



March 29, 2013

**ENGROSSED
SENATE BILL No. 371**

DIGEST OF SB 371 (Updated March 27, 2013 2:25 pm - DI 104)

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

Synopsis: Abortion inducing drugs and abortion clinics. Amends the definition of "abortion" to include abortions by surgical procedures and by abortion inducing drugs. Amends the definition of "abortion clinic" to, beginning January 1, 2014, include facilities that provide abortion inducing drugs. Prohibits the state department of health (state department) from exempting an abortion clinic seeking licensure after December 31, 2013 from licensure requirements. Specifies that an abortion inducing drug may not be dispensed, prescribed, administered, or otherwise given to a pregnant woman after nine weeks of postfertilization age unless the Food and Drug Administration has approved the drug to be used later than nine weeks. Requires a
(Continued next page)

Effective: July 1, 2013.

Holdman

(HOUSE SPONSORS — NEGELE, LEHMAN, MORRIS)

January 8, 2013, read first time and referred to Committee on Health and Provider Services.

February 21, 2013, amended, reported favorably — Do Pass.

February 25, 2013, read second time, amended, ordered engrossed.

February 26, 2013, engrossed. Read third time, passed. Yeas 33, nays 16.

HOUSE ACTION

March 4, 2013, read first time and referred to Committee on Public Policy.

March 28, 2013, amended, reported — Do Pass.

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Digest Continued

physician to examine a pregnant woman in person before prescribing or dispensing an abortion inducing drug. Requires that the written certification required of a pregnant woman before undergoing an abortion be on a form developed by the state department. Requires the state department to develop an informed consent brochure and post the brochure on the state department's web site. Requires the abortion provider to distribute the brochure to a patient in color and with specified information included on the back cover. Requires the abortion provider to be the one to perform pre-abortion fetal ultrasound imaging and auscultation of the fetal heart tone. Provides that if the pregnant woman does not want to listen to the auscultation of the fetal heart tone, the woman must certify to that in writing and on a form developed by the state department.

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March 29, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 371

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 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. "Abortion" means
3 the termination of human pregnancy with an intention other than to
4 produce a live birth or to remove a dead fetus. **The term includes**
5 **abortions by surgical procedures and by abortion inducing drugs.**
6 SECTION 2. IC 16-18-2-1.5, AS ADDED BY P.L.96-2005,
7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2013]: Sec. 1.5. (a) "Abortion clinic", for purposes of
9 IC 16-21-2, means a freestanding entity that:
10 (1) performs surgical abortion procedures; **or**
11 (2) **beginning January 1, 2014, provides an abortion inducing**
12 **drug for the purpose of inducing an abortion.**
13 (b) The term does not include the following:
14 (1) A hospital that is licensed as a hospital under IC 16-21-2.
15 (2) An ambulatory outpatient surgical center that is licensed as an
16 ambulatory outpatient surgical center under IC 16-21-2.
17 (3) A physician's office as long as:

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1 (A) the surgical procedures performed at the physician's office
2 are not primarily surgical abortion procedures; **and**

3 **(B) abortion inducing drugs are not the primarily**
4 **dispensed or prescribed drug at the physician's office.**

5 SECTION 3. IC 16-18-2-1.6 IS ADDED TO THE INDIANA
6 CODEAS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2013]: **Sec. 1.6. "Abortion inducing drug" means a**
8 **medicine, drug, or substance prescribed or dispensed with the**
9 **intent of terminating a clinically diagnosable pregnancy with the**
10 **knowledge that the termination will, with reasonable likelihood,**
11 **cause the death of the fetus. The term includes the off-label use of**
12 **a drug known to have abortion inducing properties if the drug is**
13 **prescribed with the intent of causing an abortion.**

14 SECTION 4. IC 16-21-2-2.5, AS ADDED BY P.L.96-2005,
15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2013]: **Sec. 2.5. (a) The state department shall adopt rules**
17 **under IC 4-22-2 to do the following concerning birthing centers and**
18 **abortion clinics:**

19 (1) Establish minimum license qualifications.

20 (2) Establish the following requirements:

21 (A) Sanitation standards.

22 (B) Staff qualifications.

23 (C) Necessary emergency equipment.

24 (D) Procedures to provide emergency care.

25 (E) Quality assurance standards.

26 (F) Infection control.

27 (3) Prescribe the operating policies, supervision, and maintenance
28 of medical records.

