



January 29, 2016

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## SENATE BILL No. 313

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DIGEST OF SB 313 (Updated January 27, 2016 3:11 pm - DI 104)

**Citations Affected:** IC 16-18; IC 16-25; IC 16-34; IC 22-9; IC 35-46.

**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 gender of the fetus and 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 disciplinary sanctions and civil liability for wrongful death 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. Defines fetal tissue. Prohibits an individual from acquiring, receiving, selling, or transferring fetal tissue. Makes it a Level 5 felony to unlawfully: (1) transfer; and (2) collect fetal tissue. Establishes an exemption for the criminal penalty of unlawful use of an embryo if the transfer or receipt of a fetus was requested in writing by a biological parent for the purposes of research or transplantation.

**Effective:** July 1, 2016.

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### Holdman, Brown L

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January 7, 2016, read first time and referred to Committee on Health & Provider Services.  
January 28, 2016, amended, reported favorably — Do Pass.

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SB 313—LS 6817/DI 92





January 29, 2016

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

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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**

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- 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 purpose of this chapter is to ensure that:**  
 16 (1) **women considering abortion after receiving a diagnosis of**  
 17 **a lethal fetal anomaly are informed of the availability of**  
 18 **perinatal hospice care; and**  
 19 (2) **women choosing abortion after receiving a diagnosis of a**  
 20 **lethal fatal anomaly are making a fully informed decision.**  
 21 **Sec. 2. As used in this chapter, "lethal fetal anomaly" means a**  
 22 **fetal condition diagnosed before birth that, if the pregnancy results**  
 23 **in a live birth, will with reasonable certainty result in the death of**  
 24 **the child not more than three (3) months after the child's birth.**  
 25 **Sec. 3. As used in this chapter, "perinatal hospice" means the**  
 26 **provision of comprehensive, supportive care to a pregnant woman**  
 27 **and her family beginning with the diagnosis of a lethal fetal**  
 28 **anomaly and continuing through the live birth and death of the**  
 29 **woman's child as a result of the lethal fetal anomaly. The term**  
 30 **includes counseling and medical care provided by maternal-fetal**  
 31 **medical specialists, obstetricians, neonatologists, anesthesia**  
 32 **specialists, specialty nurses, clergy, social workers, and others that**  
 33 **are focused on alleviating fear and ensuring that the woman and**  
 34 **her family experience the life and death of the child in a**  
 35 **comfortable and supportive environment.**  
 36 **Sec. 4. (a) The state department shall develop a perinatal**  
 37 **hospice brochure and post the perinatal hospice brochure on the**  
 38 **state department's Internet web site.**  
 39 **(b) The perinatal brochure developed under this section must**  
 40 **include the following:**  
 41 (1) **A description of the health care and other services**  
 42 **available from perinatal hospice.**



1 (2) Information that medical assistance benefits may be  
2 available for prenatal care, childbirth, and perinatal hospice.

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

7 **Sec. 5.** The state department shall develop and regularly update  
8 a list of all perinatal hospice providers and programs in Indiana.  
9 The state department may include on the list perinatal hospice  
10 providers and programs in other states that provide care to  
11 Indiana residents. The state department shall post the list of  
12 perinatal hospice providers and programs on the state  
13 department's Internet web site.

14 **Sec. 6. (a)** The state department shall develop a form on which  
15 a pregnant woman certifies, at the time of receiving a diagnosis  
16 that the pregnant woman's unborn child has a lethal fetal anomaly,  
17 that the pregnant woman has received the following:

18 (1) A copy of the perinatal hospice brochure developed under  
19 this chapter.

20 (2) A list of the perinatal hospice providers and programs  
21 developed under section 5 of this chapter.

22 (b) The provider diagnosing the pregnant woman's unborn child  
23 with the lethal fetal anomaly shall, at the time of diagnosis:

24 (1) provide the pregnant woman with a written copy of:

25 (A) the perinatal brochure developed under this chapter;  
26 and

27 (B) the certification form developed by the state  
28 department under subsection (a); and

29 (2) have the pregnant woman complete the certification form.

30 **Sec. 7.** This chapter is severable as specified in IC 1-1-1-8.

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

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

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

39 (B) the woman submitting to the abortion has filed her consent  
40 with her physician. However, if in the judgment of the  
41 physician the abortion is necessary to preserve the life of the  
42 woman, her consent is not required; and



1 (C) the woman submitting to the abortion has filed with her  
 2 physician the written consent of her parent or legal guardian  
 3 if required under section 4 of this chapter.  
 4 However, an abortion inducing drug may not be dispensed,  
 5 prescribed, administered, or otherwise given to a pregnant woman  
 6 after nine (9) weeks of postfertilization age unless the Food and  
 7 Drug Administration has approved the abortion inducing drug to  
 8 be used for abortions later than nine (9) weeks of postfertilization  
 9 age. A physician shall examine a pregnant woman in person  
 10 before prescribing or dispensing an abortion inducing drug. As  
 11 used in this subdivision, "in person" does not include the use of  
 12 telehealth or telemedicine services.

