

## HB0382S01 compared with HB0382

~~text~~ shows text that was in HB0382 but was deleted in HB0382S01.

text shows text that was not in HB0382 but was inserted into HB0382S01.

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Representative Kera Birkeland proposes the following substitute bill:

### ABORTION MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kera Birkeland**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends provisions relating to abortion.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends informed consent provisions relating to ~~an~~ abortion;
- ▶ amends the requirements for the abortion information module created by the Department of Health;
- ▶ amends provisions relating to viewing the abortion information module;
- ▶ amends statistical reporting requirements relating to ~~abortions~~abortion;
- ▶ amends and adds reporting requirements for physicians and facilities relating to abortion;  ~~}~~

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- ▶ requires the Department of Health to verify physicians and facilities comply with ~~{certain}~~ informed consent provisions relating to abortion;
- ▶ provides a civil penalty for a physician who fails to comply with informed consent provisions relating to an abortion;
- ▶ requires the Division of Occupational and Professional Licensing to revoke a physician's license after a certain number of violations of provisions relating to abortion;
- ▶ requires the Department of Health to take certain actions against an abortion clinic for a violation of provisions relating to abortion;
- ▶ provides that a person may bring a malpractice action against a physician for a violation of provisions relating to abortion; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{None}~~ This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

26-21-6.5, as last amended by Laws of Utah 2018, Chapter 282

26-21-33, as enacted by Laws of Utah 2020, Chapter 251

58-67-401, as last amended by Laws of Utah 2021, Chapter 404

58-68-401, as last amended by Laws of Utah 2021, Chapter 404

76-7-305, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

76-7-305.5, as last amended by Laws of Utah 2020, Chapter 251

76-7-305.7, as last amended by Laws of Utah 2018, Chapter 282

76-7-313, as last amended by Laws of Utah 2019, Chapters 124 and 208

76-7-314, as last amended by Laws of Utah 2019, Chapter 208

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section 26-21-6.5 is amended to read:

**26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

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(1) A type I abortion clinic may not operate in the state without a license issued by the department to operate a type I abortion clinic.

(2) A type II abortion clinic may not operate in the state without a license issued by the department to operate a type II abortion clinic.

(3) The department shall make rules establishing minimum health, safety, sanitary, and recordkeeping requirements for:

(a) a type I abortion clinic; and

(b) a type II abortion clinic.

(4) To receive and maintain a license described in this section, an abortion clinic shall:

(a) apply for a license on a form prescribed by the department;

(b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping requirements established under Subsection (3) that relate to the type of abortion clinic licensed;

(c) comply with the recordkeeping and reporting requirements of Section 76-7-313;

(d) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion;

(e) pay the annual licensing fee; and

(f) cooperate with inspections conducted by the department.

(5) (a) ~~[The]~~ Except as provided in Subsection (5)(c), the department shall, at least twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is complying with all statutory and licensing requirements relating to the abortion clinic. ~~[At]~~

(b) The department shall make at least one of the inspections ~~[shall be made]~~ without providing notice to the abortion clinic.

(c) Beginning January 1, ~~2023~~2024, the department shall, as part of one of the inspections, verify the information described in Subsection 76-7-313(5).

(6) The department shall charge an annual license fee, set by the department in accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an amount that will pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

(7) The department shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

Section 2. Section **26-21-33** is amended to read:

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### 26-21-33. Treatment of aborted remains.

(1) As used in this section, "aborted fetus" means a product of human conception, regardless of gestational age, that has died from an abortion as that term is defined in Section 76-7-301.

(2) (a) A health care facility having possession of an aborted fetus shall provide for the final disposition of the aborted fetus through:

- (i) cremation as that term is defined in Section 58-9-102; or
- (ii) interment.

(b) A health care facility may not conduct the final disposition of an aborted fetus less than 72 hours after an abortion is performed unless:

- (i) the pregnant woman authorizes the health care facility, in writing, to conduct the final disposition of the aborted fetus less than 72 hours after the abortion is performed; or
- (ii) immediate disposition is required under state or federal law.

