

SENATE BILL No. 340

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-21-2; IC 16-34-2; IC 35-52-16-20.9.

Synopsis: Regulation of abortion. Makes various changes to the abortion law concerning abortion clinic license applications, abortion clinic inspections, abortion inducing drugs, abortion complications, the provision of information to a woman seeking an abortion, and the collection of data by the state department of health. Makes a technical correction.

Effective: Upon passage; July 1, 2018.

Holdman

January 4, 2018, read first time and referred to Committee on Judiciary.



Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 340

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 16-18-2-1.5, AS AMENDED BY THE
2 TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL
3 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2018]: Sec. 1.5. (a) "Abortion clinic", for purposes of
5 ~~IC 16-19-3-31~~, IC 16-21-2, **IC 16-34-2-4.7**, IC 16-34-3, and
6 IC 16-41-16, means a health care provider (as defined in section
7 163(d)(1) of this chapter) that:
8 (1) performs surgical abortion procedures; or
9 (2) beginning January 1, 2014, provides an abortion inducing
10 drug for the purpose of inducing an abortion.
11 (b) The term does not include the following:
12 (1) A hospital that is licensed as a hospital under IC 16-21-2.
13 (2) An ambulatory outpatient surgical center that is licensed as an
14 ambulatory outpatient surgical center under IC 16-21-2.
15 (3) A health care provider that provides, prescribes, administers,
16 or dispenses an abortion inducing drug to fewer than five (5)
17 patients per year for the purposes of inducing an abortion.



1 SECTION 2. IC 16-18-2-1.7 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2018]: **Sec. 1.7. "Abortion complication", for purposes of**
 4 **IC 16-34-2-4.7, has the meaning set forth in IC 16-34-2-4.7.**

5 SECTION 3. IC 16-21-2-2.5, AS AMENDED BY P.L.173-2017,
 6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 UPON PASSAGE]: Sec. 2.5. (a) The state department shall adopt rules
 8 under IC 4-22-2 to do the following concerning birthing centers and
 9 abortion clinics:

- 10 (1) Establish minimum license qualifications.
 11 (2) Establish the following requirements:
 12 (A) Sanitation standards.
 13 (B) Staff qualifications.
 14 (C) Necessary emergency equipment.
 15 (D) Procedures to provide emergency care.
 16 (E) Procedures to monitor patients after the administration of
 17 anesthesia.
 18 (F) Procedures to provide follow-up care for patient
 19 complications.
 20 (G) Quality assurance standards.
 21 (H) Infection control.
 22 (I) Provision of informed consent brochures, as described in
 23 IC 16-34-2-1.5, in English, Spanish, and a third language
 24 determined by the state department, inside abortion clinics.
 25 (J) Provision of a hotline telephone number that provides
 26 assistance for patients who are:
 27 (i) coerced into an abortion; or
 28 (ii) victims of sex trafficking.
 29 (K) Annual training by law enforcement officers on identifying
 30 and assisting women who are:
 31 (i) coerced into an abortion; or
 32 (ii) victims of sex trafficking.
 33 (3) Prescribe the operating policies, supervision, and maintenance
 34 of medical records, including the requirement that all forms that
 35 require a patient signature be stored in the patient's medical
 36 record.
 37 (4) Establish procedures for the issuance, renewal, denial, and
 38 revocation of licenses under this chapter. The rules adopted under
 39 this subsection must address the following:
 40 (A) The form and content of the license.
 41 (B) The collection of an annual license fee.
 42 (5) Prescribe the procedures and standards for inspections.