13 (2) **Except as prohibited by IC 16-34-4**, for an abortion  
 14 performed by a surgical procedure, after the first trimester of  
 15 pregnancy and before the earlier of viability of the fetus or twenty  
 16 (20) weeks of postfertilization age, for reasons based upon the  
 17 professional, medical judgment of the pregnant woman's  
 18 physician if:

19 (A) all the circumstances and provisions required for legal  
 20 abortion during the first trimester are present and adhered to;  
 21 and

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

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

30 (A) all the circumstances and provisions required for legal  
 31 abortion before the earlier of viability of the fetus or twenty  
 32 (20) weeks of postfertilization age are present and adhered to;  
 33 (B) the abortion is performed in compliance with section 3 of  
 34 this chapter; and

35 (C) before the abortion the attending physician shall certify in  
 36 writing to the hospital in which the abortion is to be  
 37 performed, that in the attending physician's professional,  
 38 medical judgment, after proper examination and review of the  
 39 woman's history, the abortion is necessary to prevent a  
 40 substantial permanent impairment of the life or physical health  
 41 of the pregnant woman. All facts and reasons supporting the  
 42 certification shall be set forth by the physician in writing and



- 1 attached to the certificate.
- 2 (b) A person may not knowingly or intentionally perform a partial
- 3 birth abortion unless a physician reasonably believes that:
- 4 (1) performing the partial birth abortion is necessary to save the
- 5 mother's life; and
- 6 (2) no other medical procedure is sufficient to save the mother's
- 7 life.
- 8 SECTION 9. IC 16-34-2-1.1, AS AMENDED BY P.L.113-2015,
- 9 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2016]: Sec. 1.1. (a) An abortion shall not be performed except
- 11 with the voluntary and informed consent of the pregnant woman upon
- 12 whom the abortion is to be performed. Except in the case of a medical
- 13 emergency, consent to an abortion is voluntary and informed only if the
- 14 following conditions are met:
- 15 (1) At least eighteen (18) hours before the abortion and in the
- 16 presence of the pregnant woman, the physician who is to perform
- 17 the abortion, the referring physician or a physician assistant (as
- 18 defined in IC 25-27.5-2-10), an advanced practice nurse (as
- 19 defined in IC 25-23-1-1(b)), or a certified nurse midwife (as
- 20 defined in IC 34-18-2-6.5) to whom the responsibility has been
- 21 delegated by the physician who is to perform the abortion or the
- 22 referring physician has informed the pregnant woman orally and
- 23 in writing of the following:
- 24 (A) The name of the physician performing the abortion, the
- 25 physician's medical license number, and an emergency
- 26 telephone number where the physician or the physician's
- 27 designee may be contacted on a twenty-four (24) hour a day,
- 28 seven (7) day a week basis.
- 29 (B) That follow-up care by the physician or the physician's
- 30 designee (if the designee is licensed under IC 25-22.5) and is
- 31 available on an appropriate and timely basis when clinically
- 32 necessary.
- 33 (C) The nature of the proposed procedure or information
- 34 concerning the abortion inducing drug.
- 35 (D) Objective scientific information of the risks of and
- 36 alternatives to the procedure or the use of an abortion inducing
- 37 drug, including:
- 38 (i) the risk of infection and hemorrhage;
- 39 (ii) the potential danger to a subsequent pregnancy; and
- 40 (iii) the potential danger of infertility.
- 41 (E) That human physical life begins when a human ovum is
- 42 fertilized by a human sperm.



- 1 (F) The probable gestational age of the fetus at the time the  
 2 abortion is to be performed, including:  
 3 (i) a picture of a fetus;  
 4 (ii) the dimensions of a fetus; and  
 5 (iii) relevant information on the potential survival of an  
 6 unborn fetus;  
 7 at this stage of development.
- 8 (G) That objective scientific information shows that a fetus  
 9 can feel pain at or before twenty (20) weeks of postfertilization  
 10 age.
- 11 (H) The medical risks associated with carrying the fetus to  
 12 term.
- 13 (I) The availability of fetal ultrasound imaging and  
 14 auscultation of fetal heart tone services to enable the pregnant  
 15 woman to view the image and hear the heartbeat of the fetus  
 16 and how to obtain access to these services.
- 17 (J) That the pregnancy of a child less than fifteen (15) years of  
 18 age may constitute child abuse under Indiana law if the act  
 19 included an adult and must be reported to the department of  
 20 child services or the local law enforcement agency under  
 21 IC 31-33-5.
- 22 **(K) That Indiana does not allow a fetus to be aborted solely**  
 23 **because of the fetus's race, color, national origin, ancestry,**  
 24 **sex, or diagnosis or potential diagnosis of the fetus having**  
 25 **Down syndrome or any other disability.**
- 26 (2) At least eighteen (18) hours before the abortion, the pregnant  
 27 woman will be informed orally and in writing of the following:  
 28 (A) That medical assistance benefits may be available for  
 29 prenatal care, childbirth, and neonatal care from the county  
 30 office of the division of family resources.  
 31 (B) That the father of the unborn fetus is legally required to  
 32 assist in the support of the child. In the case of rape, the  
 33 information required under this clause may be omitted.  
 34 (C) That adoption alternatives are available and that adoptive  
 35 parents may legally pay the costs of prenatal care, childbirth,  
 36 and neonatal care.  
 37 (D) That there are physical risks to the pregnant woman in  
 38 having an abortion, both during the abortion procedure and  
 39 after.  
 40 (E) That Indiana has enacted the safe haven law under  
 41 IC 31-34-2.5.  
 42 (F) The:





