

January 30, 1998

HOUSE BILL No. 1013

DIGEST OF HB 1013 (Updated January 28, 1998 8:09 pm - DI 87)

Citations Affected: IC 16-34.

Synopsis: Abortion. Provides that the following conditions must be met whenever certain abortion related information, which must be provided to a pregnant woman as a prerequisite to obtaining an abortion, is provided to the pregnant woman by telephone instead of in person: (1) Certain health care professionals must provide the abortion related information to the pregnant woman. (2) The information may not be provided by a recording. (3) Certain abortion related written materials must be sent to the pregnant woman by regular mail, electronic mail, FAX transmission, courier service, or overnight express mail. (4) The 18 hour waiting period before the pregnant woman may obtain an abortion if the pregnant woman had received the information in person does not commence until three days after the required written abortion related materials are sent to the pregnant woman. (5) The health care professional who provides the abortion
(Continued next page)

Effective: July 1, 1998.

M. Young, Wilson, Cook, Lytle

January 6, 1998, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.
January 29, 1998, amended, reported — Do Pass.

HB 1013—LS 6276/DI 76



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Digest Continued

related information to the pregnant woman shall: (A) submit a certified statement to the medical facility where the abortion is to be performed indicating that the abortion related information was provided; and (B) accompany the certified statement with a written informed consent form. Makes it a Class A infraction for a person to violate any of these conditions. Requires the health care professional or the health care professional's agent to: (1) document the date and time that abortion related written materials are sent to a pregnant woman; and (2) send abortion related written materials to a pregnant woman on the same date that the health care professional provides the abortion related information to the pregnant woman by telephone.

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January 30, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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HOUSE BILL No. 1013

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-34-2-1.1, AS ADDED BY P.L.187-1995,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 1.1. An abortion shall not be performed except
4 with the voluntary and informed consent of the pregnant woman upon
5 whom the abortion is to be performed. Except in the case of a medical
6 emergency **and as provided in section 1.3 of this chapter**, consent to
7 an abortion is voluntary and informed only if the following conditions
8 are met:

9 (1) At least eighteen (18) hours before the abortion and in the
10 presence of the pregnant woman, the physician who is to perform
11 the abortion, the referring physician or a physician assistant (as
12 defined in IC 25-27.5-2-10), an advanced practice nurse (as
13 defined in IC 25-23-1-1(b)), or a midwife (as defined in
14 IC 27-12-2-19) to whom the responsibility has been delegated by
15 the physician who is to perform the abortion or the referring

HB 1013—LS 6276/DI 76



1 physician has orally informed the pregnant woman of the
2 following:

- 3 (A) The name of the physician performing the abortion.
- 4 (B) The nature of the proposed procedure or treatment.
- 5 (C) The risks of and alternatives to the procedure or treatment.
- 6 (D) The probable gestational age of the fetus, including an
7 offer to provide:

- 8 (i) a picture or drawing of a fetus;
- 9 (ii) the dimensions of a fetus; and
- 10 (iii) relevant information on the potential survival of an
11 unborn fetus;
12 at this stage of development.

- 13 (E) The medical risks associated with carrying the fetus to
14 term.

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

- 17 (A) That medical assistance benefits may be available for
18 prenatal care, childbirth, and neonatal care from the county
19 office of family and children.
- 20 (B) That the father of the unborn fetus is legally required to
21 assist in the support of the child. In the case of rape, the
22 information required under this clause may be omitted.
- 23 (C) That adoption alternatives are available and that adoptive
24 parents may legally pay the costs of prenatal care, childbirth,
25 and neonatal care.

26 (3) The pregnant woman certifies in writing, before the abortion
27 is performed, that the information required by subdivisions (1)
28 and (2) has been provided.

29 SECTION 2. IC 16-34-2-1.3 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 1998]: **Sec. 1.3. (a) This section does not apply if a federal court
32 interpreting the manner in which information required under
33 section 1.1(1) and 1.2(2) of this chapter may be provided to a
34 pregnant woman before an abortion may be performed upon the
35 woman holds that the information may not be given to the
36 pregnant woman by telephone.**

37 **(b) As used in this section, "health care professional" refers to
38 a person described in section 1.1(1) of this chapter.**

39 **(c) If a pregnant woman is given the information required under
40 section 1.1(1) and 1.1(2) of this chapter by telephone, the following
41 additional conditions must be met before the pregnant woman's
42 consent to an abortion may be considered voluntary and informed:**



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1 (1) A health care professional must provide the information
 2 required under section 1.1(1) and 1.1(2) of this chapter to the
 3 pregnant woman. The information may not be provided by a
 4 recording.

