
SENATE BILL No. 457

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-34-2.

Synopsis: Informed consent requirements before abortion. Adds information that a pregnant woman must be informed of orally and in writing (current law requires that the information be given only orally) before an abortion may be performed concerning the physician, risks involved, information concerning the fetus, available assistance, and existing law. Requires the state department of health to develop materials to be provided to a pregnant woman setting forth certain information and to post the materials on the state department's web site.

Effective: July 1, 2011.

Banks, Kruse, Walker

January 12, 2011, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 457



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 AMENDED BY P.L.44-2009,
2 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 1.1. ~~(a)~~ 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, consent to an abortion is voluntary and informed only if the
7 following conditions are met:

8 (1) At least eighteen (18) hours before the abortion and in the
9 presence of the pregnant woman, the physician who is to perform
10 the abortion, the referring physician or a physician assistant (as
11 defined in IC 25-27.5-2-10), an advanced practice nurse (as
12 defined in IC 25-23-1-1(b)), or a midwife (as defined in
13 IC 34-18-2-19) to whom the responsibility has been delegated by
14 the physician who is to perform the abortion or the referring
15 physician has ~~orally~~ informed the pregnant woman **orally and in**
16 **writing** of the following:

17 (A) The name of the physician performing the abortion, **the**



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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 day a week basis.

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

~~(B)~~ (C) The nature of the proposed procedure, or treatment.
~~(C)~~ **(D) The risks of and alternatives to the procedure, or treatment, including:**

- (i) the risk of infection and hemorrhage;**
- (ii) the potential danger to a subsequent pregnancy;**
- (iii) the potential danger of infertility; and**
- (iv) the possibility of increased risk of breast cancer following an induced abortion and the natural protective effect of a completed pregnancy in avoiding breast cancer.**

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

~~(D)~~ **(F) The probable gestational age of the fetus at the time the abortion is to be performed, including: an offer to provide:**

- (i) a picture or drawing 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 medical evidence shows that a fetus can feel pain at or before twenty (20) weeks of postfertilization age.

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

~~(F)~~ **(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 an offer to receive these services.**

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

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

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- (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) That materials developed by the state department in section 1.5 of this chapter:**
 - (i) will be provided to the pregnant woman by the physician providing the abortion as a hard copy;**
 - (ii) are available on the state department's web site;**
 - (iii) provide scientific information about the unborn child; and**
 - (iv) list agencies in the area that offer alternatives to abortion, including agencies that offer alternatives to abortion at no cost to the pregnant woman.**
- (3) The pregnant woman certifies in writing, before the abortion is performed, that:
 - (A) except as set forth in clause (C), the information required by subdivisions (1) and (2) has been provided to the pregnant woman;**
 - (B) the pregnant woman has been offered 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.**
- (b) Before an abortion is performed, the pregnant woman may, upon**

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1 the pregnant woman's request, view the fetal ultrasound imaging and
2 hear the auscultation of the fetal heart tone if the fetal heart tone is
3 audible.

4 SECTION 2. IC 16-34-2-1.5 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2011]: **Sec. 1.5. (a) The state department shall develop and post
7 the materials described in this section on the state department's
8 web site.**

9 **(b) The state department shall develop materials that include
10 the following:**

11 **(1) Objective scientific information concerning the probable
12 anatomical and physiological characteristics of a fetus every
13 two (2) weeks of gestational age, including the following:**

14 **(A) Realistic pictures in color for each age of the fetus,
15 including the dimensions of the fetus.**

16 **(B) Whether there is any possibility of the fetus surviving
17 outside the womb.**

18 **(2) Information concerning the medical risks associated with
19 each abortion procedure, including the following when
20 medically accurate:**

21 **(A) The risks of infection and hemorrhaging.**

22 **(B) The potential danger:**

23 **(i) to a subsequent pregnancy; or**

24 **(ii) of infertility.**

25 **(C) The possibility of increased risk of breast cancer
26 following an induced abortion and the natural protective
27 effect of a completed pregnancy in avoiding breast cancer.**

28 **(3) Information concerning the medical risks associated with
29 carrying the child to term.**

30 **(4) Information that medical assistance benefits may be
31 available for prenatal care, childbirth, and neonatal care.**

32 **(5) Information that the biological father is liable for
33 assistance in support of the child, regardless of whether the
34 biological father has offered to pay for an abortion.**

35 **(6) A list of public and private agencies that provide
36 assistance to women throughout pregnancy, childbirth, and
37 child's dependency. For purposes of this subdivision,
38 "assistance" includes pregnancy prevention counseling and
39 medical referrals for obtaining pregnancy prevention
40 medications or devices. The list must include the following:**

41 **(A) Geographically indexed materials to allow a pregnant
42 woman to find the services available near the pregnant**

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woman's residence.
(B) Identification of services that are provided at no cost to the pregnant woman.
(C) The following information about each adoption agency in Indiana:
 (i) A description of the services provided by the agency.
 (ii) Contact information for the adoption agency, including the agency's telephone number.
(D) Information regarding telephone 211 dialing code services for accessing human services as described in IC 8-1-19.5, and the types of services that are available through this service.

(c) In complying with subsection (b)(6)(C), the state department shall consult with the recognized 211 service providers and the Indiana utility regulatory commission as required in IC 8-1-19.5-9.

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