- 1 (i) Internet web site address of the state department of  
 2 health's web site; and  
 3 (ii) description of the information that will be provided on  
 4 the web site and that are;  
 5 described in section 1.5 of this chapter.
- 6 (G) For the facility in which the abortion is to be performed,  
 7 an emergency telephone number that is available and  
 8 answered on a twenty-four (24) hour a day, seven (7) day a  
 9 week basis.
- 10 (H) On a form developed by the state department and as  
 11 described in IC 16-34-3, that the pregnant woman has a right  
 12 to determine the final disposition of the remains of the aborted  
 13 fetus.
- 14 (I) On a form developed by the state department, information  
 15 concerning the available options for disposition of the aborted  
 16 fetus.
- 17 (J) On a form developed by the state department, information  
 18 concerning any counseling that is available to a pregnant  
 19 woman after having an abortion.
- 20 The state department shall develop and distribute the forms  
 21 required by clauses (H) through (J).
- 22 (3) The pregnant woman certifies in writing, on a form developed  
 23 by the state department, before the abortion is performed, that:
- 24 (A) the information required by subdivisions (1) and (2) has  
 25 been provided to the pregnant woman;
- 26 (B) the pregnant woman has been offered by the provider the  
 27 opportunity to view the fetal ultrasound imaging and hear the  
 28 auscultation of the fetal heart tone if the fetal heart tone is  
 29 audible and that the woman has:
- 30 (i) viewed or refused to view the offered fetal ultrasound  
 31 imaging; and  
 32 (ii) listened to or refused to listen to the offered auscultation  
 33 of the fetal heart tone if the fetal heart tone is audible; and  
 34 (C) the pregnant woman has been given a written copy of the  
 35 printed materials described in section 1.5 of this chapter.
- 36 (4) At least eighteen (18) hours before the abortion and in the  
 37 presence of the pregnant woman, the physician who is to perform  
 38 the abortion, the referring physician or a physician assistant (as  
 39 defined in IC 25-27.5-2-10), an advanced practice nurse (as  
 40 defined in IC 25-23-1-1(b)), or a midwife (as defined in  
 41 IC 34-18-2-19) to whom the responsibility has been delegated by  
 42 the physician who is to perform the abortion or the referring



1 physician has provided the pregnant woman with a color copy of  
 2 the informed consent brochure described in section 1.5 of this  
 3 chapter by printing the informed consent brochure from the state  
 4 department's Internet web site and including the following  
 5 information on the back cover of the brochure:

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

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

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

15 (b) Before an abortion is performed, the provider shall perform, and  
 16 the pregnant woman shall view, the fetal ultrasound imaging and hear  
 17 the auscultation of the fetal heart tone if the fetal heart tone is audible  
 18 unless the pregnant woman certifies in writing, on a form developed by  
 19 the state department, before the abortion is performed, that the  
 20 pregnant woman:

21 (1) does not want to view the fetal ultrasound imaging; and

22 (2) does not want to listen to the auscultation of the fetal heart  
 23 tone if the fetal heart tone is audible.

24 **(c) This subsection applies to a pregnant woman whose unborn**  
 25 **child has been diagnosed with a lethal fetal anomaly. The**  
 26 **requirements of this subsection are in addition to the other**  
 27 **requirements of this section. At least eighteen (18) hours before an**  
 28 **abortion is performed on the pregnant woman, the physician who**  
 29 **will perform the abortion shall:**

30 (1) orally and in person, inform the pregnant woman of the  
 31 availability of perinatal hospice services; and

32 (2) provide the pregnant woman copies of the perinatal  
 33 hospice brochure developed by the state department under  
 34 IC 16-25-4.5-4 and the list of perinatal hospice providers and  
 35 programs developed under IC 16-25-4.5-5, by printing the  
 36 perinatal hospice brochure and list of perinatal hospice  
 37 providers from the state department's Internet web site.