5 (2) The health care professional or the health care
 6 professional's agent who provides the information required
 7 under section 1.1(1) and 1.1(2) of this chapter to the pregnant
 8 woman shall send the following written materials to the
 9 pregnant woman:

10 (A) Abortion related information described in section
 11 1.1(1) of this chapter.

12 (B) Information concerning:

13 (i) medical assistance;

14 (ii) child support, except in the case of rape; and

15 (iii) adoption alternatives;

16 described in section 1.1(2) of this chapter.

17 (3) The written materials described in subdivision (2) may be
 18 provided to the pregnant woman by:

19 (A) regular mail;

20 (B) electronic mail;

21 (C) FAX transmission;

22 (D) courier service; or

23 (E) overnight express mail.

24 (4) The eighteen (18) hour waiting period before an abortion
 25 may be performed that is described in section 1.1 of this
 26 chapter does not commence until three (3) days (excluding
 27 Saturdays, Sundays, and legal holidays) after the health care
 28 professional or the health care professional's agent sends the
 29 written materials required by subdivision (2) to a pregnant
 30 woman. The health care professional or the health care
 31 professional's agent shall document the date and time the
 32 materials are:

33 (A) delivered for mailing;

34 (B) tendered to a courier; or

35 (C) sent by electronic mail or FAX transmission.

36 To the extent possible, the written materials must be sent to the
 37 pregnant woman on the same date the health care professional
 38 orally provides the information described in section 1.1(1) and
 39 1.1(2) of this chapter to the pregnant woman.

40 (5) Before an abortion, the health care professional who
 41 provides the information required by section 1.1(1) and 1.1(2)
 42 of this chapter to the pregnant woman shall certify in writing

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1 **to the medical facility where the abortion is to be performed**
2 **that the information was provided by telephone. The certified**
3 **statement must accompany a written form that documents the**
4 **pregnant woman's informed consent under this chapter.**
5 SECTION 3. IC 16-34-2-7, AS AMENDED BY P.L.145-1997,
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 1998]: Sec. 7. (a) Except as provided in subsections (b) and
8 (c), a person who knowingly or intentionally performs an abortion not
9 expressly provided for in this chapter commits a Class C felony.
10 (b) A physician who performs an abortion intentionally or
11 knowingly in violation of section 1(a)(1)(C) or 4 of this chapter
12 commits a Class A misdemeanor.
13 (c) A person who knowingly or intentionally performs an abortion
14 in violation of section 1.1 **or 1.3** of this chapter commits a Class A
15 infraction.
16 (d) A woman upon whom a partial birth abortion is performed may
17 not be prosecuted for violating or conspiring to violate section 1(b) of
18 this chapter.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1013, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 31, after "(a)" insert "**This section does not apply if a federal court interpreting the manner in which information required under section 1.1(1) and 1.2(2) of this chapter may be provided to a pregnant woman before an abortion may be performed upon the woman holds that the information may not be given to the pregnant woman by telephone.**

(b)".

Page 2, line 34, delete "(b)" and insert "(c)".

Page 3, line 4, delete "mail" and insert "**send**".

Page 3, between lines 12 and 13, begin a new line block indented and insert:

"(3) The written materials described in subdivision (2) may be provided to the pregnant woman by:

(A) regular mail;

(B) electronic mail;

(C) FAX transmission;

(D) courier service; or

(E) overnight express mail."

Page 3, line 13, delete "(3)" and insert "**(4)**".

Page 3, line 17, delete "mails" and insert "**sends**".

Page 3, line 21, after "are" insert ":",

Page 3, line 21, before "delivered" begin a new line double block indented and insert:

"(A)".

Page 3, line 21, delete "." and insert ";

Page 3, line 21, before "To" begin a new line double block indented and insert:

"(B) tendered to a courier; or

(C) sent by electronic mail or FAX transmission."

Page 3, line 21, block left beginning with "To".

Page 3, line 22, delete "mailed" and insert "**sent**".

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Page 3, line 26, delete "(4)" and insert "(5)".
and when so amended that said bill do pass.
(Reference is to House Bill 1013 as introduced.)

BAILEY, Chair

Committee Vote: yeas 12, nays 1.

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