



January 26, 2018

SENATE BILL No. 340

DIGEST OF SB 340 (Updated January 24, 2018 1:33 pm - DI 106)

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

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, Zakas

January 4, 2018, read first time and referred to Committee on Judiciary.
January 25, 2018, amended, reported favorably — Do Pass.

SB 340—LS 6647/DI 128



January 26, 2018

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.

SB 340—LS 6647/DI 128



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 16-18-2-9.4 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2018]: **Sec. 9.4. "Affiliate", for purposes of IC 16-21-2-11, means**
 8 **any person who directly or indirectly controls, is controlled by, or**
 9 **is under common control of another person.**

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

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



1 revocation of licenses under this chapter. The rules adopted under
2 this subsection must address the following:

3 (A) The form and content of the license.

4 (B) The collection of an annual license fee.

5 (5) Prescribe the procedures and standards for inspections.

6 (6) Prescribe procedures for:

7 (A) implementing a plan of correction to address any
8 violations of any provision of this chapter or any rules adopted
9 under this chapter; and

10 (B) implementing a system for the state department to follow
11 if the abortion clinic or birthing center fails to comply with the
12 plan of correction described in clause (A) and disciplinary
13 action is needed.

14 (b) A person who knowingly or intentionally:

15 (1) operates a birthing center or an abortion clinic that is not
16 licensed under this chapter; or

17 (2) advertises the operation of a birthing center or an abortion
18 clinic that is not licensed under this chapter;

19 commits a Class A misdemeanor.

20 (c) Not later than January 1, 2019, the state department shall:

21 (1) adopt separate rules under IC 4-22-2, including those required
22 under subsection (a), for **existing and future** abortion clinics that
23 perform only surgical abortions;

24 (2) adopt separate rules under IC 4-22-2, including those required
25 under subsection (a), for **existing and future** abortion clinics that
26 perform abortions only through the provision of an abortion
27 inducing drug; and

28 (3) establish procedures regarding the issuance of licenses to
29 **existing and future** abortion clinics that:

30 (A) perform only surgical abortions;

31 (B) perform abortions only through the provision of an
32 abortion inducing drug; or

33 (C) perform both surgical abortions and abortions through the
34 provision of abortion inducing drugs.

35 **(d) A rule or emergency rule adopted under this section**
36 **concerning abortion clinics applies to all abortion clinics licensed**
37 **under this article, regardless of the date of adoption of the rule or**
38 **emergency rule.**

39 **(e) Before January 1, 2019, the state department shall adopt**
40 **emergency rules in the manner provided under IC 4-22-2-37.1 to**
41 **carry out the duties established in this section under the following:**

42 **(1) Subsection (a)(2)(E).**



- 1 **(2) Subsection (a)(2)(F).**
- 2 **(3) Subsection (a)(2)(I).**
- 3 **(4) Subsection (a)(2)(J).**
- 4 **(5) Subsection (a)(2)(K).**
- 5 **(6) Subsection (a)(3).**
- 6 **(7) Subsection (a)(5).**
- 7 **(8) Subsection (a)(6).**

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

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

14 SECTION 6. IC 16-21-2-11, AS AMENDED BY P.L.172-2011,
15 SECTION 114, IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) An applicant must submit
17 an application for a license on a form prepared by the state department
18 showing that:

- 19 (1) the applicant is of reputable and responsible character;
- 20 (2) the applicant is able to comply with the minimum standards
21 for a hospital, an ambulatory outpatient surgical center, an
22 abortion clinic, or a birthing center, and with rules adopted under
23 this chapter; and
- 24 (3) the applicant has complied with section 15.4 of this chapter.

25 (b) The application must contain the following additional
26 information:

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

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

- 39 (1) the person provides to the department a statement from the
40 department of state revenue that the person's tax warrant has been
41 satisfied; or
- 42 (2) the department receives a notice from the commissioner of the



1 department of state revenue under IC 6-8.1-8-2(k).