(c) A health care facility may serve as an authorizing agent as defined in Section 58-9-102 with respect to the final disposition of an aborted fetus if:

(i) the pregnant woman provides written authorization for the health care facility to act as the authorizing agent; or

(ii) (A) more than 72 hours have passed since the abortion was performed; and

(B) the pregnant woman did not exercise ~~[her]~~ the pregnant woman's right to control the final disposition of the aborted fetus under Subsection (4)(a).

(d) Within 120 business days after the day on which an abortion is performed, a health care facility possessing an aborted fetus shall:

- (i) conduct the final disposition of the aborted fetus in accordance with this section; or
- (ii) ensure that the aborted fetus is preserved until final disposition.

(e) A health care facility shall conduct the final disposition under this section in accordance with applicable state and federal law.

(3) Before performing an abortion, a health care facility shall:

(a) provide the pregnant woman with the information described in Subsection 76-7-305.5(2)~~(w)~~(y) through:

- (i) a form approved by the department;
- (ii) an in-person consultation with a physician; or

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(iii) an in-person consultation with a mental health therapist as defined in Section 58-60-102; and

(b) if the pregnant woman makes a decision under Subsection (4)(b), document the pregnant woman's decision under Subsection (4)(b) in the pregnant woman's medical record.

(4) A pregnant woman who has an abortion:

(a) except as provided in Subsection (6), has the right to control the final disposition of the aborted fetus;

(b) if the pregnant woman has a preference for disposition of the aborted fetus, shall inform the health care facility of the pregnant woman's decision for final disposition of the aborted fetus;

(c) is responsible for the costs related to the final disposition of the aborted fetus at the chosen location if the pregnant woman chooses a method or location for the final disposition of the aborted fetus that is different from the method or location that is usual and customary for the health care facility; and

(d) for a medication-induced abortion, shall be permitted to return the aborted fetus to the health care facility in a sealed container for disposition by the health care facility in accordance with this section.

(5) The form described in Subsection (3)(a)(i) shall include the following information:

"You have the right to decide what you would like to do with the aborted fetus. You may decide for the provider to be responsible for disposition of the fetus. If you are having a medication-induced abortion, you also have the right to bring the aborted fetus back to this provider for disposition after the fetus is expelled. The provider may dispose of the aborted fetus by burial or cremation. You can ask the provider if you want to know the specific method for disposition."

(6) If the pregnant woman is a minor, the health care facility shall obtain parental consent for the disposition of the aborted fetus unless the minor is granted a court order under Subsection ~~[76-7-304]~~ 76-7-304.5(1)(b).

(7) (a) A health care facility may not include fetal remains with other biological, infectious, or pathological waste.

(b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is not subject to the requirements of this section.

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(c) (i) A health care facility is responsible for maintaining a record to demonstrate to the department that the health care facility has complied with the provisions of this section.

(ii) The records described in Subsection (7)(c)(i) shall be:

(A) maintained for at least two years; and

(B) made available to the department for inspection upon request by the department.

Section 3. Section 58-67-401 is amended to read:

**58-67-401. Grounds for denial of license -- Disciplinary proceedings.**

(1) Subject to Subsection (2), grounds for division action are set forth in Sections 58-1-401 [and], 58-67-503, and 76-7-314.

(2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

Section 4. Section 58-68-401 is amended to read:

**58-68-401. Grounds for denial of license -- Disciplinary proceedings.**

(1) Subject to Subsection (2), grounds for division action are set forth in Sections 58-1-401 [and], 58-68-503, and 76-7-314.

