

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 328, 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:**

- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 16-18-2-69.3 IS ADDED TO THE INDIANA  
4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2011]: **Sec. 69.3. "Contraception", for**  
6 **purposes of IC 16-34, means the use of a drug or device that has**  
7 **been approved by the federal Food and Drug Administration to**  
8 **prevent pregnancy.**  
9           SECTION 2. IC 16-34-1-0.5 IS ADDED TO THE INDIANA CODE  
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
11 1, 2011]: **Sec. 0.5. Contraception is not subject to or governed by**  
12 **this article."**  
13           Page 1, line 3, strike "(a)".  
14           Page 1, line 15, strike "orally".  
15           Page 1, line 15, after "woman" insert "**orally and in writing**".  
16           Page 1, line 17, delete "." and insert "**, the physician's medical**  
17 **license number, and an emergency telephone number where the**  
18 **physician, or another physician or nurse designated by the**  
19 **physician, may be contacted on a twenty-four (24) hour a day,**  
20 **seven (7) day a week basis.**

1           **(B) That follow-up care by the physician, or another**  
 2           **physician or nurse designated by the physician, is available**  
 3           **on an appropriate and timely basis when clinically**  
 4           **necessary."**

5           Page 2, line 1, strike "(B)" and insert "(C)".

6           Page 2, line 2, strike "(C)" and insert "(D)".

7           Page 2, line 2, after "procedure" insert ",".

8           Page 2, line 2, strike "or treatment." and insert "**including:**

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

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

18           Page 2, line 3, strike "(D)" and insert "(F)".

19           Page 2, line 3, delete "," and insert "**at the time the abortion is to**  
 20           **be performed,"**

21           Page 2, line 3, delete "including" and insert "including:".

22           Page 2, line 3, strike "an".

23           Page 2, strike line 4.

24           Page 2, line 10, strike "(E)" and insert "(G)".

25           Page 2, line 12, strike "(F)" and insert "(H)".

26           Page 2, line 15, strike "how to obtain access to" and insert "**an offer**  
 27           **to receive"**.

28           Page 2, delete lines 16 through 17, begin a new line double block  
 29           indented and insert:

30                   **"(I) That medical evidence shows that a fetus may feel pain**  
 31                   **at or before twenty (20) weeks of postfertilization age.**

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

37           Page 2, line 19, strike "orally".

38           Page 2, line 19, after "informed" insert "**orally and in writing"**.

1 Page 2, line 26, reset in roman "(C) That adoption alternatives are  
2 available".

3 Page 2, line 26, after "available" insert "**, that there are many  
4 couples who are willing and waiting to adopt a child, and that,  
5 under certain circumstances,**".

6 Page 2, line 26, reset in roman "adoptive".

7 Page 2, reset in roman lines 27 through 28.

8 Page 2, delete lines 29 through 35.

9 Page 2, line 36, delete "(B)" and insert "**(D)**".

10 Page 2, delete lines 38 through 42, begin a new line double block  
11 indented and insert:

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

14 **(F) That there is information available on the state  
15 department's Internet web site concerning abortion and  
16 the fetus and that the state department's Internet web site  
17 address will be provided to the pregnant woman by the  
18 physician providing the abortion or the physician's  
19 designee."**

20 Page 3, line 1, reset in roman "(3)".

21 Page 3, line 1, delete "(4)".

22 Page 3, line 2, after "that" insert ":

23 **(A)**".

24 Page 3, line 3, reset in roman "and (2)".

25 Page 3, line 3, delete "through (3)".

26 Page 3, line 3, delete "." and insert "**to the pregnant woman;**

27 **(B) the pregnant woman has been offered the opportunity  
28 to view the fetal ultrasound imaging and hear the  
29 auscultation of the fetal heart tone if the fetal heart tone is  
30 audible and that the woman has:**

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

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

36 **(C) the pregnant woman has been given by the physician  
37 providing the abortion or the physician's designee the state  
38 department's Internet web site address to information**

1 **concerning abortion and the fetus."**

2 Page 3, strike lines 4 through 7.

3 Page 3, between lines 7 and 8, begin a new paragraph and insert:

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

9 **(1) Internet web site links to information concerning abortion**  
10 **and the fetus, including an Internet web site link to the Texas**  
11 **Department of State Health Services Woman's Right to Know**  
12 **page.**

13 **(2) An Internet web site link to the Indiana 211 services**  
14 **partnership Internet web site.**

15 **(b) To comply with subsection (a), the state department may**  
16 **provide Internet web site links to information concerning abortion**  
17 **and the fetus that have been developed by other state and federal**  
18 **agencies.**

19 SECTION 5. IC 16-34-2-4 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) No physician  
21 shall perform an abortion on an unemancipated pregnant woman less  
22 than eighteen (18) years of age without first having obtained the written  
23 consent of one (1) of the parents or the legal guardian of the minor  
24 pregnant woman.

25 (b) A minor:

26 (1) who objects to having to obtain the written consent of her  
27 parent or legal guardian under this section; or

28 (2) whose parent or legal guardian refuses to consent to an  
29 abortion;

30 may petition, on her own behalf or by next friend, the juvenile court **in**  
31 **the county in which the pregnant woman resides or in which the**  
32 **abortion is to be performed**, for a waiver of the parental consent  
33 requirement under subsection (a). **A next friend may not be a**  
34 **physician or a provider of abortion services, a representative of the**  
35 **physician or provider, or another person that may receive a direct**  
36 **financial benefit from the performance of an abortion.**

37 (c) A physician who feels that compliance with the parental consent  
38 requirement in subsection (a) would have an adverse effect on the

1 welfare of the pregnant minor or on her pregnancy may petition the  
2 juvenile court within twenty-four (24) hours of the abortion request for  
3 a waiver of the parental consent requirement under subsection (a).

4 (d) The juvenile court must rule on a petition filed by a pregnant  
5 minor under subsection (b) or by her physician under subsection (c)  
6 within forty-eight (48) hours of the filing of the petition. Before ruling  
7 on the petition, the court shall consider the concerns expressed by the  
8 pregnant minor and her physician. The requirement of parental consent  
9 under this section shall be waived by the juvenile court if the court  
10 finds that the minor is mature enough to make the abortion decision  
11 independently or that an abortion would be in the minor's best interests.

12 (e) Unless the juvenile court finds that the pregnant minor is already  
13 represented by an attorney, the juvenile court shall appoint an attorney  
14 to represent the pregnant minor in a waiver proceeding brought by the  
15 minor under subsection (b) and on any appeals. The cost of legal  
16 representation appointed for the minor under this section shall be paid  
17 by the county.

18 (f) A minor or her physician who desires to appeal an adverse  
19 judgment of the juvenile court in a waiver proceeding under subsection  
20 (b) or (c) is entitled to an expedited appeal, under rules to be adopted  
21 by the supreme court.

22 (g) All records of the juvenile court and of the supreme court or the  
23 court of appeals that are made as a result of proceedings conducted  
24 under this section are confidential.

25 (h) A minor who initiates legal proceedings under this section is  
26 exempt from the payment of filing fees.

27 (i) This section shall not apply where there is an emergency need for  
28 a medical procedure to be performed such that continuation of the  
29 pregnancy provides an immediate threat and grave risk to the life or

- 1 health of the pregnant woman and the attending physician so certifies
- 2 in writing."
- 3 Renumber all SECTIONS consecutively.  
(Reference is to SB 328 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 7, Nays 2.

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**Miller**

**Chairperson**