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

4 **(1) Disclose whether the applicant, or an owner or affiliate of**
 5 **the applicant, operated an abortion clinic that was closed due**
 6 **to administrative or legal action.**

7 **(2) Disclose whether a principal or clinic staff member was**
 8 **convicted of a felony.**

9 **(3) Disclose whether a principal or clinic staff member was**
 10 **ever employed by a facility owned or operated by the**
 11 **applicant that closed as a result of administrative or legal**
 12 **action.**

13 **(4) Provide copies of:**

14 **(A) administrative and legal documentation relating to the**
 15 **information required under subdivisions (1) and (2);**

16 **(B) inspection reports; and**

17 **(C) violation remediation contracts;**

18 **if any.**

19 SECTION 7. IC 16-34-2-1, AS AMENDED BY P.L.213-2016,
 20 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2018]: Sec. 1. (a) Abortion shall in all instances be a criminal
 22 act, except when performed under the following circumstances:

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

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

27 (B) the woman submitting to the abortion has filed her consent
 28 with her physician. However, if in the judgment of the
 29 physician the abortion is necessary to preserve the life of the
 30 woman, her consent is not required; and

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

34 However, an abortion inducing drug may not be dispensed,
 35 prescribed, administered, or otherwise given to a pregnant woman
 36 after nine (9) weeks of postfertilization age unless the Food and
 37 Drug Administration has approved the abortion inducing drug to
 38 be used for abortions later than nine (9) weeks of postfertilization
 39 age. A physician shall examine a pregnant woman in person
 40 before prescribing or dispensing an abortion inducing drug. **In**
 41 **accordance with FDA guidelines, the physician shall provide**
 42 **the pregnant woman with a copy of the manufacturer's**



1 **instruction sheets and require that the pregnant woman sign**
 2 **the manufacturer's patient agreement form. The physician**
 3 **shall retain a copy of the signed patient agreement form, and**
 4 **the signed physician's agreement form required by the**
 5 **manufacturer, in the patient's file. The department shall**
 6 **develop a form attesting that the patient was given the**
 7 **manufacturer's instruction materials and signed the patient**
 8 **agreement form before the medication was dispensed to her,**
 9 **in accordance with FDA requirements. The patient shall sign**
 10 **the form and the form shall be retained in the patient's file. 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 performed~~
 14 ~~by a surgical procedure~~, after the first trimester of pregnancy and
 15 before the earlier of viability of the fetus or twenty (20) weeks of
 16 postfertilization age, for reasons based upon the professional,
 17 medical judgment of the pregnant woman's physician if:

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

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

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

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

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



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

- 3 (1) performing the partial birth abortion is necessary to save the
4 mother's life; and
5 (2) no other medical procedure is sufficient to save the mother's
6 life.

7 SECTION 8. IC 16-34-2-1.1, AS AMENDED BY P.L.213-2016,
8 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2018]: Sec. 1.1. (a) An abortion shall not be performed except
10 with the voluntary and informed consent of the pregnant woman upon
11 whom the abortion is to be performed. Except in the case of a medical
12 emergency, consent to an abortion is voluntary and informed only if the
13 following conditions are met:

14 (1) At least eighteen (18) hours before the abortion and in the
15 private, not group, presence of the pregnant woman, the physician
16 who is to perform the abortion, the referring physician or a
17 physician assistant (as defined in IC 25-27.5-2-10), an advanced
18 practice nurse (as defined in IC 25-23-1-1(b)), or a certified nurse
19 midwife (as defined in IC 34-18-2-6.5) to whom the responsibility
20 has been delegated by the physician who is to perform the
21 abortion or the referring physician has informed the pregnant
22 woman orally and in writing of the following:

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

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

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

34 (D) Objective scientific information of the risks of and
35 alternatives to the procedure or the use of an abortion inducing
36 drug, including:

- 37 (i) the risk of infection and hemorrhage;
38 (ii) the potential danger to a subsequent pregnancy; and
39 (iii) the potential danger of infertility.

