to the state  
 12          department and, if applicable, separately to the department of  
 13          child services.

14          (b) The health care provider shall complete the form provided for in  
 15          subsection (a) and shall transmit the completed form to the state  
 16          department, in the manner specified on the form, not later than July 30  
 17          for each abortion occurring in the first six (6) months of that year and  
 18          not later than January 30 for each abortion occurring in the last six (6)  
 19          months of the preceding year. However, if an abortion is for a female  
 20          who is less than fourteen (14) years of age, the health care provider  
 21          shall transmit the form to the state department of health and separately  
 22          to the department of child services within three (3) days after the  
 23          abortion is performed.

24          (c) The dates supplied on the form may not be redacted for any  
 25          reason before the form is transmitted as provided in this section.

26          (d) Each failure to complete or timely transmit a form, as required  
 27          under this section, for each abortion performed or abortion inducing  
 28          drug that was provided, prescribed, administered, or dispensed, is a  
 29          Class B misdemeanor.

30          (e) Not later than June 30 of each year, the state department shall  
 31          compile a public report providing the following:

32                 (1) Statistics for the previous calendar year from the information  
 33                 submitted under this section.

34                 (2) Statistics for previous calendar years compiled by the state  
 35                 department under this subsection, with updated information for  
 36                 the calendar year that was submitted to the state department after  
 37                 the compilation of the statistics.

38          The state department shall ensure that no identifying information of a  
 39          pregnant woman is contained in the report.

40          SECTION 11. IC 16-34-4 IS ADDED TO THE INDIANA CODE  
 41          AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 42          JULY 1, 2016]:



1           **Chapter 4. Sex Selective and Disability Abortion Ban**

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

- 5           **(1) A physical disability.**  
6           **(2) A mental disability or retardation.**  
7           **(3) A physical disfigurement.**  
8           **(4) Scoliosis.**  
9           **(5) Dwarfism.**  
10          **(6) Down syndrome.**  
11          **(7) Albinism.**  
12          **(8) Amelia.**  
13          **(9) A physical or mental disease.**

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

28 (1) disciplinary sanctions under IC 25-1-9; and

29 (2) civil liability for wrongful death and medical malpractice.

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

33 SECTION 12. IC 22-9-1-3, AS AMENDED BY P.L.136-2014,  
34 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2016]: Sec. 3. As used in this chapter:

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

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



- 1 (c) "Director" means the director of the civil rights commission.  
 2 (d) "Deputy director" means the deputy director of the civil rights  
 3 commission.  
 4 (e) "Commission attorney" means the deputy attorney general, such  
 5 assistants of the attorney general as may be assigned to the  
 6 commission, or such other attorney as may be engaged by the  
 7 commission.  
 8 (f) "Consent agreement" means a formal agreement entered into in  
 9 lieu of adjudication.  
 10 (g) "Affirmative action" means those acts that the commission  
 11 determines necessary to assure compliance with the Indiana civil rights  
 12 law.  
 13 (h) "Employer" means the state or any political or civil subdivision  
 14 thereof and any person employing six (6) or more persons within the  
 15 state, except that the term "employer" does not include:  
 16 (1) any nonprofit corporation or association organized exclusively  
 17 for fraternal or religious purposes;  
 18 (2) any school, educational, or charitable religious institution  
 19 owned or conducted by or affiliated with a church or religious  
 20 institution; or  
 21 (3) any exclusively social club, corporation, or association that is  
 22 not organized for profit.  
 23 (i) "Employee" means any person employed by another for wages or  
 24 salary. However, the term does not include any individual employed:  
 25 (1) by the individual's parents, spouse, or child; or  
 26 (2) in the domestic service of any person.  
 27 (j) "Labor organization" means any organization that exists for the  
 28 purpose in whole or in part of collective bargaining or of dealing with  
 29 employers concerning grievances, terms, or conditions of employment  
 30 or for other mutual aid or protection in relation to employment.  
 31 (k) "Employment agency" means any person undertaking with or  
 32 without compensation to procure, recruit, refer, or place employees.  
 33 (l) "Discriminatory practice" means:  
 34 (1) the exclusion of a person from equal opportunities because of  
 35 race, religion, color, sex, disability, national origin, ancestry, or  
 36 status as a veteran;  
 37 (2) a system that excludes persons from equal opportunities  
 38 because of race, religion, color, sex, disability, national origin,  
 39 ancestry, or status as a veteran;  
 40 (3) the promotion of racial segregation or separation in any  
 41 manner, including but not limited to the inducing of or the  
 42 attempting to induce for profit any person to sell or rent any