- 1 (6) Prescribe procedures for:
 2 (A) implementing a plan of correction to address any
 3 violations of any provision of this chapter or any rules adopted
 4 under this chapter; and
 5 (B) implementing a system for the state department to follow
 6 if the abortion clinic or birthing center fails to comply with the
 7 plan of correction described in clause (A) and disciplinary
 8 action is needed.
- 9 (b) A person who knowingly or intentionally:
 10 (1) operates a birthing center or an abortion clinic that is not
 11 licensed under this chapter; or
 12 (2) advertises the operation of a birthing center or an abortion
 13 clinic that is not licensed under this chapter;
 14 commits a Class A misdemeanor.
- 15 (c) Not later than January 1, 2019, the state department shall:
 16 (1) adopt separate rules under IC 4-22-2, including those required
 17 under subsection (a), for **existing and future** abortion clinics that
 18 perform only surgical abortions;
 19 (2) adopt separate rules under IC 4-22-2, including those required
 20 under subsection (a), for **existing and future** abortion clinics that
 21 perform abortions only through the provision of an abortion
 22 inducing drug; and
 23 (3) establish procedures regarding the issuance of licenses to
 24 **existing and future** abortion clinics that:
 25 (A) perform only surgical abortions;
 26 (B) perform abortions only through the provision of an
 27 abortion inducing drug; or
 28 (C) perform both surgical abortions and abortions through the
 29 provision of abortion inducing drugs.
- 30 (d) **A rule or emergency rule adopted under this section**
 31 **concerning abortion clinics applies to all abortion clinics licensed**
 32 **under this article, regardless of the date of adoption of the rule or**
 33 **emergency rule.**
- 34 (e) **Before July 1, 2018, the state department shall adopt**
 35 **emergency rules in the manner provided under IC 4-22-2-37.1 to**
 36 **carry out the duties established in this section under the following:**
 37 (1) **Subsection (a)(2)(E).**
 38 (2) **Subsection (a)(2)(F).**
 39 (3) **Subsection (a)(2)(I).**
 40 (4) **Subsection (a)(2)(J).**
 41 (5) **Subsection (a)(3).**
 42 (6) **Subsection (a)(5).**



1 **(7) Subsection (a)(6).**

2 **This subsection expires July 1, 2019.**

3 SECTION 4. IC 16-21-2-2.6, AS ADDED BY P.L.98-2014,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2018]: Sec. 2.6. The state department ~~may~~ **shall** inspect an
6 abortion clinic at least one (1) time per calendar year and may conduct
7 a complaint inspection as needed.

8 SECTION 5. IC 16-21-2-11, AS AMENDED BY P.L.172-2011,
9 SECTION 114, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) An applicant must submit
11 an application for a license on a form prepared by the state department
12 showing that:

- 13 (1) the applicant is of reputable and responsible character;
14 (2) the applicant is able to comply with the minimum standards
15 for a hospital, an ambulatory outpatient surgical center, an
16 abortion clinic, or a birthing center, and with rules adopted under
17 this chapter; and
18 (3) the applicant has complied with section 15.4 of this chapter.

19 (b) The application must contain the following additional
20 information:

- 21 (1) The name of the applicant.
22 (2) The type of institution to be operated.
23 (3) The location of the institution.
24 (4) The name of the person to be in charge of the institution.
25 (5) If the applicant is a hospital, the range and types of services to
26 be provided under the general hospital license, including any
27 service that would otherwise require licensure by the state
28 department under the authority of IC 16-19.
29 (6) Other information the state department requires.

30 (c) If the department of state revenue notifies the department that a
31 person is on the most recent tax warrant list, the department shall not
32 issue or renew the person's license until:

- 33 (1) the person provides to the department a statement from the
34 department of state revenue that the person's tax warrant has been
35 satisfied; or
36 (2) the department receives a notice from the commissioner of the
37 department of state revenue under IC 6-8.1-8-2(k).

38 **(d) An application for an abortion clinic license must require the**
39 **applicant to do the following:**

- 40 **(1) Disclose whether the applicant operated an abortion clinic**
41 **that was closed due to administrative or legal action.**
42 **(2) Disclose whether a principal or clinic staff member was**



1 convicted of a felony.

2 (3) Provide copies of:

3 (A) administrative and legal documentation relating to the
4 information required under subdivisions (1) and (2);

5 (B) inspection reports; and

6 (C) violation remediation contracts;

7 if any.

8 SECTION 6. IC 16-34-2-1, AS AMENDED BY P.L.213-2016,
9 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2018]: Sec. 1. (a) Abortion shall in all instances be a criminal
11 act, except when performed under the following circumstances:

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

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

16 (B) the woman submitting to the abortion has filed her consent
17 with her physician. However, if in the judgment of the
18 physician the abortion is necessary to preserve the life of the
19 woman, her consent is not required; and

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

23 However, an abortion inducing drug may not be dispensed,
24 prescribed, administered, or otherwise given to a pregnant woman
25 after nine (9) weeks of postfertilization age unless the Food and
26 Drug Administration has approved the abortion inducing drug to
27 be used for abortions later than nine (9) weeks of postfertilization
28 age. A physician shall examine a pregnant woman in person
29 before prescribing or dispensing an abortion inducing drug. **The
30 physician shall provide the pregnant woman with a copy of
31 the manufacturer's instruction sheets and request that the
32 pregnant woman sign a patient agreement form. The
33 physician shall retain a copy of the signed patient agreement
34 form in the patient's file.** As used in this subdivision, "in person"
35 does not include the use of telehealth or telemedicine services.