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

42 (F) The probable gestational age of the fetus at the time the



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



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



1 the informed consent brochure described in section 1.5 of this
 2 chapter by printing the informed consent brochure from the state
 3 department's Internet web site and including the following
 4 information on the back cover of the brochure:

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

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

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

14 (5) At least eighteen (18) hours before an abortion is performed
 15 and at the same time that the pregnant woman receives the
 16 information required by subdivision (1), the provider shall
 17 perform, and the pregnant woman shall view, the fetal ultrasound
 18 imaging and hear the auscultation of the fetal heart tone if the
 19 fetal heart tone is audible unless the pregnant woman certifies in
 20 writing, on a form developed by the state department, before the
 21 abortion is performed, that the pregnant woman:

22 (A) does not want to view the fetal ultrasound imaging; and

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

25 **(6) The pregnant woman certifies in writing, on a form**
 26 **developed by the state department with a copy kept in her**
 27 **patient file, that she has been informed:**

28 **(A) of Indiana's safe haven law under IC 31-34-2.5-1; and**

29 **(B) that, under certain conditions, she may relinquish a**
 30 **child who is, or who appears to be, not more than thirty**
 31 **(30) days of age:**

32 **(i) to an emergency medical services provider (as defined**
 33 **in IC 16-41-10-1); or**

34 **(ii) in a newborn safety device (described in**
 35 **IC 31-34-2.5-1) at a participating fire department or**
 36 **other site that is staffed by an emergency medical**
 37 **services provider.**

38 (b) This subsection applies to a pregnant woman whose unborn
 39 child has been diagnosed with a lethal fetal anomaly. The requirements
 40 of this subsection are in addition to the other requirements of this
 41 section. At least eighteen (18) hours before an abortion is performed on
 42 the pregnant woman, the physician who will perform the abortion shall:



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

3 (2) provide the pregnant woman copies of the perinatal hospice
4 brochure developed by the state department under IC 16-25-4.5-4
5 and the list of perinatal hospice providers and programs
6 developed under IC 16-25-4.5-5, by printing the perinatal hospice
7 brochure and list of perinatal hospice providers from the state
8 department's Internet web site.

9 (c) If a pregnant woman described in subsection (b) chooses to have
10 an abortion rather than continuing the pregnancy in perinatal hospice
11 care, the pregnant woman shall certify in writing, on a form developed
12 by the state department under IC 16-25-4.5-6, at least eighteen (18)
13 hours before the abortion is performed, that the pregnant woman has
14 been provided the information described in subsection (b) in the
15 manner required by subsection (b).

16 SECTION 9. IC 16-34-2-4.7 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2018]: **Sec. 4.7. (a) As used in this section, "abortion
19 complication" means any adverse physical or psychological
20 condition arising from the induction or performance of an
21 abortion. The term includes the following:**

22 (1) Uterine perforation.

23 (2) Cervical perforation.

24 (3) Infection.

25 (4) Hemorrhaging.

26 (5) Blood clots.

27 (6) Failure to terminate the pregnancy.

28 (7) Incomplete abortion (retained tissue).

29 (8) Pelvic inflammatory disease.

30 (9) Missed ectopic pregnancy.

31 (10) Cardiac arrest.

32 (11) Respiratory arrest.

33 (12) Renal failure.

34 (13) Metabolic disorder.

35 (14) Shock.

36 (15) Embolism.

37 (16) Coma.

38 (17) Placenta previa in subsequent pregnancies.

39 (18) Pre-term delivery in subsequent pregnancies.

40 (19) Free fluid in the abdomen.

41 (20) Hemolytic reaction due to the administration of
42 ABO-incompatible blood or blood products.