1 dwelling by representations regarding the entry or prospective  
 2 entry in the neighborhood of a person or persons of a particular  
 3 race, religion, color, sex, disability, national origin, or ancestry;

4 **or**

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

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

9 **or**

10 **(6) a violation of any of the following statutes protecting the  
 11 right of conscience regarding abortion:**

12 **(A) IC 16-34-1-4.**

13 **(B) IC 16-34-1-5.**

14 **(C) IC 16-34-1-6.**

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

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

21 (n) "Complainant" means:

22 (1) any individual charging on the individual's own behalf to have  
 23 been personally aggrieved by a discriminatory practice; or

24 (2) the director or deputy director of the commission charging that  
 25 a discriminatory practice was committed against a person (other  
 26 than the director or deputy director) or a class of people, in order  
 27 to vindicate the public policy of the state (as defined in section 2  
 28 of this chapter).

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

30 (1) sufficiently complete and filed by a complainant with the  
 31 commission; or

32 (2) filed by a complainant as a civil action in the circuit or  
 33 superior court having jurisdiction in the county in which the  
 34 alleged discriminatory practice occurred.

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

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

38 (1) the full name and address of the complainant;

39 (2) the name and address of the respondent against whom the  
 40 complaint is made;

41 (3) the alleged discriminatory practice and a statement of  
 42 particulars thereof;





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

9 No complaint shall be valid unless filed within one hundred eighty  
 10 (180) days from the date of the occurrence of the alleged  
 11 discriminatory practice.

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

- 15 (1) it shall not be a discriminatory practice to maintain separate
- 16 restrooms;
- 17 (2) it shall not be an unlawful employment practice for an
- 18 employer to hire and employ employees, for an employment
- 19 agency to classify or refer for employment any individual, for a
- 20 labor organization to classify its membership or to classify or refer
- 21 for employment any individual, or for an employer, labor
- 22 organization, or joint labor management committee controlling
- 23 apprenticeship or other training or retraining programs to admit
- 24 or employ any other individual in any program on the basis of sex
- 25 in those certain instances where sex is a bona fide occupational
- 26 qualification reasonably necessary to the normal operation of that
- 27 particular business or enterprise; and
- 28 (3) it shall not be a discriminatory practice for a private or
- 29 religious educational institution to continue to maintain and
- 30 enforce a policy of admitting students of one (1) sex only.

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

- 37 (s) "Veteran" means:
- 38 (1) a veteran of the armed forces of the United States;
- 39 (2) a member of the Indiana National Guard; or
- 40 (3) a member of a reserve component.

41 SECTION 13. IC 25-1-9-4, AS AMENDED BY P.L.197-2007,  
 42 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2016]: Sec. 4. (a) A practitioner shall conduct the  
2 practitioner's practice in accordance with the standards established by  
3 the board regulating the profession in question and is subject to the  
4 exercise of the disciplinary sanctions under section 9 of this chapter if,  
5 after a hearing, the board finds:

6 (1) a practitioner has:

7 (A) engaged in or knowingly cooperated in fraud or material  
8 deception in order to obtain a license to practice, including  
9 cheating on a licensing examination;

10 (B) engaged in fraud or material deception in the course of  
11 professional services or activities;