38 (d) If a pregnant woman described in subsection (c) chooses to  
 39 have an abortion rather than continuing the pregnancy in perinatal  
 40 hospice care, the pregnant woman shall certify in writing, on a  
 41 form developed by the state department under IC 16-25-4.5-6, at  
 42 least eighteen (18) hours before the abortion is performed, that the



1 **pregnant woman has been provided the information described in**  
 2 **subsection (c) in the manner required by subsection (c).**

3 SECTION 10. IC 16-34-2-5, AS AMENDED BY P.L.92-2015,  
 4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2016]: Sec. 5. (a) Every health care provider who performs a  
 6 surgical abortion or provides, prescribes, administers, or dispenses an  
 7 abortion inducing drug for the purposes of inducing an abortion shall  
 8 report the performance of the abortion or the provision, prescribing,  
 9 administration, or dispensing of an abortion inducing drug on a form  
 10 drafted by the state department, the purpose and function of which shall  
 11 be the improvement of maternal health and life through the compilation  
 12 of relevant maternal life and health factors and data, and a further  
 13 purpose and function shall be to monitor all abortions performed in  
 14 Indiana to assure the abortions are done only under the authorized  
 15 provisions of the law. For each abortion performed and abortion  
 16 inducing drug provided, prescribed, administered, or dispensed, the  
 17 report shall include, among other things, the following:

18 (1) The age of the patient.

19 (2) The date and location the abortion was performed or the  
 20 abortion inducing drug was provided, prescribed, administered,  
 21 or dispensed.

22 (3) The health care provider's full name and address, including the  
 23 name of the physicians performing the abortion or providing,  
 24 prescribing, administering, or dispensing the abortion inducing  
 25 drug.

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

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

29 (6) **The following information concerning the abortion or the**  
 30 **provision, prescribing, administration, or dispensing of the**  
 31 **abortion inducing drug:**

32 (A) **The** postfertilization age of the fetus.

33 (B) **The** manner in which the postfertilization age was  
 34 determined. ~~and,~~

35 (C) **The gender of the fetus, if detectable.**

36 (D) **Whether the fetus has been diagnosed with or has a**  
 37 **potential diagnosis of having Down syndrome or any other**  
 38 **disability.**

39 (E) **If** after the earlier of the time the fetus obtains viability or  
 40 the time the postfertilization age of the fetus is at least twenty  
 41 (20) weeks, the medical reason for the performance of the  
 42 abortion or the provision, prescribing, administration, or



- 1 dispensing of the abortion inducing drug.
- 2 (7) For a surgical abortion, the medical procedure used for the
- 3 abortion and, if the fetus was viable or had a postfertilization age
- 4 of at least twenty (20) weeks:
- 5 (A) whether the procedure, in the reasonable judgment of the
- 6 health care provider, gave the fetus the best opportunity to
- 7 survive; and
- 8 (B) the basis for the determination that the pregnant woman
- 9 had a condition described in this chapter that required the
- 10 abortion to avert the death of or serious impairment to the
- 11 pregnant woman.
- 12 (8) For a nonsurgical abortion, the precise drugs provided,
- 13 prescribed, administered, or dispensed, and the means of delivery
- 14 of the drugs to the patient.
- 15 **(9) For an early pre-viability termination, the medical**
- 16 **indication by diagnosis code for the fetus and the mother.**
- 17 ~~(9)~~ **(10)** The mother's obstetrical history, including dates of other
- 18 abortions, if any.
- 19 ~~(10)~~ **(11)** The results of pathological examinations if performed.
- 20 ~~(11)~~ **(12)** For a surgical abortion, whether the fetus was delivered
- 21 alive, and if so, how long the fetus lived.
- 22 ~~(12)~~ **(13)** Records of all maternal deaths occurring at the location
- 23 where the abortion was performed or the abortion inducing drug
- 24 was provided, prescribed, administered, or dispensed.
- 25 ~~(13)~~ **(14)** The date the form was transmitted to the state
- 26 department and, if applicable, separately to the department of
- 27 child services.
- 28 (b) The health care provider shall complete the form provided for in
- 29 subsection (a) and shall transmit the completed form to the state
- 30 department, in the manner specified on the form, not later than July 30
- 31 for each abortion occurring in the first six (6) months of that year and
- 32 not later than January 30 for each abortion occurring in the last six (6)
- 33 months of the preceding year. However, if an abortion is for a female
- 34 who is less than fourteen (14) years of age, the health care provider
- 35 shall transmit the form to the state department of health and separately
- 36 to the department of child services within three (3) days after the
- 37 abortion is performed.
- 38 (c) The dates supplied on the form may not be redacted for any
- 39 reason before the form is transmitted as provided in this section.
- 40 (d) Each failure to complete or timely transmit a form, as required
- 41 under this section, for each abortion performed or abortion inducing
- 42 drug that was provided, prescribed, administered, or dispensed, is a