- 1 **(21) Hypoglycemia occurring while the patient is being**
- 2 **treated at the abortion facility.**
- 3 **(22) Physical injury associated with treatment performed at**
- 4 **the abortion facility.**
- 5 **(23) Adverse reaction to anesthesia or other drugs.**
- 6 **(24) Psychological or emotional complications, including**
- 7 **depression, suicidal ideation, anxiety, and sleeping disorders.**
- 8 **(25) Death.**
- 9 **(26) Any other adverse event as defined by criteria provided**
- 10 **in the Food and Drug Administration Safety Information and**
- 11 **Adverse Event Reporting Program.**
- 12 **(b) The following persons shall report to the state department**
- 13 **each case in which the person treated a patient suffering from an**
- 14 **abortion complication:**
 - 15 **(1) A physician licensed under IC 25-22.5.**
 - 16 **(2) A hospital licensed under IC 16-21.**
 - 17 **(3) An abortion clinic licensed under IC 16-21-2-2.5.**
- 18 **(c) The state department shall develop a process for the**
- 19 **submission of a report under this section.**
- 20 **(d) A report under this section shall be submitted to the state**
- 21 **department in the manner prescribed by the state department.**
- 22 **(e) The report under this section must include the following**
- 23 **information concerning the abortion complication:**
 - 24 **(1) The date the patient presented for treatment for the**
 - 25 **abortion complication.**
 - 26 **(2) The age of the patient.**
 - 27 **(3) The race of the patient.**
 - 28 **(4) The county and state of the patient's residence.**
 - 29 **(5) The type of abortion obtained by the patient.**
 - 30 **(6) The date of abortion obtained by the patient.**
 - 31 **(7) The name of the:**
 - 32 **(A) abortion clinic;**
 - 33 **(B) medical facility; or**
 - 34 **(C) hospital;**
 - 35 **where the patient obtained the abortion.**
 - 36 **(8) Whether the patient obtained abortion medication via mail**
 - 37 **order or Internet web site, and if so, information identifying**
 - 38 **the source of the medication.**
 - 39 **(9) Whether the patient was advised to report the patient's**
 - 40 **presenting complications as a result of another medical**
 - 41 **complication, rather than as a result of the abortion.**
 - 42 **(10) The name of the medications taken by the patient as part**



- 1 of the pharmaceutical abortion regimen, if any.
 2 (11) A list of each diagnosed complication.
 3 (12) A list of each treated complication, with a description of
 4 the treatment provided.
 5 (13) The manner in which the patient paid for complication
 6 treatment services, and the total cost of the original visit and
 7 any follow-up visits.
 8 (14) Whether the patient's visit to treat the complications was
 9 the original visit or a follow-up visit.
 10 (15) The date of each follow-up visit, if any.
 11 (16) A list of each complication diagnosed at a follow-up visit,
 12 if any.
 13 (17) A list of each complication treated at a follow-up visit, if
 14 any.
 15 (f) Before February 1, 2019, the state department shall inform
 16 in writing all providers described in subsection (b) of the new
 17 reporting requirements for abortion complications. This subsection
 18 expires December 31, 2019.
 19 (g) Not later than June 30 of each year, the state department
 20 shall compile a public report summarizing the information
 21 collected under this section. The report must include statistics for
 22 the previous calendar year, with updated information for the most
 23 recent calendar year.
 24 (h) The state department shall summarize the aggregate data
 25 from the data submitted under this section and submit the data, on
 26 or before June 30 of each year, to the United States Centers for
 27 Disease Control and Prevention for its inclusion in the annual Vital
 28 Statistics Report.
 29 (i) The state department shall ensure that no identifying
 30 information of a pregnant woman is included in the report
 31 described in subsection (g).
 32 (j) This subsection applies after August 31, 2019. Each failure to
 33 report an abortion complication as required under this section is
 34 a Class B misdemeanor.
 35 (k) Before January 1, 2019, the state department shall adopt
 36 rules under IC 4-22-2 to implement this section.
 37 SECTION 10. IC 16-34-2-5, AS AMENDED BY P.L.173-2017,
 38 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2018]: Sec. 5. (a) Every health care provider who performs a
 40 surgical abortion or provides, prescribes, administers, or dispenses an
 41 abortion inducing drug for the purposes of inducing an abortion shall
 42 report the performance of the abortion or the provision, prescribing,