(2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

Section ~~3~~5. Section 76-7-305 is amended to read:

**76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.**

(1) As used in this section:

(a) "Authorized professional" means:

(i) a physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a ~~physician's~~physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(iii) a nurse practitioner, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iv) an advanced practice registered nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

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(v) a registered nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(vi) a genetic counselor, licensed under Title 58, Chapter 75, Genetic Counselors

Licensing Act; or

(vii) a certified nurse midwife, licensed under Title 58, Chapter 44a, Nurse Midwife

Practice Act.

(b) "Staff member" means:

(i) a staff member of a hospital, medical clinic, or abortion clinic; or

(ii) an individual under the direction of a physician.

~~[(1)]~~ (2) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the pregnant woman on whom the abortion is to be performed a voluntary and informed written consent that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

~~[(2)]~~ (3) Except as provided in Subsection ~~[(8)]~~ (9), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

~~[(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;]~~

(a) a staff member under the direction of a physician or an authorized professional informs the pregnant woman that the pregnant woman:

(i) is required to view the information module before the abortion is performed;

(ii) may view the information module at any time on the department's website and provides the pregnant woman with a uniform resource locator that the pregnant woman can use to directly access the information module on the department's website; and

(iii) has the right to choose to view the information module at any of the following locations chosen by the pregnant woman:

(A) the location where the pregnant woman will have the abortion;

(B) the location where the individual providing the information described in this Subsection (3)(a) is employed;

(C) the location where the pregnant woman is present when the individual providing

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the information described in this Subsection (3)(a) provides the information; or

(D) any other location where the pregnant woman can view the information described in this Subsection (3)(a) using an electronic device;

(b) if the pregnant woman chooses to view the information module at a location described in Subsection (3)(a)(iii)(A), (B), or (C), the individual who provides the information described in Subsection (3)(a) to the pregnant woman, presents, and permits the pregnant woman to view, the entire information module at the location chosen by the pregnant woman;

~~[(b)]~~ (c) the pregnant woman;

(i) views the entire information module [and];

(ii) presents evidence, in the form of the certificate described in Subsection 76-7-305.5(2)(b), to the individual described in Subsection [(2)] (3)(a) that the pregnant woman viewed the entire information module; and

(iii) signs and dates a document, in the presence of the individual described in Subsection (3)(a), that states, "I, the undersigned, affirm, under penalty of perjury, that I have viewed the entire information module described in Utah Code Section 76-7-305.5.";

~~[(c)]~~ (d) after receiving the [evidence] certificate and signed document described in Subsection [(2)(b)] (3)(c), the individual described in Subsection [(2)] (3)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) signs the document described in Subsection (3)(c)(iii), as a witness to the signature of the pregnant woman;

~~[(ii)]~~ (iii) gives the pregnant woman, upon [her] the pregnant woman's request, a copy of the [documentation] certificate and document described in Subsection [(2)(c)(i)] (3)(d)(i); and

~~[(iii)]~~ (iv) provides a copy of the [statement] certificate and document described in Subsection [(2)(c)(i)] (3)(c) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

~~[(d)]~~ (e) after the pregnant woman views the entire information module, [the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of] a staff member under the direction of a physician, or an authorized professional,



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orally informs the pregnant woman of the following, in a face-to-face consultation where the individual providing the information and the pregnant woman are in each other's physical presence:

(i) the nature of the proposed abortion procedure;

(ii) specifically how the procedure described in Subsection [~~(2)(d)(i)~~] (3)(e)(i) will affect the fetus;

(iii) the risks and alternatives to the abortion procedure or treatment;

(iv) the potential side effects, risks, complications, and consequences of a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

~~[(iv)]~~ (v) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

~~[(v)]~~ (vi) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

~~[(vi)]~~ (vii) the medical risks associated with carrying ~~[her]~~ the child to term;

~~[(vii)]~~ (viii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon ~~[her]~~ the pregnant woman's request, and to receive written information produced by the department regarding available resources or locations to obtain a free ultrasound, including pregnancy resource centers and other nonprofit entities that provide ultrasound services; and

~~[(viii)]~~ (ix) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the ~~[Department of Health]~~ department website containing the information described in Section 26-10-14, including the information on the informational support sheet; and

~~[(e)]~~ (f) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the pregnant woman may request, from a staff member of the abortion clinic or hospital where the pregnant woman viewed the information module, a printed copy of the material on the department's website;

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(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman; and

(iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the disposition of the aborted fetus.

