Reprinted
January 30, 2018

SENATE BILL No. 340

DIGEST OF SB 340 (Updated January 29, 2018 3:12 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, Young M, Zakas, Houchin, Kruse

January 4, 2018, read first time and referred to Committee on Judiciary.
January 25, 2018, amended, reported favorably — Do Pass.
January 29, 2018, read second time, amended, ordered engrossed.

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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:

SECTION 1. IC 16-18-2-1.5, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1.5. (a) "Abortion clinic", for purposes of ~~IC 16-19-3-31,~~ IC 16-21-2, **IC 16-34-2-4.7,** IC 16-34-3, and IC 16-41-16, means a health care provider (as defined in section 163(d)(1) of this chapter) that:

(1) performs surgical abortion procedures; or

(2) beginning January 1, 2014, provides an abortion inducing drug for the purpose of inducing an abortion.

(b) The term does not include the following:

(1) A hospital that is licensed as a hospital under IC 16-21-2.

(2) An ambulatory outpatient surgical center that is licensed as an ambulatory outpatient surgical center under IC 16-21-2.

(3) A health care provider that provides, prescribes, administers, or dispenses an abortion inducing drug to fewer than five (5) patients per year for the purposes of inducing an abortion.

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

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.**

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

(1) Establish minimum license qualifications.

(2) Establish the following requirements:

(A) Sanitation standards.

(B) Staff qualifications.

(C) Necessary emergency equipment.

(D) Procedures to provide emergency care.

(E) Procedures to monitor patients after the administration of anesthesia.

(F) Procedures to provide follow-up care for patient complications.

(G) Quality assurance standards.

(H) Infection control.

(I) Provision of informed consent brochures, as described in IC 16-34-2-1.5, in English, Spanish, and a third language determined by the state department, inside abortion clinics.

(J) Provision of a hotline telephone number that provides assistance for patients who are:

(i) coerced into an abortion; or

(ii) victims of sex trafficking.

(K) Annual training by law enforcement officers on identifying and assisting women who are:

(i) coerced into an abortion; or

(ii) victims of sex trafficking.

(3) Prescribe the operating policies, supervision, and maintenance of medical records, including the requirement that all forms that require a patient signature be stored in the patient's medical record.

(4) Establish procedures for the issuance, renewal, denial, and

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

(A) The form and content of the license.

(B) The collection of an annual license fee.

(5) Prescribe the procedures and standards for inspections.

(6) Prescribe procedures for:

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

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

(b) A person who knowingly or intentionally:

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

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

commits a Class A misdemeanor.

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

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

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

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

(A) perform only surgical abortions;

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

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

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

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

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

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

This subsection expires July 1, 2019.

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

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

(1) the applicant is of reputable and responsible character;

(2) the applicant is able to comply with the minimum standards for a hospital, an ambulatory outpatient surgical center, an abortion clinic, or a birthing center, and with rules adopted under this chapter; and

(3) the applicant has complied with section 15.4 of this chapter.

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

(1) The name of the applicant.

(2) The type of institution to be operated.

(3) The location of the institution.

(4) The name of the person to be in charge of the institution.

(5) If the applicant is a hospital, the range and types of services to be provided under the general hospital license, including any service that would otherwise require licensure by the state department under the authority of IC 16-19.

(6) Other information the state department requires.

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

(1) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or

(2) the department receives a notice from the commissioner of the

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

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

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

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

(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.

(4) Provide copies of:

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

(B) inspection reports; and

(C) violation remediation contracts;

if any.

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

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

(A) the abortion is performed by the physician;

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

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

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

instruction sheets and require that the pregnant woman sign the manufacturer's patient agreement form. The physician shall retain a copy of the signed patient agreement form, and the signed physician's agreement form required by the manufacturer, in the patient's file. 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. As used in this subdivision, "in person" does not include the use of telehealth or telemedicine services.

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

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

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

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

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

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

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

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

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

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

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).

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

(1) Uterine perforation.

(2) Cervical perforation.

(3) Infection.

(4) Hemorrhaging.

(5) Blood clots.

(6) Failure to terminate the pregnancy.

(7) Incomplete abortion (retained tissue).

(8) Pelvic inflammatory disease.

(9) Missed ectopic pregnancy.

(10) Cardiac arrest.

(11) Respiratory arrest.

(12) Renal failure.

(13) Metabolic disorder.

(14) Shock.

(15) Embolism.

(16) Coma.

(17) Placenta previa in subsequent pregnancies.

(18) Pre-term delivery in subsequent pregnancies.

(19) Free fluid in the abdomen.

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

(21) Hypoglycemia occurring while the patient is being treated at the abortion facility.

(22) Physical injury associated with treatment performed at the abortion facility.

(23) Adverse reaction to anesthesia or other drugs.

(24) Psychological or emotional complications, including depression, suicidal ideation, anxiety, and sleeping disorders.

(25) Death.

