



January 27, 2012

SENATE BILL No. 72

DIGEST OF SB 72 (Updated January 25, 2012 12:57 pm - DI 104)

Citations Affected: IC 16-18; IC 16-21; IC 16-34.

Synopsis: Abortion matters. Establishes a pilot program in Allen County until July 1, 2015 concerning physical plant requirements for abortion clinics. Requires the state department of health (state department) to: (1) inspect the Allen county abortion clinics at least one time per year during the pilot program; and (2) report to the health finance commission during the 2014 legislative interim concerning the pilot program. Requires the state department to develop written materials to be provided to a pregnant woman setting forth certain information relating to abortion. Allows the state department to charge a fee to a provider who requests the materials to defray the cost of printing and distributing the materials. Specifies that only a physician who meets certain conditions may administer to a pregnant woman an abortion inducing drug, and sets forth the procedure the physician must follow. Establishes a Class A misdemeanor for a violation concerning requirements related to an abortion inducing drug.

Effective: July 1, 2012.

**Holdman, Smith J, Eckerty, Leising,
Kruse, Tomes, Buck, Hume, Walker,
Young R Michael, Banks**

January 4, 2012, read first time and referred to Committee on Rules and Legislative Procedure.
January 19, 2012, amended; reassigned to Committee on Health and Provider Services.
January 26, 2012, amended, reported favorably — Do Pass.

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January 27, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 72

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 16-18-2-1.6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 1.6. "Abortion inducing drug", for purposes of**
4 **IC 16-34-3, has the meaning set forth in IC 16-34-3-1.**
- 5 SECTION 2. IC 16-18-2-101.5 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2012]: **Sec. 101.5. "Drug label", for purposes**
8 **of IC 16-34-3, has the meaning set forth in IC 16-34-3-2.**
- 9 SECTION 3. IC 16-21-2-2.6 IS ADDED TO THE INDIANA CODE
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2012]: **Sec. 2.6. (a) This section establishes a pilot program in**
12 **Allen County concerning physical plant requirements for abortion**
13 **clinics.**
- 14 **(b) The entities to which this section applies include abortion**
15 **clinics holding a license under this chapter on July 1, 2012.**
- 16 **(c) An abortion clinic must meet the following requirements:**
17 **(1) Be constructed, arranged, modified, or maintained to**

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- 1 ensure the safety and well-being of patients, employees, and
- 2 visitors to the clinic.
- 3 **(2) Provide a physical plant and equipment that meet state**
- 4 **fire prevention and building safety codes or rules established**
- 5 **by the fire prevention and building safety commission or the**
- 6 **state department.**
- 7 **(3) Provide a safe and healthy environment that minimizes**
- 8 **infection exposure and risk to patients, employees, and**
- 9 **visitors to the clinic.**
- 10 **(d) The state department shall inspect an abortion clinic at least**
- 11 **one (1) time per calendar year.**
- 12 **(e) Beginning January 1, 2013, 410 IAC 26-17-2(f) does not**
- 13 **apply to an abortion clinic located in Allen County.**
- 14 **(f) During the 2014 interim, the state department shall report to**
- 15 **the health finance commission established by IC 2-5-23-3**
- 16 **concerning the implementation and effects of this section.**
- 17 **(g) This section expires July 1, 2015.**

18 SECTION 4. IC 16-34-2-1.5, AS ADDED BY P.L.193-2011,
 19 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2012]: Sec. 1.5. (a) The state department shall:

- 21 **(1) develop written materials setting forth; and**
- 22 **(2) post Internet web site links concerning materials described in**
- 23 **this section on the state department's Internet web site leading to;**
- 24 **the content described in subsection (b).**

25 **(b) The content that must be set forth in written materials**
 26 **developed by the state department shall post under subsection (a)**
 27 **and to which Internet web site links relating to materials that posted**
 28 **on the state department's Internet web site under subsection (a)**
 29 **must lead must include the following:**

- 30 (1) Objective scientific information concerning the probable
- 31 anatomical and physiological characteristics of a fetus every two
- 32 (2) weeks of gestational age, including the following:
 - 33 (A) Realistic pictures in color for each age of the fetus,
 - 34 including the dimensions of the fetus.
 - 35 (B) Whether there is any possibility of the fetus surviving
 - 36 outside the womb.
- 37 (2) Objective scientific information concerning the medical risks
- 38 associated with each abortion procedure, including the following:
 - 39 (A) The risks of infection and hemorrhaging.
 - 40 (B) The potential danger:
 - 41 (i) to a subsequent pregnancy; or
 - 42 (ii) of infertility.

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- 1 (3) Information concerning the medical risks associated with
- 2 carrying the child to term.
- 3 (4) Information that medical assistance benefits may be available
- 4 for prenatal care, childbirth, and neonatal care.
- 5 (5) Information that the biological father is liable for assistance in
- 6 support of the child, regardless of whether the biological father
- 7 has offered to pay for an abortion.
- 8 (6) Information regarding telephone 211 dialing code services for
- 9 accessing human services as described in IC 8-1-19.5, and the
- 10 types of services that are available through this service.