12 (C) advertised services in a false or misleading manner; or

13 (D) been convicted of a crime or assessed a civil penalty  
14 involving fraudulent billing practices, including fraud under:

15 (i) Medicaid (42 U.S.C. 1396 et seq.);

16 (ii) Medicare (42 U.S.C. 1395 et seq.);

17 (iii) the children's health insurance program under  
18 IC 12-17.6; or

19 (iv) insurance claims;

20 (2) a practitioner has been convicted of a crime that:

21 (A) has a direct bearing on the practitioner's ability to continue  
22 to practice competently; or

23 (B) is harmful to the public;

24 (3) a practitioner has knowingly violated any state statute or rule,  
25 or federal statute or regulation, regulating the profession in  
26 question;

27 (4) a practitioner has continued to practice although the  
28 practitioner has become unfit to practice due to:

29 (A) professional incompetence that:

30 (i) may include the undertaking of professional activities  
31 that the practitioner is not qualified by training or experience  
32 to undertake; and

33 (ii) does not include activities performed under  
34 IC 16-21-2-9;

35 (B) failure to keep abreast of current professional theory or  
36 practice;

37 (C) physical or mental disability; or

38 (D) addiction to, abuse of, or severe dependency upon alcohol  
39 or other drugs that endanger the public by impairing a  
40 practitioner's ability to practice safely;

41 (5) a practitioner has engaged in a course of lewd or immoral  
42 conduct in connection with the delivery of services to the public;



1 (6) a practitioner has allowed the practitioner's name or a license  
 2 issued under this chapter to be used in connection with an  
 3 individual who renders services beyond the scope of that  
 4 individual's training, experience, or competence;

5 (7) a practitioner has had disciplinary action taken against the  
 6 practitioner or the practitioner's license to practice in any state or  
 7 jurisdiction on grounds similar to those under this chapter;

8 (8) a practitioner has diverted:

9 (A) a legend drug (as defined in IC 16-18-2-199); or

10 (B) any other drug or device issued under a drug order (as  
 11 defined in IC 16-42-19-3) for another person;

12 (9) a practitioner, except as otherwise provided by law, has  
 13 knowingly prescribed, sold, or administered any drug classified  
 14 as a narcotic, addicting, or dangerous drug to a habitue or addict;

15 (10) a practitioner has failed to comply with an order imposing a  
 16 sanction under section 9 of this chapter;

17 (11) a practitioner has engaged in sexual contact with a patient  
 18 under the practitioner's care or has used the practitioner-patient  
 19 relationship to solicit sexual contact with a patient under the  
 20 practitioner's care;

21 (12) a practitioner who is a participating provider of a health  
 22 maintenance organization has knowingly collected or attempted  
 23 to collect from a subscriber or enrollee of the health maintenance  
 24 organization any sums that are owed by the health maintenance  
 25 organization; or

26 (13) a practitioner has assisted another person in committing an  
 27 act that would be grounds for disciplinary sanctions under this  
 28 chapter; or

29 **(14) a practitioner performed an abortion in violation of**  
 30 **IC 16-34-2-1.1(c).**

31 (b) A practitioner who provides health care services to the  
 32 practitioner's spouse is not subject to disciplinary action under  
 33 subsection (a)(11).

34 (c) A certified copy of the record of disciplinary action is conclusive  
 35 evidence of the other jurisdiction's disciplinary action under subsection  
 36 (a)(7).

37 SECTION 14. IC 25-22.5-8-6 IS ADDED TO THE INDIANA  
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 39 [EFFECTIVE JULY 1, 2016]: **Sec. 6. (a) As used in this section,**  
 40 **"abortion" has the meaning set forth in IC 16-18-2-1.**

41 **(b) Notwithstanding IC 25-1-9, the board shall revoke the**  
 42 **license of a physician if, after appropriate notice and an**



1     **opportunity for a hearing, the board finds by clear and convincing**  
2     **evidence that the physician performed an abortion in violation of**  
3     **IC 16-34-2-1.1(c).**