- 1 Class B misdemeanor.
- 2 (e) Not later than June 30 of each year, the state department shall
- 3 compile a public report providing the following:
- 4 (1) Statistics for the previous calendar year from the information
- 5 submitted under this section.
- 6 (2) Statistics for previous calendar years compiled by the state
- 7 department under this subsection, with updated information for
- 8 the calendar year that was submitted to the state department after
- 9 the compilation of the statistics.
- 10 The state department shall ensure that no identifying information of a
- 11 pregnant woman is contained in the report.
- 12 SECTION 11. IC 16-34-4 IS ADDED TO THE INDIANA CODE
- 13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 14 JULY 1, 2016]:
- 15 **Chapter 4. Sex Selective and Disability Abortion Ban**
- 16 **Sec. 1. (a) As used in this chapter, "any other disability" means**
- 17 **any disease, defect, or disorder that is genetically inherited. The**
- 18 **term includes the following:**
- 19 (1) A physical disability.
- 20 (2) A mental or intellectual disability.
- 21 (3) A physical disfigurement.
- 22 (4) Scoliosis.
- 23 (5) Dwarfism.
- 24 (6) Down syndrome.
- 25 (7) Albinism.
- 26 (8) Amelia.
- 27 (9) A physical or mental disease.
- 28 (b) The term does not include a lethal fetal anomaly.
- 29 **Sec. 2. As used in this chapter, "Down syndrome" means a**
- 30 **chromosomal disorder associated with an extra chromosome 21 or**
- 31 **an effective trisomy for chromosome 21.**
- 32 **Sec. 3. As used in this chapter, "potential diagnosis" refers to**
- 33 **the presence of some risk factors that indicate that a health**
- 34 **problem may occur.**
- 35 **Sec. 4. As used in this chapter, "sex selective abortion" means**
- 36 **an abortion that is performed solely because of the sex of the fetus.**
- 37 **Sec. 5. (a) A person may not intentionally perform or attempt to**
- 38 **perform an abortion before the earlier of viability of the fetus or**
- 39 **twenty (20) weeks of postfertilization age if the person knows that**
- 40 **the pregnant woman is seeking a sex selective abortion.**
- 41 (b) A person may not intentionally perform or attempt to
- 42 perform an abortion after viability of the fetus or twenty (20)



1 weeks of postfertilization age if the person knows that the pregnant  
2 woman is seeking a sex selective abortion.

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

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

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

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

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

23 (b) A person may not intentionally perform or attempt to  
24 perform an abortion after viability of the fetus or twenty (20)  
25 weeks of postfertilization age if the person knows that the pregnant  
26 woman is seeking the abortion solely because the fetus has been  
27 diagnosed with any other disability or has a potential diagnosis of  
28 any other disability.

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

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

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

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

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



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

2           **(2) civil liability for wrongful death.**

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

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

9           (a) "Person" means one (1) or more individuals, partnerships,  
 10 associations, organizations, limited liability companies, corporations,  
 11 labor organizations, cooperatives, legal representatives, trustees,  
 12 trustees in bankruptcy, receivers, and other organized groups of  
 13 persons.

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

16           (c) "Director" means the director of the civil rights commission.

17           (d) "Deputy director" means the deputy director of the civil rights  
 18 commission.

19           (e) "Commission attorney" means the deputy attorney general, such  
 20 assistants of the attorney general as may be assigned to the  
 21 commission, or such other attorney as may be engaged by the  
 22 commission.

23           (f) "Consent agreement" means a formal agreement entered into in  
 24 lieu of adjudication.

25           (g) "Affirmative action" means those acts that the commission  
 26 determines necessary to assure compliance with the Indiana civil rights  
 27 law.

28           (h) "Employer" means the state or any political or civil subdivision  
 29 thereof and any person employing six (6) or more persons within the  
 30 state, except that the term "employer" does not include:

31           (1) any nonprofit corporation or association organized exclusively  
 32 for fraternal or religious purposes;

33           (2) any school, educational, or charitable religious institution  
 34 owned or conducted by or affiliated with a church or religious  
 35 institution; or

36           (3) any exclusively social club, corporation, or association that is  
 37 not organized for profit.

38           (i) "Employee" means any person employed by another for wages or  
 39 salary. However, the term does not include any individual employed:

40           (1) by the individual's parents, spouse, or child; or

41           (2) in the domestic service of any person.

42           (j) "Labor organization" means any organization that exists for the



1 purpose in whole or in part of collective bargaining or of dealing with  
 2 employers concerning grievances, terms, or conditions of employment  
 3 or for other mutual aid or protection in relation to employment.

4 (k) "Employment agency" means any person undertaking with or  
 5 without compensation to procure, recruit, refer, or place employees.