~~(3)~~ (4) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation where the physician and the pregnant woman are in each other's physical presence, provide the information described in Subsection ~~(2)(d)~~ (3)(e), unless the attending physician or referring physician is the individual who provided the information required under Subsection ~~(2)(d)~~ (3)(e); and

(b) (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection ~~(2)~~ (3) and this Subsection ~~(3)~~ (4) was provided in accordance with the requirements of Subsection ~~(2)~~ (3) and this Subsection ~~(3)~~ (4);

(ii) obtain a copy of the ~~[statement]~~ documentation described in Subsection ~~(2)(c)(i)~~ (3)(d); and

(iii) ensure that:

(A) the pregnant woman has received the information described in Subsections 26-21-33(3) and (4); and

(B) if the pregnant woman has a preference for the disposition of the aborted fetus, the pregnant woman has informed the health care facility of the pregnant woman's decision regarding the disposition of the aborted fetus.

~~(4)~~ (5) When a serious medical emergency compels the performance of an abortion, the physician shall inform the pregnant woman ~~[prior to]~~ before the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

~~(5)~~ (6) If an ultrasound is performed on a pregnant woman before an abortion is performed, the individual who performs the ultrasound, or another qualified individual, shall:

(a) inform the pregnant woman that the ultrasound images will be simultaneously displayed in a manner to permit ~~[her]~~ the pregnant woman to:

(i) view the images, if ~~[she]~~ the pregnant woman chooses to view the images; or

(ii) not view the images, if ~~[she]~~ the pregnant woman chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the pregnant

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woman to:

(i) view the images, if [~~she~~] the pregnant woman chooses to view the images; or  
(ii) not view the images, if [~~she~~] the pregnant woman chooses not to view the images;  
(c) inform the pregnant woman that, if [~~she~~] the pregnant woman desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;  
(ii) the presence of cardiac activity in the unborn child, if present and viewable; and  
(iii) the presence of external body parts or internal organs, if present and viewable; and  
(d) provide the detailed description described in Subsection [~~(5)~~] (6)(c), if the pregnant woman requests it.

[~~(6)~~] (7) The information described in Subsections [~~(2)~~, ~~(3)~~, and ~~(5)~~] (3), (4), and (6) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the pregnant woman on whom the abortion is performed; or  
(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

[~~(7)~~] (8) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;  
and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

[~~(8)~~] (9) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection [~~(2)~~ or] (3) or (4), or for failing to comply with Subsection [~~(5)~~] (6), if:

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(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the pregnant woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as ~~defined~~ described in Subsection 76-5-406(2)(j) ~~and~~ or Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years ~~of age~~ old or younger.

~~(9)~~ (10) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

~~(10)~~ (11) (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection ~~(5)~~ (6)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection ~~(10)~~ (11)(a) to the department.

~~(11)~~ (12) A physician is not guilty of violating this section if:

(a) the information described in Subsection ~~(2)~~ (3) is provided less than 72 hours before the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section ~~(4)~~ 6. Section **76-7-305.5** is amended to read:

**76-7-305.5. Requirements for information module and public website.**

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(1) In order to ensure that a pregnant woman's consent to an abortion is truly an informed consent, the department shall, in accordance with the requirements of this section, develop an information module and maintain a public website.