29 (4) Establish procedures for the issuance, renewal, denial, and
30 revocation of licenses under this chapter. The rules adopted under
31 this subsection must address the following:

32 (A) The form and content of the license.

33 (B) The collection of an annual license fee.

34 (5) Prescribe the procedures and standards for inspections.

35 **(b) The state department may not exempt an abortion clinic**
36 **from the requirements described in subsection (a) or the licensure**
37 **requirements set forth in an administrative rule, including physical**
38 **plant requirements. This subsection applies to a person applying**
39 **for a license as an abortion clinic after December 31, 2013.**

40 ~~(b)~~ (c) A person who knowingly or intentionally:

41 (1) operates a birthing center or an abortion clinic that is not
42 licensed under this chapter; or

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1 (2) advertises the operation of a birthing center or an abortion
2 clinic that is not licensed under this chapter;
3 commits a Class A misdemeanor.

4 SECTION 5. IC 16-34-2-1, AS AMENDED BY P.L.193-2011,
5 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2013]: Sec. 1. (a) Abortion shall in all instances be a criminal
7 act, except when performed under the following circumstances:

8 (1) During the first trimester of pregnancy for reasons based upon
9 the professional, medical judgment of the pregnant woman's
10 physician if:

11 (A) the abortion is performed by the physician;

12 (B) the woman submitting to the abortion has filed her consent
13 with her physician. However, if in the judgment of the
14 physician the abortion is necessary to preserve the life of the
15 woman, her consent is not required; and

16 (C) the woman submitting to the abortion has filed with her
17 physician the written consent of her parent or legal guardian
18 if required under section 4 of this chapter.

19 **However, an abortion inducing drug may not be dispensed,**
20 **prescribed, administered, or otherwise given to a pregnant**
21 **woman after nine (9) weeks of postfertilization age unless the**
22 **Food and Drug Administration has approved the abortion**
23 **inducing drug to be used for abortions later than nine (9)**
24 **weeks of postfertilization age. A physician shall examine a**
25 **pregnant woman in person before prescribing or dispensing**
26 **an abortion inducing drug. As used in this subdivision, "in**
27 **person" does not include the use of telehealth or telemedicine**
28 **services.**

29 (2) **For an abortion performed by a surgical procedure,** after
30 the first trimester of pregnancy and before the earlier of viability
31 of the fetus or twenty (20) weeks of postfertilization age, for
32 reasons based upon the professional, medical judgment of the
33 pregnant woman's physician if:

34 (A) all the circumstances and provisions required for legal
35 abortion during the first trimester are present and adhered to;
36 and

37 (B) the abortion is performed in a hospital or ambulatory
38 outpatient surgical center (as defined in IC 16-18-2-14).

39 (3) Except as provided in subsection (b), **and for an abortion**
40 **performed by a surgical procedure,** at the earlier of viability of
41 the fetus or twenty (20) weeks of postfertilization age and any
42 time after, for reasons based upon the professional, medical

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1 judgment of the pregnant woman's physician if:

2 (A) all the circumstances and provisions required for legal
3 abortion before the earlier of viability of the fetus or twenty
4 (20) weeks of postfertilization age are present and adhered to;

5 (B) the abortion is performed in compliance with section 3 of
6 this chapter; and

7 (C) before the abortion the attending physician shall certify in
8 writing to the hospital in which the abortion is to be
9 performed, that in the attending physician's professional,
10 medical judgment, after proper examination and review of the
11 woman's history, the abortion is necessary to prevent a
12 substantial permanent impairment of the life or physical health
13 of the pregnant woman. All facts and reasons supporting the
14 certification shall be set forth by the physician in writing and
15 attached to the certificate.

16 (b) A person may not knowingly or intentionally perform a partial
17 birth abortion unless a physician reasonably believes that:

18 (1) performing the partial birth abortion is necessary to save the
19 mother's life; and

20 (2) no other medical procedure is sufficient to save the mother's
21 life.