6 (l) "Discriminatory practice" means:

7 (1) the exclusion of a person from equal opportunities because of  
 8 race, religion, color, sex, disability, national origin, ancestry, or  
 9 status as a veteran;

10 (2) a system that excludes persons from equal opportunities  
 11 because of race, religion, color, sex, disability, national origin,  
 12 ancestry, or status as a veteran;

13 (3) the promotion of racial segregation or separation in any  
 14 manner, including but not limited to the inducing of or the  
 15 attempting to induce for profit any person to sell or rent any  
 16 dwelling by representations regarding the entry or prospective  
 17 entry in the neighborhood of a person or persons of a particular  
 18 race, religion, color, sex, disability, national origin, or ancestry;

19 or

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

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

24 or

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

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

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

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

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

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

36 (n) "Complainant" means:

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

39 (2) the director or deputy director of the commission charging that  
 40 a discriminatory practice was committed against a person (other  
 41 than the director or deputy director) or a class of people, in order  
 42 to vindicate the public policy of the state (as defined in section 2





- 1 of this chapter).
- 2 (o) "Complaint" means any written grievance that is:
- 3 (1) sufficiently complete and filed by a complainant with the
- 4 commission; or
- 5 (2) filed by a complainant as a civil action in the circuit or
- 6 superior court having jurisdiction in the county in which the
- 7 alleged discriminatory practice occurred.
- 8 The original of any complaint filed under subdivision (1) shall be
- 9 signed and verified by the complainant.
- 10 (p) "Sufficiently complete" refers to a complaint that includes:
- 11 (1) the full name and address of the complainant;
- 12 (2) the name and address of the respondent against whom the
- 13 complaint is made;
- 14 (3) the alleged discriminatory practice and a statement of
- 15 particulars thereof;
- 16 (4) the date or dates and places of the alleged discriminatory
- 17 practice and if the alleged discriminatory practice is of a
- 18 continuing nature the dates between which continuing acts of
- 19 discrimination are alleged to have occurred; and
- 20 (5) a statement as to any other action, civil or criminal, instituted
- 21 in any other form based upon the same grievance alleged in the
- 22 complaint, together with a statement as to the status or disposition
- 23 of the other action.
- 24 No complaint shall be valid unless filed within one hundred eighty
- 25 (180) days from the date of the occurrence of the alleged
- 26 discriminatory practice.
- 27 (q) "Sex" as it applies to segregation or separation in this chapter
- 28 applies to all types of employment, education, public accommodations,
- 29 and housing. However:
- 30 (1) it shall not be a discriminatory practice to maintain separate
- 31 restrooms;
- 32 (2) it shall not be an unlawful employment practice for an
- 33 employer to hire and employ employees, for an employment
- 34 agency to classify or refer for employment any individual, for a
- 35 labor organization to classify its membership or to classify or refer
- 36 for employment any individual, or for an employer, labor
- 37 organization, or joint labor management committee controlling
- 38 apprenticeship or other training or retraining programs to admit
- 39 or employ any other individual in any program on the basis of sex
- 40 in those certain instances where sex is a bona fide occupational
- 41 qualification reasonably necessary to the normal operation of that
- 42 particular business or enterprise; and



1 (3) it shall not be a discriminatory practice for a private or  
 2 religious educational institution to continue to maintain and  
 3 enforce a policy of admitting students of one (1) sex only.

4 (r) "Disabled" or "disability" means the physical or mental condition  
 5 of a person that constitutes a substantial disability. In reference to  
 6 employment under this chapter, "disabled or disability" also means the  
 7 physical or mental condition of a person that constitutes a substantial  
 8 disability unrelated to the person's ability to engage in a particular  
 9 occupation.

10 (s) "Veteran" means:

- 11 (1) a veteran of the armed forces of the United States;
- 12 (2) a member of the Indiana National Guard; or
- 13 (3) a member of a reserve component.

14 SECTION 13. IC 35-46-5-1, AS AMENDED BY P.L.158-2013,  
 15 SECTION 570, IS AMENDED TO READ AS FOLLOWS  
 16 [EFFECTIVE JULY 1, 2016]: Sec. 1. ~~(a) As used in this section, "fetal~~  
 17 ~~tissue" means tissue from an infant or a fetus who is stillborn or~~  
 18 ~~aborted.~~

19 ~~(b) (a)~~ As used in this section, "human organ" means the kidney,  
 20 liver, heart, lung, cornea, eye, bone marrow, bone, pancreas, or skin of  
 21 a human body.

22 ~~(c) (b)~~ As used in this section, "item of value" means money, real  
 23 estate, funeral related services, and personal property. "Item of value"  
 24 does not include:

- 25 (1) the reasonable payments associated with the removal,  
 26 transportation, implantation, processing, preservation, quality  
 27 control, and storage of a human organ; or
- 28 (2) the reimbursement of travel, housing, lost wages, and other  
 29 expenses incurred by the donor of a human organ related to the  
 30 donation of the human organ.

31 ~~(d) (c)~~ A person who intentionally acquires, receives, sells, or  
 32 transfers, in exchange for an item of value,

- 33 ~~(1) a human organ for use in human organ transplantation or~~
- 34 ~~(2) fetal tissue;~~

35 commits unlawful transfer of human ~~tissue, organs~~, a Level 5 felony.