(2) The information module and public website described in Subsection (1) shall:

(a) be designed and function in a manner that:

(i) permits the information module to only be viewed from the beginning to the end, without skipping or fast-forwarding through any part of the information module;

(ii) permits an individual to pause or replay any portion of the information module;

(iii) has voice-over that:

(A) provides an audio presentation of all information presented in the information module; and

(B) cannot be skipped or fast-forwarded; and

(iv) prohibits the pregnant woman from accessing, viewing, or printing the certificate of completion until the pregnant woman views the entire information module;

(b) provide a certificate to a pregnant woman, after the pregnant woman views the entire information module, that includes:

(i) a nonsequential code assigned to the pregnant woman that:

(A) is unique to the pregnant woman;

(B) can be used by the department to identify the pregnant woman; and

(C) does not, by simply viewing the code, disclose the identity of the pregnant woman;

and

(ii) a date and time stamp indicating when the pregnant woman completed viewing the entire information module;

~~[(a)]~~ (c) be scientifically accurate, comprehensible, and presented in a truthful, nonmisleading manner;

~~[(b)]~~ (d) present adoption as a preferred and positive choice and alternative to abortion;

~~[(c)]~~ (e) be produced in a manner that conveys the state's preference for childbirth over abortion;

~~[(d)]~~ (f) state that the state prefers childbirth over abortion;

~~[(e)]~~ (g) state that it is unlawful for any person to coerce a woman to undergo an abortion;

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~~(f)~~ (h) state that any physician who performs an abortion without obtaining the pregnant woman's informed consent or without providing ~~(her)~~ the pregnant woman a private medical consultation in accordance with the requirements of this section, may be liable to ~~(her)~~ the pregnant woman for damages in a civil action at law;

~~(g)~~ (i) provide a geographically indexed list of resources and public and private services available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth, and while the child is dependent, including:

(i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

(ii) services and supports available under Section 35A-3-308;

(iii) other financial aid that may be available during an adoption;

(iv) services available from public adoption agencies, private adoption agencies, and private attorneys whose practice includes adoption; and

(v) the names, addresses, and telephone numbers of each person listed under this Subsection (2)~~(g)~~(i);

~~(h)~~ (j) describe the adoption-related expenses that may be paid under Section 76-7-203;

~~(i)~~ (k) describe the persons who may pay the adoption related expenses described in Subsection (2)~~(h)~~(j);

~~(j)~~ (l) except as provided in Subsection (4), describe the legal responsibility of the father of a child to assist in child support, even if the father has agreed to pay for an abortion;

~~(k)~~ (m) except as provided in Subsection (4), describe the services available through the Office of Recovery Services, within the Department of Human Services, to establish and collect the support described in Subsection (2)~~(j)~~(l);

~~(l)~~ (n) state that private adoption is legal;

~~(m)~~ (o) describe and depict, with pictures or video segments, the probable anatomical and physiological characteristics of an unborn child at two-week gestational increments from fertilization to full term, including:

(i) brain and heart function;

(ii) the presence and development of external members and internal organs; and

(iii) the dimensions of the fetus;

~~(n) show an ultrasound of the heartbeat of an unborn child at:]~~

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~~[(i) four weeks from conception;]~~

~~[(ii) six to eight weeks from conception; and]~~

~~[(iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;]~~

~~[(o) describe abortion procedures used in current medical practice at the various stages of growth of the unborn child, including:]~~

(p) in addition to the pictures or video segments described in Subsection (2)(o), show a high-resolution, three-dimensional video of an ultrasound of an unborn child, that:

(i) includes segments of at least 10 seconds of an ultrasound for each of the following gestational ages:

(A) six weeks;

(B) eight weeks;

(C) ten weeks;

(D) twelve weeks;

(E) sixteen weeks; and

(F) twenty weeks; and

(ii) includes an audio of the heartbeat of the unborn child at the gestational ages described in Subsections (2)(p)(i)(B) through (F);

(q) a detailed, step-by-step, description of each step of each type of abortion procedure used in current medical practice that includes:

(i) medically-accurate visual images of what is happening to the unborn child at each step of each type of abortion procedure;

(ii) a description of the gestational ages at which each type of abortion procedure is normally used;