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

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



- 1 and
- 2 (B) the abortion is performed in a hospital or ambulatory
- 3 outpatient surgical center (as defined in IC 16-18-2-14).
- 4 (3) Except as provided in subsection (b) or as prohibited by
- 5 IC 16-34-4, ~~and for an abortion performed by a surgical~~
- 6 ~~procedure~~, at the earlier of viability of the fetus or twenty (20)
- 7 weeks of postfertilization age and any time after, for reasons
- 8 based upon the professional, medical judgment of the pregnant
- 9 woman's physician if:
- 10 (A) all the circumstances and provisions required for legal
- 11 abortion before the earlier of viability of the fetus or twenty
- 12 (20) weeks of postfertilization age are present and adhered to;
- 13 (B) the abortion is performed in compliance with section 3 of
- 14 this chapter; and
- 15 (C) before the abortion the attending physician shall certify in
- 16 writing to the hospital in which the abortion is to be
- 17 performed, that in the attending physician's professional,
- 18 medical judgment, after proper examination and review of the
- 19 woman's history, the abortion is necessary to prevent a
- 20 substantial permanent impairment of the life or physical health
- 21 of the pregnant woman. All facts and reasons supporting the
- 22 certification shall be set forth by the physician in writing and
- 23 attached to the certificate.
- 24 (b) A person may not knowingly or intentionally perform a partial
- 25 birth abortion unless a physician reasonably believes that:
- 26 (1) performing the partial birth abortion is necessary to save the
- 27 mother's life; and
- 28 (2) no other medical procedure is sufficient to save the mother's
- 29 life.
- 30 SECTION 7. IC 16-34-2-4.7 IS ADDED TO THE INDIANA CODE
- 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 32 1, 2018]: **Sec. 4.7. (a) As used in this section, "abortion**
- 33 **complication" means any adverse physical or psychological**
- 34 **condition arising from the induction or performance of an**
- 35 **abortion. The term includes the following:**
- 36 **(1) Uterine perforation.**
- 37 **(2) Cervical perforation.**
- 38 **(3) Infection.**
- 39 **(4) Hemorrhaging.**
- 40 **(5) Blood clots.**
- 41 **(6) Failure to terminate the pregnancy.**
- 42 **(7) Incomplete abortion (retained tissue).**



- 1 **(8) Pelvic inflammatory disease.**
 2 **(9) Endometriosis.**
 3 **(10) Missed ectopic pregnancy.**
 4 **(11) Cardiac arrest.**
 5 **(12) Respiratory arrest.**
 6 **(13) Renal failure.**
 7 **(14) Metabolic disorder.**
 8 **(15) Shock.**
 9 **(16) Embolism.**
 10 **(17) Coma.**
 11 **(18) Placenta previa in subsequent pregnancies.**
 12 **(19) Pre-term delivery in subsequent pregnancies.**
 13 **(20) Free fluid in the abdomen.**
 14 **(21) Hemolytic reaction due to the administration of**
 15 **ABO-incompatible blood or blood products.**
 16 **(22) Hypoglycemia occurring while the patient is being**
 17 **treated at the abortion facility.**
 18 **(23) Physical injury associated with treatment performed at**
 19 **the abortion facility.**
 20 **(24) Adverse reaction to anesthesia or other drugs.**
 21 **(25) Psychological or emotional complications, including**
 22 **depression, suicidal ideation, anxiety, and sleeping disorders.**
 23 **(26) Death.**
 24 **(27) Any other adverse event as defined by criteria provided**
 25 **in the Food and Drug Administration Safety Information and**
 26 **Adverse Event Reporting Program.**
 27 **(b) The following persons shall report to the state department**
 28 **each case involving a patient suffering from an abortion**
 29 **complication:**
 30 **(1) A physician licensed under IC 25-22.5.**
 31 **(2) A hospital licensed under IC 16-21.**
 32 **(3) An abortion clinic licensed under IC 16-21-2-2.5.**
 33 **(c) The state department shall develop a process for the**
 34 **submission of a report under this section.**
 35 **(d) A report under this section shall be submitted to the state**
 36 **department in the manner prescribed by the state department.**
 37 **(e) The report under this section must include the following**
 38 **information concerning the abortion complication:**
 39 **(1) The date the patient presented for treatment for the**
 40 **abortion complication.**
 41 **(2) The location where the abortion complication was treated.**
 42 **(3) The age of the patient.**