36 SECTION 14. IC 35-46-5-1.5 IS ADDED TO THE INDIANA  
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2016]: Sec. 1.5. **(a) As used in this section,**  
 39 **"aborted" means the termination of human pregnancy with an**  
 40 **intention other than to produce a live birth or to remove a dead**  
 41 **fetus. The term includes abortions by surgical procedures and by**  
 42 **abortion inducing drugs.**



1           **(b) As used in this section, "fetal tissue" includes tissue, organs,**  
 2 **or any other part of an aborted fetus.**

3           **(c) This section does not apply to the proper medical disposal of**  
 4 **fetal tissue.**

5           **(d) A person who intentionally acquires, receives, sells, or**  
 6 **transfers fetal tissue commits unlawful transfer of fetal tissue, a**  
 7 **Level 5 felony.**

8           **(e) A person may not alter the timing, method, or procedure**  
 9 **used to terminate a pregnancy for the purpose of obtaining or**  
 10 **collecting fetal tissue. A person who violates this subsection**  
 11 **commits the unlawful collection of fetal tissue, a Level 5 felony.**

12           SECTION 15. IC 35-46-5-3, AS AMENDED BY P.L.158-2013,  
 13 SECTION 572, IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) As used in this section,  
 15 "qualified third party" means a fertility clinic or similar medical facility  
 16 that:

17           (1) is accredited by an entity approved by the medical licensing  
 18 board;

19           (2) is registered under 21 CFR 1271 with the United States Food  
 20 and Drug Administration; and

21           (3) employs a physician licensed under IC 25-22.5 who:

22                   (A) is board certified in obstetrics and gynecology; and

23                   (B) performs oocyte cryopreservation at the facility.

24           (b) A person who knowingly or intentionally purchases or sells a  
 25 human ovum, zygote, embryo, or fetus commits unlawful transfer of a  
 26 human organism, a Level 5 felony.

27           (c) This section does not apply to the following:

28           (1) The transfer to or receipt by either a woman donor of an ovum  
 29 or a qualified third party of an amount for:

30                   (A) earnings lost due to absence from employment;

31                   (B) travel expenses;

32                   (C) hospital expenses;

33                   (D) medical expenses; and

34                   (E) recovery time in an amount not to exceed four thousand  
 35 dollars (\$4,000);

36           concerning a treatment or procedure to enhance human  
 37 reproductive capability through in vitro fertilization, gamete  
 38 intrafallopian transfer, or zygote intrafallopian transfer.

39           (2) The following types of stem cell research:

40                   (A) Adult stem cell.

41                   (B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long as  
 42 the biological parent has given written consent for the use of



1                   the fetal stem cells.  
2                   **(3) The transfer or receipt of a fetus if a biological parent has**  
3                   **requested, in writing, the transfer of the fetus for purposes of**  
4                   **either of the following:**  
5                   **(A) Research.**  
6                   **(B) Transplantation.**  
7                   (d) Any person who recklessly, knowingly, or intentionally uses a  
8                   human embryo created with an ovum provided to a qualified third party  
9                   under this section for purposes of embryonic stem cell research  
10                  commits unlawful use of an embryo, a Level 5 felony.



## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 313, 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 2, delete lines 15 through 37.

Page 2, line 38, delete "2." and insert "1."

Page 3, line 2, delete "3." and insert "2."

Page 3, line 6, delete "4." and insert "3."

Page 3, line 13, delete "and social workers" and insert "**social workers, and others**".

Page 3, line 17, delete "5." and insert "4."

Page 3, delete lines 24 through 28.

Page 3, line 29, delete "(4)" and insert "(2)".

Page 3, line 31, delete "(5)" and insert "(3)".

Page 3, delete lines 35 through 37.

Page 3, line 38, delete "7." and insert "5."

Page 3, line 39, delete "in the United States. The" and insert "**and programs in Indiana. The state department may include on the list perinatal hospice providers and programs in other states that provide care to Indiana residents.**".

Page 3, delete lines 40 through 41.

Page 3, line 42, delete "Indiana residents."

Page 4, line 1, after "providers" insert "**and programs**".

Page 4, delete lines 3 through 13, begin a new paragraph and insert:

**"Sec. 6. (a) The state department shall develop a form on which a pregnant woman certifies, at the time of receiving a diagnosis that the pregnant woman's unborn child has a lethal fetal anomaly, that the pregnant woman has received the following:**

**(1) A copy of the perinatal hospice brochure developed under this chapter.**

**(2) A list of the perinatal hospice providers and programs developed under section 5 of this chapter.**

**(b) The provider diagnosing the pregnant woman's unborn child with the lethal fetal anomaly shall, at the time of diagnosis:**

**(1) provide the pregnant woman with a written copy of:**

**(A) the perinatal brochure developed under this chapter; and**

**(B) the certification form developed by the state department under subsection (a); and**



**(2) have the pregnant woman complete the certification form."**

Page 4, line 14, delete "9." and insert "7."

Page 9, line 11, delete "twenty-four (24)" and insert "**eighteen (18)**".