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

14 **(d) In the development of the written materials described in this**
 15 **section, the state department shall use information and pictures**
 16 **that are available to the state department at no cost or nominal**
 17 **cost. The state department may charge a fee to a provider who**
 18 **requests the materials to defray the cost of printing and**
 19 **distributing the materials.**

20 SECTION 5. IC 16-34-3 IS ADDED TO THE INDIANA CODE AS
 21 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2012]:

23 **Chapter 3. Abortion Inducing Drugs**

24 **Sec. 1. (a) As used in this chapter, "abortion inducing drug"**
 25 **means a medicine, drug, or substance prescribed or dispensed with**
 26 **the intent of terminating a clinically diagnosable pregnancy with**
 27 **the knowledge that the termination will, with reasonable likelihood,**
 28 **cause the death of the fetus. The term includes the off-label use of**
 29 **a drug known to have abortion inducing properties if the drug is**
 30 **prescribed with the intent of causing an abortion.**

31 **(b) The term does not include a drug or substance that may be**
 32 **known to cause an abortion when the drug is being prescribed for**
 33 **another medical indication.**

34 **Sec. 2. As used in this chapter, "drug label" means the pamphlet**
 35 **or document accompanying an abortion inducing drug that:**

- 36 **(1) outlines the protocol tested and authorized by the federal**
- 37 **Food and Drug Administration;**
- 38 **(2) sets forth how the drug is to be used; and**
- 39 **(3) has been agreed upon by the drug manufacturer applying**
- 40 **for authorization of the drug by the federal Food and Drug**
- 41 **Administration.**

42 **Sec. 3. (a) It is unlawful for an individual to knowingly give, sell,**

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1 dispense, administer, prescribe, or otherwise provide an abortion
2 inducing drug to a pregnant woman for the purpose of inducing an
3 abortion or enabling an individual to induce an abortion unless the
4 individual meets the following requirements:

- 5 (1) Is a physician licensed under IC 25-22.5.
- 6 (2) Follows the drug label protocol for the abortion inducing
7 drug.

8 (b) Before giving, selling, dispensing, administering, prescribing,
9 or otherwise providing an abortion inducing drug to a pregnant
10 woman, a physician licensed under IC 25-22.5 shall do the
11 following:

- 12 (1) Examine in person the pregnant woman.
- 13 (2) Provide the following information to the pregnant woman:
14 (A) An explanation of the process in administering the
15 abortion inducing drug and possible side effects that could
16 occur.
17 (B) The information required in IC 16-34-2-1.1.
18 (C) If using an agreement described in subdivision (3)(B),
19 the name and telephone number of the physician with
20 whom the treating physician has entered into the
21 agreement.

- 22 (3) Either have:
23 (A) admitting privileges at a hospital located in the county
24 where the abortion inducing drug is being provided or a
25 contiguous county; or
26 (B) an agreement with another physician licensed under
27 IC 25-22.5 who has the admitting privileges described in
28 clause (A) concerning the management of possible
29 complications arising from the use of an abortion inducing
30 drug.

31 (4) Obtain written consent from the pregnant woman
32 concerning the use of an abortion inducing drug.

33 (c) A physician licensed under IC 25-22.5 who gives, sells,
34 dispenses, administers, prescribes, or otherwise provides an
35 abortion inducing drug to a pregnant woman shall schedule a
36 follow-up appointment with the woman approximately fourteen
37 (14) days after administration of the abortion inducing drug to:

- 38 (1) confirm that the pregnancy is terminated by conducting
39 ultrasound imaging; and
40 (2) assess the degree of bleeding experienced by the pregnant
41 woman.

42 (d) The physician described in subsection (c) shall make a

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1 reasonable effort to ensure that the pregnant woman returns for
2 the follow-up appointment described in subsection (c), including
3 recording in the pregnant woman's medical records the date, the
4 time, and a brief description of the efforts by the physician and the
5 physician's staff, and the name of the individual who performed
6 the efforts.

7 Sec. 4. This chapter does not affect a physician's duty to comply
8 with patient privacy laws or the federal Health Insurance
9 Portability and Accountability Act (42 U.S.C. 201 et seq.).

10 Sec. 5. A person who intentionally, knowingly, or recklessly
11 violates this chapter commits an unlawful activity related to an
12 abortion inducing drug, a Class A misdemeanor. A pregnant
13 woman upon whom a drug induced abortion is performed may not
14 be assessed a penalty under this section.

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 72, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Health and Provider Services.

(Reference is to SB 72 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 72, 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 1, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 3. IC 16-21-2-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 2.6. (a) This section establishes a pilot program in Allen County concerning physical plant requirements for abortion clinics.**

(b) The entities to which this section applies include abortion clinics holding a license under this chapter on July 1, 2012.

(c) An abortion clinic must meet the following requirements:

(1) Be constructed, arranged, modified, or maintained to ensure the safety and well-being of patients, employees, and visitors to the clinic.

(2) Provide a physical plant and equipment that meet state fire prevention and building safety codes or rules established by the fire prevention and building safety commission or the state department.

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(3) Provide a safe and healthy environment that minimizes infection exposure and risk to patients, employees, and visitors to the clinic.

(d) The state department shall inspect an abortion clinic at least one (1) time per calendar year.

(e) Beginning January 1, 2013, 410 IAC 26-17-2(f) does not apply to an abortion clinic located in Allen County.

(f) During the 2014 interim, the state department shall report to the health finance commission established by IC 2-5-23-3 concerning the implementation and effects of this section.

(g) This section expires July 1, 2015."

Page 4, line 23, after "Sec. 4." insert "**This chapter does not affect a physician's duty to comply with patient privacy laws or the federal Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq.).**

Sec. 5."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 72 as printed January 20, 2012.)

MILLER, Chairperson

Committee Vote: Yeas 5, Nays 4.

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