1 administration, or dispensing of an abortion inducing drug on a form
 2 drafted by the state department, the purpose and function of which shall
 3 be the improvement of maternal health and life through the compilation
 4 of relevant maternal life and health factors and data, and a further
 5 purpose and function shall be to monitor all abortions performed in
 6 Indiana to assure the abortions are done only under the authorized
 7 provisions of the law. For each abortion performed and abortion
 8 inducing drug provided, prescribed, administered, or dispensed, the
 9 report shall include, among other things, the following:

10 (1) The age of the patient.

11 **(2) Whether a waiver of consent or notification under section**
 12 **4 of this chapter was obtained.**

13 ~~(2)~~ **(3)** The date and location the abortion was performed or the
 14 abortion inducing drug was provided, prescribed, administered,
 15 or dispensed.

16 ~~(3)~~ **(4)** The health care provider's full name and address, including
 17 the name of the physicians performing the abortion or providing,
 18 prescribing, administering, or dispensing the abortion inducing
 19 drug.

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

21 **(5) The city and county where the pregnancy termination**
 22 **occurred.**

23 ~~(5)~~ **(6)** The age of the father, or the approximate age of the father
 24 if the father's age is unknown.

25 **(7) The patient's county and state of residence.**

26 **(8) The marital status of the patient.**

27 **(9) The educational level of the patient.**

28 **(10) The race of the patient.**

29 **(11) The ethnicity of the patient.**

30 **(12) The number of the patient's previous live births.**

31 **(13) The number of the patient's deceased children.**

32 **(14) The number of the patient's spontaneous pregnancy**
 33 **terminations.**

34 **(15) The number of the patient's previous induced**
 35 **terminations.**

36 **(16) The date of the patient's last menses.**

37 **(17) The physician's determination of the gestation of the fetus**
 38 **in weeks.**

39 **(18) Whether the patient indicated that the patient was**
 40 **seeking an abortion as a result of being:**

41 **(A) abused;**

42 **(B) coerced;**



- 1 **(C) harassed; or**
 2 **(D) trafficked.**
 3 ~~(6)~~ **(19)** The following information concerning the abortion or the
 4 provision, prescribing, administration, or dispensing of the
 5 abortion inducing drug:
 6 (A) The postfertilization age of the fetus **(in weeks)**.
 7 (B) The manner in which the postfertilization age was
 8 determined.
 9 (C) The gender of the fetus, if detectable.
 10 (D) Whether the fetus has been diagnosed with or has a
 11 potential diagnosis of having Down syndrome or any other
 12 disability.
 13 (E) If after the earlier of the time the fetus obtains viability or
 14 the time the postfertilization age of the fetus is at least twenty
 15 (20) weeks, the medical reason for the performance of the
 16 abortion or the provision, prescribing, administration, or
 17 dispensing of the abortion inducing drug.
 18 ~~(7)~~ **(20)** For a surgical abortion, the medical procedure used for
 19 the abortion and, if the fetus was viable or had a postfertilization
 20 age of at least twenty (20) weeks:
 21 (A) whether the procedure, in the reasonable judgment of the
 22 health care provider, gave the fetus the best opportunity to
 23 survive; ~~and~~
 24 (B) the basis for the determination that the pregnant woman
 25 had a condition described in this chapter that required the
 26 abortion to avert the death of or serious impairment to the
 27 pregnant woman; **and**
 28 **(C) the name of the second doctor present, as required**
 29 **under IC 16-34-2-3(a)(3).**
 30 ~~(8)~~ **(21)** For a nonsurgical abortion, the precise drugs provided,
 31 prescribed, administered, or dispensed, and the means of delivery
 32 of the drugs to the patient.
 33 **(22) For a nonsurgical abortion, that the manufacturer's**
 34 **instructions were provided to the patient and that the patient**
 35 **signed the patient agreement.**
 36 ~~(9)~~ **(23)** For an early pre-viability termination, the medical
 37 indication by diagnosis code for the fetus and the mother.
 38 ~~(10)~~ **(24)** The mother's obstetrical history, including dates of other
 39 abortions, if any.
 40 **(25) Any preexisting medical conditions of the patient that**
 41 **may complicate the abortion.**
 42 ~~(11)~~ **(26)** The results of pathological examinations if performed.