Page 9, line 12, delete "referring".

Page 9, line 13, delete "physician or the".

Page 9, line 18, delete "IC 16-25-4.5-5" and insert "**IC 16-25-4.5-4**".

Page 9, line 18, after "providers" insert "**and programs**".

Page 9, line 19, delete "IC 16-25-4.5-7," and insert "**IC 16-25-4.5-5,**".

Page 9, line 25, delete "IC 16-25-4.5-8," and insert "**IC 16-25-4.5-6, at least eighteen (18) hours**".

Page 9, line 26, delete ":" and insert "**been provided the information described in subsection (c) in the manner required by subsection (c).**".

Page 9, delete lines 27 through 31.

Page 10, line 22, after "(C)" insert "**The gender of the fetus, if detectable.**

**(D)**".

Page 10, line 25, delete "(D)" and insert "**(E)**".

Page 12, line 2, after "1." insert "**(a)**".

Page 12, line 6, delete "disability or retardation." and insert "**or intellectual disability.**".

Page 12, between lines 13 and 14, begin a new paragraph and insert: "**(b) The term does not include a lethal fetal anomaly.**".

Page 13, line 29, delete "death and medical malpractice." and insert "**death.**".

Page 16, delete lines 41 through 42.

Delete pages 17 through 19, begin a new paragraph and insert:

"SECTION 15. IC 35-46-5-1, AS AMENDED BY P.L.158-2013, SECTION 570, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) ~~As used in this section, "fetal tissue" means tissue from an infant or a fetus who is stillborn or aborted.~~

~~(b)~~ (a) As used in this section, "human organ" means the kidney, liver, heart, lung, cornea, eye, bone marrow, bone, pancreas, or skin of a human body.

~~(c)~~ (b) As used in this section, "item of value" means money, real estate, funeral related services, and personal property. "Item of value" does not include:

(1) the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality



control, and storage of a human organ; or  
 (2) the reimbursement of travel, housing, lost wages, and other expenses incurred by the donor of a human organ related to the donation of the human organ.

~~(d)~~ (c) A person who intentionally acquires, receives, sells, or transfers, in exchange for an item of value,

~~(1) a human organ for use in human organ transplantation or  
 (2) fetal tissue;~~

commits unlawful transfer of human ~~tissue;~~ **organs**, a Level 5 felony.

SECTION 16. IC 35-46-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 1.5. (a) As used in this section, "aborted" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus. The term includes abortions by surgical procedures and by abortion inducing drugs.**

**(b) As used in this section, "fetal tissue" includes tissue, organs, or any other part of an aborted fetus.**

**(c) This section does not apply to the proper medical disposal of fetal tissue.**

**(d) A person who intentionally acquires, receives, sells, or transfers fetal tissue commits unlawful transfer of fetal tissue, a Level 5 felony.**

**(e) A person may not alter the timing, method, or procedure used to terminate a pregnancy for the purpose of obtaining or collecting fetal tissue. A person who violates this subsection commits the unlawful collection of fetal tissue, a Level 5 felony.**

SECTION 17. IC 35-46-5-3, AS AMENDED BY P.L.158-2013, SECTION 572, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 3. (a) As used in this section, "qualified third party" means a fertility clinic or similar medical facility that:**

**(1) is accredited by an entity approved by the medical licensing board;**

**(2) is registered under 21 CFR 1271 with the United States Food and Drug Administration; and**

**(3) employs a physician licensed under IC 25-22.5 who:**

**(A) is board certified in obstetrics and gynecology; and**

**(B) performs oocyte cryopreservation at the facility.**

**(b) A person who knowingly or intentionally purchases or sells a human ovum, zygote, embryo, or fetus commits unlawful transfer of a human organism, a Level 5 felony.**



- (c) This section does not apply to the following:
- (1) The transfer to or receipt by either a woman donor of an ovum or a qualified third party of an amount for:
    - (A) earnings lost due to absence from employment;
    - (B) travel expenses;
    - (C) hospital expenses;
    - (D) medical expenses; and
    - (E) recovery time in an amount not to exceed four thousand dollars (\$4,000);
 concerning a treatment or procedure to enhance human reproductive capability through in vitro fertilization, gamete intrafallopian transfer, or zygote intrafallopian transfer.
  - (2) The following types of stem cell research:
    - (A) Adult stem cell.
    - (B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long as the biological parent has given written consent for the use of the fetal stem cells.
  - (3) The transfer or receipt of a fetus if a biological parent has requested, in writing, the transfer of the fetus for purposes of either of the following:**
    - (A) Research.**
    - (B) Transplantation.**
- (d) Any person who recklessly, knowingly, or intentionally uses a human embryo created with an ovum provided to a qualified third party under this section for purposes of embryonic stem cell research commits unlawful use of an embryo, a Level 5 felony."
- Renumber all SECTIONS consecutively.
- and when so amended that said bill do pass.
- (Reference is to SB 313 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 7, Nays 4.