- 1 **(4) The race of the patient.**
 2 **(5) The county and state of the patient's residence.**
 3 **(6) The type of abortion obtained by the patient.**
 4 **(7) The date of abortion obtained by the patient.**
 5 **(8) The number of previous:**
 6 **(A) pregnancies;**
 7 **(B) live births; and**
 8 **(C) abortions;**
 9 **of the patient.**
 10 **(9) The name of the:**
 11 **(A) abortion clinic;**
 12 **(B) medical facility; or**
 13 **(C) hospital;**
 14 **where the patient obtained the abortion.**
 15 **(10) Whether the patient obtained abortion medication via**
 16 **mail order or Internet web site, and if so, information**
 17 **identifying the source of the medication.**
 18 **(11) Whether the patient was advised to report the patient's**
 19 **presenting complications as a result of another medical**
 20 **complication, rather than as a result of the abortion.**
 21 **(12) The name of the medications taken by the patient as part**
 22 **of the pharmaceutical abortion regimen, if any.**
 23 **(13) A list of each diagnosed complication.**
 24 **(14) A list of each treated complication, with a description of**
 25 **the treatment provided.**
 26 **(15) The manner in which the patient paid for services, and**
 27 **the total cost of the original visit and any follow-up visits.**
 28 **(16) Whether the patient's office visit to treat the**
 29 **complications was the original visit or a follow-up visit.**
 30 **(17) The date of each follow-up visit, if any.**
 31 **(18) A list of each complication diagnosed at a follow-up visit,**
 32 **if any.**
 33 **(19) A list of each complication treated at a follow-up visit, if**
 34 **any.**
 35 **(f) Before February 1, 2019, the state department shall inform**
 36 **in writing all providers described in subsection (b) of the new**
 37 **reporting requirements for abortion complications. This subsection**
 38 **expires December 31, 2019.**
 39 **(g) Not later than June 30 of each year, the state department**
 40 **shall compile a public report summarizing the information**
 41 **collected under this section. The report must include statistics for**
 42 **the previous calendar year, with updated information for the most**



1 recent calendar year.

2 (h) The state department shall summarize the aggregate data
3 from the data submitted under this section and submit the data, on
4 or before June 30 of each year, to the United States Centers for
5 Disease Control and Prevention for its inclusion in the annual Vital
6 Statistics Report.

7 (i) The state department shall ensure that no identifying
8 information of a pregnant woman is included in the report
9 described in subsection (g).

10 (j) Each failure to report an abortion complication as required
11 under this section is a Class B misdemeanor.

12 (k) Before January 1, 2019, the state department shall adopt
13 rules under IC 4-22-2 to implement this section.

14 SECTION 8. IC 16-34-2-5, AS AMENDED BY P.L.173-2017,
15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2018]: Sec. 5. (a) Every health care provider who performs a
17 surgical abortion or provides, prescribes, administers, or dispenses an
18 abortion inducing drug for the purposes of inducing an abortion shall
19 report the performance of the abortion or the provision, prescribing,
20 administration, or dispensing of an abortion inducing drug on a form
21 drafted by the state department, the purpose and function of which shall
22 be the improvement of maternal health and life through the compilation
23 of relevant maternal life and health factors and data, and a further
24 purpose and function shall be to monitor all abortions performed in
25 Indiana to assure the abortions are done only under the authorized
26 provisions of the law. For each abortion performed and abortion
27 inducing drug provided, prescribed, administered, or dispensed, the
28 report shall include, among other things, the following:

29 (1) The age of the patient.

30 (2) The date and location the abortion was performed or the
31 abortion inducing drug was provided, prescribed, administered,
32 or dispensed.

33 (3) The health care provider's full name and address, including the
34 name of the physicians performing the abortion or providing,
35 prescribing, administering, or dispensing the abortion inducing
36 drug.