22 SECTION 6. IC 16-34-2-1.1, AS AMENDED BY P.L.193-2011,
23 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2013]: Sec. 1.1. (a) An abortion shall not be performed except
25 with the voluntary and informed consent of the pregnant woman upon
26 whom the abortion is to be performed. Except in the case of a medical
27 emergency, consent to an abortion is voluntary and informed only if the
28 following conditions are met:

29 (1) At least eighteen (18) hours before the abortion and in the
30 presence of the pregnant woman, the physician who is to perform
31 the abortion, the referring physician or a physician assistant (as
32 defined in IC 25-27.5-2-10), an advanced practice nurse (as
33 defined in IC 25-23-1-1(b)), or a midwife (as defined in
34 IC 34-18-2-19) to whom the responsibility has been delegated by
35 the physician who is to perform the abortion or the referring
36 physician has informed the pregnant woman orally and in writing
37 of the following:

38 (A) The name of the physician performing the abortion, the
39 physician's medical license number, and an emergency
40 telephone number where the physician or the physician's
41 designee may be contacted on a twenty-four (24) hour a day,
42 seven (7) day a week basis.

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- 1 (B) That follow-up care by the physician or the physician's
 2 designee (if the designee is licensed under IC 25-22.5) and is
 3 available on an appropriate and timely basis when clinically
 4 necessary.
- 5 (C) The nature of the proposed procedure **or information**
 6 **concerning the abortion inducing drug.**
- 7 (D) Objective scientific information of the risks of and
 8 alternatives to the procedure **or the use of an abortion**
 9 **inducing drug**, including:
 10 (i) the risk of infection and hemorrhage;
 11 (ii) the potential danger to a subsequent pregnancy; and
 12 (iii) the potential danger of infertility.
- 13 (E) That human physical life begins when a human ovum is
 14 fertilized by a human sperm.
- 15 (F) The probable gestational age of the fetus at the time the
 16 abortion is to be performed, including:
 17 (i) a picture ~~or drawing~~ of a fetus;
 18 (ii) the dimensions of a fetus; and
 19 (iii) relevant information on the potential survival of an
 20 unborn fetus;
 21 at this stage of development.
- 22 (G) That objective scientific information shows that a fetus
 23 can feel pain at or before twenty (20) weeks of postfertilization
 24 age.
- 25 (H) The medical risks associated with carrying the fetus to
 26 term.
- 27 (I) The availability of fetal ultrasound imaging and
 28 auscultation of fetal heart tone services to enable the pregnant
 29 woman to view the image and hear the heartbeat of the fetus
 30 and how to obtain access to these services.
- 31 (J) That the pregnancy of a child less than fifteen (15) years of
 32 age may constitute child abuse under Indiana law if the act
 33 included an adult and must be reported to the department of
 34 child services or the local law enforcement agency under
 35 IC 31-33-5.
- 36 (2) At least eighteen (18) hours before the abortion, the pregnant
 37 woman will be informed orally and in writing of the following:
 38 (A) That medical assistance benefits may be available for
 39 prenatal care, childbirth, and neonatal care from the county
 40 office of the division of family resources.
 41 (B) That the father of the unborn fetus is legally required to
 42 assist in the support of the child. In the case of rape, the

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- 1 information required under this clause may be omitted.
- 2 (C) That adoption alternatives are available and that adoptive
- 3 parents may legally pay the costs of prenatal care, childbirth,
- 4 and neonatal care.
- 5 (D) That there are physical risks to the pregnant woman in
- 6 having an abortion, both during the abortion procedure and
- 7 after.
- 8 (E) That Indiana has enacted the safe haven law under
- 9 IC 31-34-2.5.
- 10 (F) The:
- 11 (i) Internet web site address of the state department of
- 12 health's web site; and
- 13 (ii) description of the information that will be provided on
- 14 the web site and that are;
- 15 described in section 1.5 of this chapter.
- 16 (3) The pregnant woman certifies in writing, **on a form**
- 17 **developed by the state department**, before the abortion is
- 18 performed, that:
- 19 (A) the information required by subdivisions (1) and (2) has
- 20 been provided to the pregnant woman;
- 21 (B) the pregnant woman has been offered **by the provider** the
- 22 opportunity to view the fetal ultrasound imaging and hear the
- 23 auscultation of the fetal heart tone if the fetal heart tone is
- 24 audible and that the woman has:
- 25 (i) viewed or refused to view the offered fetal ultrasound
- 26 imaging; and
- 27 (ii) listened to or refused to listen to the offered auscultation
- 28 of the fetal heart tone if the fetal heart tone is audible; and
- 29 (C) the pregnant woman has been given a written copy of the
- 30 printed materials described in section 1.5 of this chapter.
- 31 **(4) At least eighteen (18) hours before the abortion and in the**
- 32 **presence of the pregnant woman, the physician who is to**
- 33 **perform the abortion, the referring physician or a physician**
- 34 **assistant (as defined in IC 25-27.5-2-10), an advanced practice**
- 35 **nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined**
- 36 **in IC 34-18-2-19) to whom the responsibility has been**
- 37 **delegated by the physician who is to perform the abortion or**
- 38 **the referring physician has provided the pregnant woman**
- 39 **with a color copy of the informed consent brochure described**
- 40 **in section 1.5 of this chapter by printing the informed consent**
- 41 **brochure from the state department's Internet web site and**
- 42 **including the following information on the back cover of the**