~~[(r) (iii) the medical risks associated with each type of abortion procedure;~~

~~[(r) (iv) the risk related to subsequent childbearing that are associated with each type of abortion procedure; and~~

~~[(r) (v) the consequences of each type of abortion procedure to the unborn child at various stages of fetal development;~~

~~[(r) (r) describe the possible detrimental psychological effects of abortion;~~

~~[(r) (s) describe the medical risks associated with carrying a child to term;~~

~~[(r) (t) include relevant information on the possibility of an unborn child's survival at~~

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the two-week gestational increments described in Subsection (2)~~(m)~~(o);

~~(s)~~ (u) except as provided in Subsection (5), include:

(i) information regarding substantial medical evidence from studies concluding that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and

(ii) the measures that will be taken in accordance with Section 76-7-308.5;

~~(t)~~ (v) explain the options and consequences of aborting a medication-induced abortion;

~~(u)~~ (w) include the following statement regarding a medication-induced abortion, "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but have not yet taken the second drug and have questions regarding the health of your fetus or are questioning your decision to terminate your pregnancy, you should consult a physician immediately.";

~~(v)~~ (x) inform a pregnant woman that ~~[she]~~ the pregnant woman has the right to view an ultrasound of the unborn child, at no expense to ~~[her]~~ the pregnant woman, upon ~~[her]~~ the pregnant woman's request;

~~(w) inform a~~ (y) provide a digital copy of the form described in Subsection 26-21-33(3)(a)(i) to the pregnant woman and inform the pregnant woman that [she] the pregnant woman has the right to:

(i) determine the final disposition of the remains of the aborted fetus;

(ii) unless the pregnant woman waives this right in writing, wait up to 72 hours after the abortion procedure is performed to make a determination regarding the disposition of the aborted fetus before the health care facility may dispose of the fetal remains;

(iii) receive information about options for disposition of the aborted fetus, including the method of disposition that is usual and customary for a health care facility; and

(iv) for a medication-induced abortion, return the aborted fetus to the health care facility for disposition; and

~~(x)~~ (z) provide a digital copy of the form described in Subsection 26-21-33(3)(a)(i);  
and

~~(y)~~ (aa) be in a typeface large enough to be clearly legible.



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(3) The information module and public website described in Subsection (1) may include a toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and description of services, agencies, and adoption attorneys in the locality of the caller.

(4) The department may develop a version of the information module and public website described in Subsection (1) that omits the information in Subsections (2)[~~(j)~~ and ~~(k)~~] (l) and (m) for a viewer who is pregnant as the result of rape.

(5) The department may develop a version of the information module and public website described in Subsection (1) that omits the information described in Subsection (2)[~~(s)~~](u) for a viewer who will have an abortion performed:

(a) on an unborn child who is less than 20 weeks gestational age at the time of the abortion; or

(b) on an unborn child who is at least 20 weeks gestational age at the time of the abortion, if:

(i) the abortion is being performed for a reason described in Subsection 76-7-302(3)(b)(i) or (ii); and

(ii) due to a serious medical emergency, time does not permit compliance with the requirement to provide the information described in Subsection (2)[~~(s)~~](u).

(6) The department and each local health department shall make the information module and the public website described in Subsection (1) available at no cost to any person.

(7) The department shall make the public website described in Subsection (1) available for viewing on the department's website by clicking on a conspicuous link on the home page of the department's website.

(8) The department shall ensure that the information module described in Subsection (1) is:

(a) available to be viewed at all facilities where an abortion may be performed;

(b) interactive for the individual viewing the module, including the provision of opportunities to answer questions and manually engage with the module before the module transitions from one substantive section to the next;

(c) produced in English and may include subtitles in Spanish or another language; and

(d) capable of being viewed on a tablet or other portable device.