1 ~~(12)~~ **(27)** For a surgical abortion, whether the fetus was delivered
2 alive, and if so, how long the fetus lived.

3 ~~(13)~~ **(28)** Records of all maternal deaths occurring at the location
4 where the abortion was performed or the abortion inducing drug
5 was provided, prescribed, administered, or dispensed.

6 ~~(14)~~ **(29)** The date the form was transmitted to the state
7 department and, if applicable, separately to the department of
8 child services.

9 (b) The health care provider shall complete the form provided for in
10 subsection (a) and shall transmit the completed form to the state
11 department, in the manner specified on the form, within thirty (30) days
12 after the date of each abortion. However, if an abortion is for a female
13 who is less than sixteen (16) years of age, the health care provider shall
14 transmit the form to the state department of health and separately to the
15 department of child services within three (3) days after the abortion is
16 performed.

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

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

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

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

27 (2) Statistics for previous calendar years compiled by the state
28 department under this subsection, with updated information for
29 the calendar year that was submitted to the state department after
30 the compilation of the statistics.

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

33 **(f) The state department shall:**

34 **(1) summarize aggregate data from all data submitted under**
35 **this section; and**

36 **(2) submit the data, before July 1 of each year, to the United**
37 **States Centers for Disease Control and Prevention for its**
38 **inclusion in the annual Vital Statistics Report.**

39 SECTION 11. IC 35-52-16-20.9 IS ADDED TO THE INDIANA
40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2018]: **Sec. 20.9. IC 16-34-2-4.7 defines a**
42 **crime concerning abortion.**



1 **SECTION 12. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 340, 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, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 3. IC 16-18-2-9.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 9.4. "Affiliate", for purposes of IC 16-21-2-11, means any person who directly or indirectly controls, is controlled by, or is under common control of another person."**

Page 3, line 34, delete "July 1, 2018," and insert "**January 1, 2019,**".

Page 3, between lines 40 and 41, begin a new line block indented and insert:

"(5) Subsection (a)(2)(K)."

Page 3, line 41, delete "(5)" and insert "**(6)**".

Page 3, line 42, delete "(6)" and insert "**(7)**".

Page 4, line 1, delete "(7)" and insert "**(8)**".

Page 4, line 40, delete "applicant" and insert "**applicant, or an owner or affiliate of the applicant,**".

Page 5, between lines 1 and 2, begin a new line block indented and insert:

"(3) Disclose whether a principal or clinic staff member was ever employed by a facility owned or operated by the applicant that closed as a result of administrative or legal action."

Page 5, line 2, delete "(3)" and insert "**(4)**".

Page 5, line 29, delete "The" and insert "**In accordance with FDA guidelines, the**".

Page 5, line 31, delete "request" and insert "**require**".

Page 5, line 32, delete "a" and insert "**the manufacturer's**".

Page 5, line 34, delete "form" and insert "**form, and the signed physician's agreement form required by the manufacturer,**".

Page 5, line 34, after "file." insert "**The department shall develop a form attesting that the patient was given the manufacturer's instruction materials and signed the patient agreement form before the medication was dispensed to her, in accordance with FDA requirements. The patient shall sign the form and the form shall be retained in the patient's file.**".



Page 6, between lines 29 and 30, begin a new paragraph and insert:
 "SECTION 8. IC 16-34-2-1.1, AS AMENDED BY P.L.213-2016, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the private, not group, presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has informed the pregnant woman orally and in writing of the following:

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

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

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

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

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

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

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

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



at this stage of development.