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- 1 **brochure:**
- 2 **(A) The name of the physician performing the abortion**
- 3 **and the physician's medical license number.**
- 4 **(B) An emergency telephone number where the physician**
- 5 **or the physician's designee may be contacted twenty-four**
- 6 **(24) hours a day, seven (7) days a week.**
- 7 **(C) A statement that follow-up care by the physician or the**
- 8 **physician's designee who is licensed under IC 25-22.5 is**
- 9 **available on an appropriate and timely basis when**
- 10 **clinically necessary.**
- 11 (b) Before an abortion is performed, **the provider shall perform,**
- 12 **and** the pregnant woman shall view, the fetal ultrasound imaging and
- 13 hear the auscultation of the fetal heart tone if the fetal heart tone is
- 14 audible unless the pregnant woman certifies in writing, **on a form**
- 15 **developed by the state department,** before the abortion is performed,
- 16 that the pregnant woman:
- 17 **(1) does not want to view the fetal ultrasound imaging; and**
- 18 **(2) does not want to listen to the auscultation of the fetal heart**
- 19 **tone if the fetal heart tone is audible.**
- 20 SECTION 7. IC 16-34-2-1.5, AS ADDED BY P.L.193-2011,
- 21 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 22 JULY 1, 2013]: Sec. 1.5. (a) The state department shall **develop an**
- 23 **informed consent brochure and** post Internet web site links
- 24 concerning materials described in this section **the informed consent**
- 25 **brochure** on the state department's Internet web site.
- 26 (b) The state department shall ~~post Internet web site links relating~~
- 27 ~~to materials~~ **develop an informed consent brochure** that ~~include~~
- 28 **includes** the following:
- 29 (1) Objective scientific information concerning the probable
- 30 anatomical and physiological characteristics of a fetus every two
- 31 (2) weeks of gestational age, including the following:
- 32 (A) Realistic pictures in color for each age of the fetus,
- 33 including the dimensions of the fetus.
- 34 (B) Whether there is any possibility of the fetus surviving
- 35 outside the womb.
- 36 (2) Objective scientific information concerning the medical risks
- 37 associated with each abortion procedure **or the use of an**
- 38 **abortion inducing drug,** 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 informed consent brochure**
- 15 **described in this section, the state department shall use**
- 16 **information and pictures that are available at no cost or nominal**
- 17 **cost to the state department.**
- 18 **(e) The informed consent brochure must include the**
- 19 **requirements specified in this chapter.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 371, 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 3, line 3, delete "meets the following requirements:" and insert **"is a physician licensed under IC 25-22.5."**

Page 3, delete lines 4 through 7.

Page 3, line 10, delete "a physician" and insert **"an abortion clinic"**.

Page 3, line 10, delete "IC 25-22.5" and insert **"IC 16-21-2"**.

Page 3, line 12, delete "Examine in person the pregnant woman." and insert **"Have the pregnant woman examined in person by a physician licensed under IC 25-22.5."**

Page 3, delete lines 23 through 26.

Page 3, line 27, delete "(C)" and insert **"(B)"**.

Page 3, line 30, after "IC 25-22.5" insert **"and retained by an abortion clinic licensed under IC 16-21-2"**.

Page 4, delete lines 4 through 7.

Page 4, line 8, delete "6." and insert **"5."**

Page 4, line 8, after "IC 25-22.5" insert **"and retained by an abortion clinic licensed under IC 16-21-2"**.

Page 4, line 13, delete "following:" and insert **"medical licensing board of Indiana."**

Page 4, delete lines 14 through 16.