(9) After the department releases the initial version of the information module, for the

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use described in Section 76-7-305, the department shall:

- (a) update the information module, as required by law; and
- (b) present an updated version of the information module to the Health and Human

Services Interim Committee for the committee's review and recommendation before releasing the updated version for the use described in Section 76-7-305.

Section ~~5~~7. Section **76-7-305.7** is amended to read:

### **76-7-305.7. Statistical report by the Department of Health.**

(1) As used in this section, "location type" means:

- (a) an abortion clinic;
- (b) a physician's office;
- (c) a medical clinic; or
- (d) a hospital.

~~(1)~~ (2) In accordance with Subsection ~~[(2)]~~ (3), the department shall, on an annual basis, after December 31 of each year, compile and report the following information, relating to the preceding calendar year, to the Health and Human Services Interim Committee:

- (a) the total number of abortions that were performed in the state;
- (b) the number of abortions, by procedure type, that were performed in the state;

~~(b)~~ (c) the reported reasons, if any, the women sought the abortions described in Subsection ~~[(1)]~~ (2)(a);

~~(c)~~ (d) the stage of pregnancy in which the abortions described in Subsection ~~[(1)]~~ (2)(a) were performed, including:

- (i) the trimester; and
- (ii) estimated week of pregnancy;

~~(d)~~ (e) the races and ethnicities of the women who obtained the abortions described in Subsection ~~[(1)]~~ (2)(a), including:

- (i) Alaska Native;
- (ii) American Indian;
- (iii) Asian;
- (iv) Black or African American;
- (v) Hispanic or Latino;
- (vi) Native Hawaiian or Pacific Islander;

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(vii) White, not Hispanic or Latino; and

(viii) some other race;

(f) in relation to women who experienced complications relating to an abortion

obtained in the state:

(i) the total number of women who experienced complications;

(ii) the number of women who experienced complications per complication type; and

(iii) for each location type:

(A) the number of women whose abortion complications were treated at that location

type;

(B) the number of women who were treated for an abortion complication before the women left the location type after having the abortion;

(C) the number of women who were treated for an abortion complication after leaving the location type where the women had the abortion;

(D) the number of complications, by complication type, that were treated at the location type; and

(E) the number of each abortion complication type experienced per abortion procedure type;

~~(f)~~ (g) the total amount of informed consent material described in this section that was distributed or accessed;

~~(f)~~ (h) the number of women who obtained abortions in this state without receiving the informed consent materials described in this section;

~~(g)~~ (i) the number of statements signed by attending physicians under Subsection 76-7-313(3); and

~~(h)~~ (j) any other information pertaining to obtaining informed consent from a pregnant woman who seeks an abortion.

~~(2)~~ (3) The report described in Subsection ~~(1)~~ (2) shall be prepared and presented in a manner that preserves physician and patient anonymity.

Section ~~6~~8. Section 76-7-313 is amended to read:

**76-7-313. Department's enforcement responsibility -- Duty to report to department -- Department annual investigation of certificates.**

(1) In order for the department to maintain necessary statistical information and ensure

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enforcement of the provisions of this part:

(a) any physician performing an abortion must obtain and record in writing:

(i) the age, marital status, and county of residence of the woman on whom the abortion was performed;

(ii) the unique identifier code and date and time stamp provided to the woman on whom the abortion was performed on the certificate described in Subsection 76-7-305.5(2)(b);

~~(iii)~~ (iii) the number of previous abortions performed on the woman described in ~~[Subsection]~~ Subsections (1)(a)(i) and (ii);

~~(iii)~~ (iv) the hospital or other facility where the abortion was performed;

~~(iv)~~ (v) the weight in grams of the unborn child aborted, if it is possible to ascertain;

~~(v)~~ (vi) the pathological description of the unborn child;

~~(vi)~~ (vii) the given gestational age of the unborn child;

~~(vii)~~ (viii) the date the abortion was performed;

~~(viii)~~ (ix) the measurements of the unborn child, if possible to ascertain; and

~~(ix)~~ (x) the medical procedure used to abort the unborn child; ~~[and]~~

(b) a facility that treats an abortion complication shall obtain and record in writing the information described in Subsection 76-7-305.7(2)(f)(iii); and

~~(b)~~ (c) the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~[-]~~, regulating the recording and reporting of the information described in this section.