37 ~~(4) The name of the father if known.~~

38 **(4) The city and county where the pregnancy termination
39 occurred.**

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

42 **(6) The patient's county and state of residence.**



- 1 **(7) The marital status of the patient.**
 2 **(8) The educational level of the patient.**
 3 **(9) The race of the patient.**
 4 **(10) The ethnicity of the patient.**
 5 **(11) The number of the patient's previous live births.**
 6 **(12) The number of the patient's deceased children.**
 7 **(13) The number of the patient's spontaneous pregnancy**
 8 **terminations.**
 9 **(14) The date of the patient's last menses.**
 10 **(15) The physician's determination of the gestation of the fetus**
 11 **in weeks.**
 12 **(16) Whether the patient indicated that the patient was**
 13 **seeking an abortion as a result of being:**
 14 **(A) abused;**
 15 **(B) coerced;**
 16 **(C) harassed; or**
 17 **(D) trafficked.**
 18 ~~(17)~~ **(17) The following information concerning the abortion or the**
 19 **provision, prescribing, administration, or dispensing of the**
 20 **abortion inducing drug:**
 21 **(A) The postfertilization age of the fetus.**
 22 **(B) The manner in which the postfertilization age was**
 23 **determined.**
 24 **(C) The gender of the fetus, if detectable.**
 25 **(D) Whether the fetus has been diagnosed with or has a**
 26 **potential diagnosis of having Down syndrome or any other**
 27 **disability.**
 28 **(E) If after the earlier of the time the fetus obtains viability or**
 29 **the time the postfertilization age of the fetus is at least twenty**
 30 **(20) weeks, the medical reason for the performance of the**
 31 **abortion or the provision, prescribing, administration, or**
 32 **dispensing of the abortion inducing drug.**
 33 ~~(18)~~ **(18) For a surgical abortion, the medical procedure used for**
 34 **the abortion and, if the fetus was viable or had a postfertilization**
 35 **age of at least twenty (20) weeks:**
 36 **(A) whether the procedure, in the reasonable judgment of the**
 37 **health care provider, gave the fetus the best opportunity to**
 38 **survive; and**
 39 **(B) the basis for the determination that the pregnant woman**
 40 **had a condition described in this chapter that required the**
 41 **abortion to avert the death of or serious impairment to the**
 42 **pregnant woman; and**



- 1 **(C) the name of the second doctor present, as required**
 2 **under IC 16-34-2-3(a)(3).**
 3 ~~(8)~~ **(19)** For a nonsurgical abortion, the precise drugs provided,
 4 prescribed, administered, or dispensed, and the means of delivery
 5 of the drugs to the patient.
 6 ~~(9)~~ **(20)** For an early pre-viability termination, the medical
 7 indication by diagnosis code for the fetus and the mother.
 8 ~~(10)~~ **(21)** The mother's obstetrical history, including dates of other
 9 abortions, if any.
 10 **(22) Any preexisting medical conditions of the patient that**
 11 **may complicate the abortion.**
 12 ~~(11)~~ **(23)** The results of pathological examinations if performed.
 13 ~~(12)~~ **(24)** For a surgical abortion, whether the fetus was delivered
 14 alive, and if so, how long the fetus lived.
 15 ~~(13)~~ **(25)** Records of all maternal deaths occurring at the location
 16 where the abortion was performed or the abortion inducing drug
 17 was provided, prescribed, administered, or dispensed.
 18 ~~(14)~~ **(26)** The date the form was transmitted to the state
 19 department and, if applicable, separately to the department of
 20 child services.
 21 (b) The health care provider shall complete the form provided for in
 22 subsection (a) and shall transmit the completed form to the state
 23 department, in the manner specified on the form, within thirty (30) days
 24 after the date of each abortion. However, if an abortion is for a female
 25 who is less than sixteen (16) years of age, the health care provider shall
 26 transmit the form to the state department of health and separately to the
 27 department of child services within three (3) days after the abortion is
 28 performed.
 29 (c) The dates supplied on the form may not be redacted for any
 30 reason before the form is transmitted as provided in this section.
 31 (d) Each failure to complete or timely transmit a form, as required
 32 under this section, for each abortion performed or abortion inducing
 33 drug that was provided, prescribed, administered, or dispensed, is a
 34 Class B misdemeanor.
 35 (e) Not later than June 30 of each year, the state department shall
 36 compile a public report providing the following:
 37 (1) Statistics for the previous calendar year from the information
 38 submitted under this section.
 39 (2) Statistics for previous calendar years compiled by the state
 40 department under this subsection, with updated information for
 41 the calendar year that was submitted to the state department after
 42 the compilation of the statistics.



1 The state department shall ensure that no identifying information of a
2 pregnant woman is contained in the report.
3 **(f) The state department shall:**
4 **(1) summarize aggregate data from all data submitted under**
5 **this section; and**
6 **(2) submit the data, before July 1 of each year, to the United**
7 **States Centers for Disease Control and Prevention for its**
8 **inclusion in the annual Vital Statistics Report.**
9 SECTION 9. IC 35-52-16-20.9 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2018]: **Sec. 20.9. IC 16-34-2-4.7 defines a**
12 **crime concerning abortion.**
13 SECTION 10. **An emergency is declared for this act.**