Page 4, line 27, delete "7." and insert **"6."**

Page 5, line 19, delete "IC 16-34-3-7" and insert **"IC 16-34-3-6"**.

and when so amended that said bill do pass.

(Reference is to SB 371 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 7, Nays 5.

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SENATE MOTION

Madam President: I move that Senate Bill 371 be amended to read as follows:

Page 3, line 29, delete "by conducting" and insert "**through appropriate testing; and**".

Page 3, delete line 30.

(Reference is to SB 371 as printed February 22, 2013.)

ALTING

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 371, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus. **The term includes abortions by surgical procedures and by abortion inducing drugs.**".

Page 1, line 6, after "(2)" insert "**beginning January 1, 2014,**".

Page 2, line 2, delete ", for purposes of" and insert "**means a medicine, drug, or substance prescribed or dispensed with the intent of terminating a clinically diagnosable pregnancy with the knowledge that the termination will, with reasonable likelihood, cause the death of the fetus. The term includes the off-label use of a drug known to have abortion inducing properties if the drug is prescribed with the intent of causing an abortion.**".

Page 2, delete lines 3 through 42, begin a new paragraph and insert:

"SECTION 4. IC 16-21-2-2.5, AS ADDED BY P.L.96-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers and abortion clinics:

- (1) Establish minimum license qualifications.
- (2) Establish the following requirements:
 - (A) Sanitation standards.

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- (B) Staff qualifications.
 - (C) Necessary emergency equipment.
 - (D) Procedures to provide emergency care.
 - (E) Quality assurance standards.
 - (F) Infection control.
- (3) Prescribe the operating policies, supervision, and maintenance of medical records.
- (4) Establish procedures for the issuance, renewal, denial, and revocation of licenses under this chapter. The rules adopted under this subsection must address the following:
- (A) The form and content of the license.
 - (B) The collection of an annual license fee.
- (5) Prescribe the procedures and standards for inspections.

(b) The state department may not exempt an abortion clinic from the requirements described in subsection (a) or the licensure requirements set forth in an administrative rule, including physical plant requirements. This subsection applies to a person applying for a license as an abortion clinic after December 31, 2013.

~~(b)~~ (c) A person who knowingly or intentionally:

- (1) operates a birthing center or an abortion clinic that is not licensed under this chapter; or
- (2) advertises the operation of a birthing center or an abortion clinic that is not licensed under this chapter;

commits a Class A misdemeanor.

SECTION 5. IC 16-34-2-1, AS AMENDED BY P.L.193-2011, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Abortion shall in all instances be a criminal act, except when performed under the following circumstances:

- (1) During the first trimester of pregnancy for reasons based upon the professional, medical judgment of the pregnant woman's physician if:
 - (A) the abortion is performed by the physician;
 - (B) the woman submitting to the abortion has filed her consent with her physician. However, if in the judgment of the physician the abortion is necessary to preserve the life of the woman, her consent is not required; and
 - (C) the woman submitting to the abortion has filed with her physician the written consent of her parent or legal guardian if required under section 4 of this chapter.

However, an abortion inducing drug may not be dispensed, prescribed, administered, or otherwise given to a pregnant woman after nine (9) weeks of postfertilization age unless the

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Food and Drug Administration has approved the abortion inducing drug to be used for abortions later than nine (9) weeks of postfertilization age. A physician shall examine a pregnant woman in person before prescribing or dispensing an abortion inducing drug. As used in this subdivision, "in person" does not include the use of telehealth or telemedicine services.

(2) **For an abortion performed by a surgical procedure**, after the first trimester of pregnancy and before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal abortion during the first trimester are present and adhered to; and

(B) the abortion is performed in a hospital or ambulatory outpatient surgical center (as defined in IC 16-18-2-14).

(3) Except as provided in subsection (b), **and for an abortion performed by a surgical procedure**, at the earlier of viability of the fetus or twenty (20) weeks of postfertilization age and any time after, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age are present and adhered to;

(B) the abortion is performed in compliance with section 3 of this chapter; and

(C) before the abortion the attending physician shall certify in writing to the hospital in which the abortion is to be performed, that in the attending physician's professional, medical judgment, after proper examination and review of the woman's history, the abortion is necessary to prevent a substantial permanent impairment of the life or physical health of the pregnant woman. All facts and reasons supporting the certification shall be set forth by the physician in writing and attached to the certificate.