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

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

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

(J) That the pregnancy of a child less than fifteen (15) years of age may constitute child abuse under Indiana law if the act included an adult and must be reported to the department of child services or the local law enforcement agency under IC 31-33-5.

(K) That Indiana does not allow a fetus to be aborted solely because of the fetus's race, color, national origin, ancestry, sex, or diagnosis or potential diagnosis of the fetus having Down syndrome or any other disability.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be informed orally and in writing of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the county office of the division of family resources.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(D) That there are physical risks to the pregnant woman in having an abortion, both during the abortion procedure and after.

(E) That Indiana has enacted the safe haven law under IC 31-34-2.5.

(F) The:

(i) Internet web site address of the state department of health's web site; and

(ii) description of the information that will be provided on the web site and that are;

described in section 1.5 of this chapter.

(G) For the facility in which the abortion is to be performed,



an emergency telephone number that is available and answered on a twenty-four (24) hour a day, seven (7) day a week basis.

(H) On a form developed by the state department and as described in IC 16-34-3, that the pregnant woman has a right to determine the final disposition of the remains of the aborted fetus.

(I) On a form developed by the state department, information concerning the available options for disposition of the aborted fetus.

(J) On a form developed by the state department, information concerning any counseling that is available to a pregnant woman after having an abortion.

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

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

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

(B) the pregnant woman has been offered by the provider the opportunity to view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible and that the woman has:

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

(ii) listened to or refused to listen to the offered auscultation of the fetal heart tone if the fetal heart tone is audible; and

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

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

(A) The name of the physician performing the abortion and the



physician's medical license number.

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

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

(5) At least eighteen (18) hours before an abortion is performed and at the same time that the pregnant woman receives the information required by subdivision (1), the provider shall perform, and the pregnant woman shall view, the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible unless the pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that the pregnant woman:

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

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

(6) The pregnant woman certifies in writing, on a form developed by the state department with a copy kept in her patient file, that she has been informed:

(A) of Indiana's safe haven law under IC 31-34-2.5-1; and

(B) that, under certain conditions, she may relinquish a child who is, or who appears to be, not more than thirty (30) days of age:

(i) to an emergency medical services provider (as defined in IC 16-41-10-1); or

(ii) in a newborn safety device (described in IC 31-34-2.5-1) at a participating fire department or other site that is staffed by an emergency medical services provider.

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

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

(2) provide the pregnant woman copies of the perinatal hospice brochure developed by the state department under IC 16-25-4.5-4 and the list of perinatal hospice providers and programs



developed under IC 16-25-4.5-5, by printing the perinatal hospice brochure and list of perinatal hospice providers from the state department's Internet web site.

(c) If a pregnant woman described in subsection (b) chooses to have an abortion rather than continuing the pregnancy in perinatal hospice care, the pregnant woman shall certify in writing, on a form developed by the state department under IC 16-25-4.5-6, at least eighteen (18) hours before the abortion is performed, that the pregnant woman has been provided the information described in subsection (b) in the manner required by subsection (b)."

Page 7, delete line 2.

Page 7, line 3, delete "(10)" and insert "(9)".

Page 7, line 4, delete "(11)" and insert "(10)".

Page 7, line 5, delete "(12)" and insert "(11)".

Page 7, line 6, delete "(13)" and insert "(12)".

Page 7, line 7, delete "(14)" and insert "(13)".

Page 7, line 8, delete "(15)" and insert "(14)".

Page 7, line 9, delete "(16)" and insert "(15)".

Page 7, line 10, delete "(17)" and insert "(16)".

Page 7, line 11, delete "(18)" and insert "(17)".

Page 7, line 12, delete "(19)" and insert "(18)".

Page 7, line 13, delete "(20)" and insert "(19)".

Page 7, line 14, delete "(21)" and insert "(20)".