(2) Each physician who performs an abortion shall provide the following to the department within 30 days after the day on which the abortion is performed:

(a) the information described in Subsection (1)(a);

(b) a copy of the pathologist's report described in Section 76-7-309;

(c) an affidavit:

(i) indicating whether the required consent was obtained ~~[pursuant to]~~ under Sections 76-7-305 and 76-7-305.5;

(ii) described in Subsection (3), if applicable; and

(iii) indicating whether at the time the physician performed the abortion, the physician had any knowledge that the pregnant woman sought the abortion solely because the unborn child had or may have had Down syndrome; and

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(d) a certificate indicating:

(i) whether the unborn child was or was not viable, as defined in Subsection 76-7-302(1), at the time of the abortion;

(ii) whether the unborn child was older than 18 weeks gestational age at the time of the abortion; and

(iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than 18 weeks gestational age at the time of the abortion, the reason for the abortion.

(3) If the information module or the address to the website is not provided to a pregnant woman, the physician who performs the abortion on the pregnant woman shall, within 10 days after the day on which the abortion is performed, provide to the department an affidavit that:

(a) specifies the information that was not provided to the woman; and

(b) states the reason that the information was not provided to the woman.

(4) Each facility that treats an abortion complication shall provide the information described in Subsection (1)(b) to the department within 30 days after the day on which the facility treats the abortion complication.

(5) Beginning January 1, ~~2023~~2024, the department shall annually investigate all abortion clinics and other facilities that provide abortions in the state to verify:

(a) the unique identifier code and date and time stamp from a certificate described in Subsection 76-7-305.5(2)(b) is recorded in writing for each abortion performed at the abortion clinic or other facility during the immediately preceding calendar year; and

(b) the date and time stamp for each abortion is at least 72 hours before the time at which the abortion was performed.

~~[(4)]~~ (6) All information supplied to the department shall be confidential and privileged ~~[pursuant to]~~ under Title 26, Chapter 25, Confidential Information Release.

~~[(5)]~~ (7) The department shall pursue all administrative and legal remedies when the department determines that a physician or a facility has not complied with the provisions of this part.

Section ~~77~~9. Section 76-7-314 is amended to read:

### **76-7-314. Violations of abortion laws -- Classifications.**

(1) A willful violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311,

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or 76-7-312 is a felony of the third degree.

(2) A violation of Section 76-7-326 is a felony of the third degree.

(3) A violation of Section 76-7-302.5 or 76-7-314.5 is a felony of the second degree.

(4) A violation of any other provision of this part, including Subsections 76-7-305~~(2)~~  
(3)(a) through (c), and (e), is a class A misdemeanor.

(5) (a) The ~~[Department of Health]~~ department shall report a physician's violation of any provision of this part to the Physicians Licensing Board, described in Section 58-67-201.

~~[(6)]~~ (b) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the Physicians Licensing Board, described in Section 58-67-201.

(6) (a) The Division of Occupational and Professional Licensing shall revoke the license of a physician who commits three or more violations of this part.

(b) A person may bring a malpractice action for a physician's violation of any provision of this part under Title 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act.

(7) In addition to the penalties described in this section ~~{,}~~, ~~{,}~~

~~— (a) }~~ the department ~~[may]~~ shall take any appropriate action described in Section 26-21-11 against an abortion clinic if a violation of this chapter occurs at the abortion clinic ~~{,}~~ and

~~— (b) the department shall impose a \$50,000 fine, per occurrence, against a physician who violates a provision of Section 76-7-305.~~

~~};~~

### Section 10. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2023.

(2) The amendments to Section 76-7-314 take effect on May 4, 2022.