(26) Any other adverse event as defined by criteria provided in the Food and Drug Administration Safety Information and Adverse Event Reporting Program.

(b) The following persons shall report to the state department each case in which the person treated a patient suffering from an abortion complication:

(1) A physician licensed under IC 25-22.5.

(2) A hospital licensed under IC 16-21.

(3) An abortion clinic licensed under IC 16-21-2-2.5.

(c) The state department shall develop a process for the submission of a report under this section.

(d) A report under this section shall be submitted to the state department in the manner prescribed by the state department.

(e) The report under this section must include the following information concerning the abortion complication:

(1) The date the patient presented for treatment for the abortion complication.

(2) The age of the patient.

(3) The race of the patient.

(4) The county and state of the patient's residence.

(5) The type of abortion obtained by the patient.

(6) The date of abortion obtained by the patient.

(7) The name of the:

(A) abortion clinic;

(B) medical facility; or

(C) hospital;

where the patient obtained the abortion.

(8) Whether the patient obtained abortion medication via mail order or Internet web site, and if so, information identifying the source of the medication.

(9) Whether the complication was previously managed by the abortion provider or the abortion provider's required back-up physician.

(10) The name of the medications taken by the patient as part

of the pharmaceutical abortion regimen, if any.

(11) A list of each diagnosed complication.

(12) A list of each treated complication, with a description of the treatment provided.

(13) Whether the patient's visit to treat the complications was the original visit or a follow-up visit.

(14) The date of each follow-up visit, if any.

(15) A list of each complication diagnosed at a follow-up visit, if any.

(16) A list of each complication treated at a follow-up visit, if any.

(f) Before February 1, 2019, the state department shall inform in writing all providers described in subsection (b) of the new reporting requirements for abortion complications. This subsection expires December 31, 2019.

(g) Not later than June 30 of each year, the state department shall compile a public report summarizing the information collected under this section. The report must include statistics for the previous calendar year, with updated information for the most recent calendar year.

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

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

(j) This subsection applies after August 31, 2019. Each failure to report an abortion complication as required under this section is a Class B misdemeanor.

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

SECTION 10. IC 16-34-2-5, AS AMENDED BY P.L.173-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) Every health care provider who performs a surgical abortion or provides, prescribes, administers, or dispenses an abortion inducing drug for the purposes of inducing an abortion shall report the performance of the abortion or the provision, prescribing, administration, or dispensing of an abortion inducing drug on a form drafted by the state department, the purpose and function of which shall be the improvement of maternal health and life through the compilation

of relevant maternal life and health factors and data, and a further purpose and function shall be to monitor all abortions performed in Indiana to assure the abortions are done only under the authorized provisions of the law. For each abortion performed and abortion inducing drug provided, prescribed, administered, or dispensed, the report shall include, among other things, the following:

(1) The age of the patient.

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

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

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

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

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

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

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

(8) The marital status of the patient.

(9) The educational level of the patient.

(10) The race of the patient.

(11) The ethnicity of the patient.

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

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

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

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

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

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

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

(A) abused;

(B) coerced;

(C) harassed; or

(D) trafficked.

~~(6)~~ **(19)** The following information concerning the abortion or the

provision, prescribing, administration, or dispensing of the abortion inducing drug:

(A) The postfertilization age of the fetus **(in weeks).**

(B) The manner in which the postfertilization age was determined.

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

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

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

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

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

(B) the basis for the determination that the pregnant woman had a condition described in this chapter that required the abortion to avert the death of or serious impairment to the pregnant woman; **and**

(C) the name of the second doctor present, as required under IC 16-34-2-3(a)(3).

~~(8)~~ **(21)** For a nonsurgical abortion, the precise drugs provided, prescribed, administered, or dispensed, and the means of delivery of the drugs to the patient.

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

~~(9)~~ **(23)** For an early pre-viability termination, the medical indication by diagnosis code for the fetus and the mother.

~~(10)~~ **(24)** The mother's obstetrical history, including dates of other abortions, if any.

(25) Any preexisting medical conditions of the patient that may complicate the abortion.

~~(11)~~ **(26)** The results of pathological examinations if performed.

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

~~(13)~~ **(28)** Records of all maternal deaths occurring at the location

where the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.

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

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

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

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

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

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

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

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

(f) The state department shall:

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

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

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

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.

SENATE MOTION

Madam President: I move that Senate Bill 340 be amended to read as follows:

Page 12, delete lines 39 through 41, begin a new line block indented and insert:

"**(9) Whether the complication was previously managed by the abortion provider or the abortion provider's required back-up physician.**".

Page 13, delete lines 5 through 7.

Page 13, line 8, delete "(14)" and insert "**(13)**".

Page 13, line 10, delete "(15)" and insert "**(14)**".

Page 13, line 11, delete "(16)" and insert "**(15)**".

Page 13, line 13, delete "(17)" and insert "**(16)**".

(Reference is to SB 340 as printed January 26, 2018.)

BROWN L