Page 7, line 16, delete "(22)" and insert "(21)".

Page 7, line 18, delete "(23)" and insert "(22)".

Page 7, line 20, delete "(24)" and insert "(23)".

Page 7, line 21, delete "(25)" and insert "(24)".

Page 7, line 23, delete "(26)" and insert "(25)".

Page 7, line 24, delete "(27)" and insert "(26)".

Page 7, line 28, delete "involving" and insert "**in which the person treated**".

Page 7, delete line 41.

Page 7, line 42, delete "(3)" and insert "(2)".

Page 8, line 1, delete "(4)" and insert "(3)".

Page 8, line 2, delete "(5)" and insert "(4)".

Page 8, line 3, delete "(6)" and insert "(5)".

Page 8, line 4, delete "(7)" and insert "(6)".

Page 8, delete lines 5 through 9.

Page 8, line 10, delete "(9)" and insert "(7)".

Page 8, line 15, delete "(10)" and insert "(8)".

Page 8, line 18, delete "(11)" and insert "(9)".

Page 8, line 21, delete "(12)" and insert "(10)".



Page 8, line 23, delete "(13)" and insert "(11)".
Page 8, line 24, delete "(14)" and insert "(12)".
Page 8, line 26, delete "(15)" and insert "(13)".
Page 8, line 26, after "for" insert "**complication treatment**".
Page 8, line 28, delete "(16)" and insert "(14)".
Page 8, line 28, delete "office".
Page 8, line 30, delete "(17)" and insert "(15)".
Page 8, line 31, delete "(18)" and insert "(16)".
Page 8, line 33, delete "(19)" and insert "(17)".

Page 9, line 10, after "(j)" insert "**This subsection applies after August 31, 2019.**".

Page 9, between lines 29 and 30, begin a new line block indented and insert:

"(2) Whether a waiver of consent or notification under section 4 of this chapter was obtained."

Page 9, line 30, strike "(2)" and insert "(3)".
Page 9, line 33, strike "(3)" and insert "(4)".
Page 9, line 38, delete "(4)" and insert "(5)".
Page 9, line 40, strike "(5)" and insert "(6)".
Page 9, line 42, delete "(6)" and insert "(7)".
Page 10, line 1, delete "(7)" and insert "(8)".
Page 10, line 2, delete "(8)" and insert "(9)".
Page 10, line 3, delete "(9)" and insert "(10)".
Page 10, line 4, delete "(10)" and insert "(11)".
Page 10, line 5, delete "(11)" and insert "(12)".
Page 10, line 6, delete "(12)" and insert "(13)".
Page 10, line 7, delete "(13)" and insert "(14)".

Page 10, between lines 8 and 9, begin a new line block indented and insert:

"(15) The number of the patient's previous induced terminations."

Page 10, line 9, delete "(14)" and insert "(16)".
Page 10, line 10, delete "(15)" and insert "(17)".
Page 10, line 12, delete "(16)" and insert "(18)".
Page 10, line 18, delete "(17)" and insert "(19)".
Page 10, line 21, delete "fetus." and insert "fetus (**in weeks**)".
Page 10, line 33, delete "(18)" and insert "(20)".
Page 11, line 3, delete "(19)" and insert "(21)".

Page 11, between lines 5 and 6, begin a new line block indented and insert:

"(22) For a nonsurgical abortion, that the manufacturer's instructions were provided to the patient and that the patient



signed the patient agreement."

Page 11, line 6, delete "(20)" and insert "**(23)**".

Page 11, line 8, delete "(21)" and insert "**(24)**".

Page 11, line 10, delete "(22)" and insert "**(25)**".

Page 11, line 12, delete "(23)" and insert "**(26)**".

Page 11, line 13, delete "(24)" and insert "**(27)**".

Page 11, line 15, delete "(25)" and insert "**(28)**".

Page 11, line 18, delete "(26)" and insert "**(29)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 340 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 1.