(b) A person may not knowingly or intentionally perform a partial birth abortion unless a physician reasonably believes that:

(1) performing the partial birth abortion is necessary to save the mother's life; and

(2) no other medical procedure is sufficient to save the mother's life.

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SECTION 6. IC 16-34-2-1.1, AS AMENDED BY P.L.193-2011, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

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

(A) The name of the physician performing the abortion, the 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 (7) day a week basis.

(B) That follow-up care by the physician or the physician's designee (if the designee is licensed under IC 25-22.5) and is available on an appropriate and timely basis when clinically necessary.

(C) The nature of the proposed procedure **or information concerning the abortion inducing drug.**

(D) Objective scientific information of the risks of and alternatives to the procedure **or the use of an abortion inducing drug**, including:

- (i) the risk of infection and hemorrhage;
- (ii) the potential danger to a subsequent pregnancy; and
- (iii) the potential danger of infertility.

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

(F) The probable gestational age of the fetus at the time the abortion is to be performed, including:

- (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.

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- (G) That objective scientific information shows that a fetus can feel pain at or before twenty (20) weeks of postfertilization age.
- (H) The medical risks associated with carrying the fetus to term.
- (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 these services.
- (J) That the pregnancy of a child less than fifteen (15) years of age may constitute child abuse under Indiana law if the act included an adult 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 informed orally and in writing of the following:
- (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) The:
- (i) Internet web site address of the state department of health's web site; and
- (ii) description of the information that will be provided on the web site and that are;
- described in section 1.5 of this chapter.
- (3) The pregnant woman certifies in writing, **on a form developed by the state department**, before the abortion is performed, that:
- (A) the information required by subdivisions (1) and (2) has been provided to the pregnant woman;
- (B) the pregnant woman has been offered **by the provider** the

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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.

(4) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined in IC 34-18-2-19) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has provided the pregnant woman with a color copy of the informed consent brochure described in section 1.5 of this chapter by printing the informed consent brochure from the state department's Internet web site and including the following information on the back cover of the brochure:

- (A) The name of the physician performing the abortion and the physician's medical license number.**
- (B) An emergency telephone number where the physician or the physician's designee may be contacted twenty-four (24) hours a day, seven (7) days a week.**
- (C) A statement that follow-up care by the physician or the physician's designee who is licensed under IC 25-22.5 is available on an appropriate and timely basis when clinically necessary.**

(b) Before an abortion is performed, **the provider shall perform, and** the pregnant woman shall view, the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible unless the pregnant woman certifies in writing, **on a form developed by the state department**, before the abortion is performed, that the pregnant woman:

- (1) does not want to view the fetal ultrasound imaging; and**
- (2) does not want to listen to the auscultation of the fetal heart tone if the fetal heart tone is audible.**

SECTION 7. IC 16-34-2-1.5, AS ADDED BY P.L.193-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2013]: Sec. 1.5. (a) The state department shall **develop an informed consent brochure and post Internet web site links concerning materials described in this section the informed consent brochure** on the state department's Internet web site.

(b) The state department shall **post Internet web site links relating to materials develop an informed consent brochure that include includes** the following:

- (1) Objective scientific information concerning the probable anatomical and physiological characteristics of a fetus every two
- (2) weeks of gestational age, including the following:
 - (A) Realistic pictures in color for each age of the fetus, including the dimensions of the fetus.
 - (B) Whether there is any possibility of the fetus surviving outside the womb.
- (2) Objective scientific information concerning the medical risks associated with each abortion procedure **or the use of an abortion inducing drug**, including the following:
 - (A) The risks of infection and hemorrhaging.
 - (B) The potential danger:
 - (i) to a subsequent pregnancy; or
 - (ii) of infertility.
- (3) Information concerning the medical risks associated with carrying the child to term.
- (4) Information that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care.
- (5) Information that the biological father is liable for assistance in support of the child, regardless of whether the biological father has offered to pay for an abortion.
- (6) 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), the state department shall consult with the recognized 211 service providers and the Indiana utility regulatory commission as required by IC 8-1-19.5-9.

(d) In the development of the informed consent brochure described in this section, the state department shall use information and pictures that are available at no cost or nominal cost to the state department.

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(e) The informed consent brochure must include the requirements specified in this chapter."

Delete pages 3 through 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 371 as reprinted February 26, 2013.)

DAVIS, Chair

Committee Vote: yeas 8, nays 5.

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