

SENATE BILL No. 183

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-34; IC 35-51-16-1.

Synopsis: Sex selection and genetic abnormality abortion ban. Prohibits a person from performing an abortion if the person knows that the pregnant woman is seeking the abortion because of: (1) the sex of the fetus; or (2) a diagnosis or potential diagnosis of the fetus having Down syndrome or a genetic abnormality. Makes it a Class C felony if a person knowingly or intentionally commits a sex-selective abortion or an abortion conducted because of a diagnosis of Down syndrome or other genetic abnormality. Provides for civil relief.

Effective: July 1, 2013.

Banks, Kruse

January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.

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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.

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SENATE BILL No. 183

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 16-18-2-100.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: **Sec. 100.5. "Down syndrome", for**
4 **purposes of IC 16-34-3, has the meaning set forth in IC 16-34-3-1.**

5 SECTION 2. IC 16-18-2-148.2 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2013]: **Sec. 148.2. "Genetic abnormality", for**
8 **purposes of IC 16-34-3, has the meaning set forth in IC 16-34-3-2.**

9 SECTION 3. IC 16-18-2-328.3 IS ADDED TO THE INDIANA
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2013]: **Sec. 328.3. "Sex-selective abortion",**
12 **for purposes of IC 16-34-3, has the meaning set forth in**
13 **IC 16-34-3-3.**

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



1 (1) **Except as prohibited in IC 16-34-3**, during the first trimester
 2 of pregnancy for reasons based upon the professional, medical
 3 judgment of the pregnant woman's physician if:

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

5 (B) the woman submitting to the abortion has filed her consent
 6 with her physician. However, if in the judgment of the
 7 physician the abortion is necessary to preserve the life of the
 8 woman, her consent is not required; and

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

12 (2) **Except as prohibited in IC 16-34-3**, after the first trimester
 13 of pregnancy and before the earlier of viability of the fetus or
 14 twenty (20) weeks of postfertilization age, for reasons based upon
 15 the professional, medical judgment of the pregnant woman's
 16 physician if:

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

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

22 (3) **Except as provided in subsection (b) or as prohibited in**
 23 **IC 16-34-3**, at the earlier of viability of the fetus or twenty (20)
 24 weeks of postfertilization age and any time after, for reasons
 25 based upon the professional, medical judgment of the pregnant
 26 woman's physician if:

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

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

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

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

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

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

5 SECTION 5. IC 16-34-3 IS ADDED TO THE INDIANA CODE AS
6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2013]:

8 **Chapter 3. Sex-Selective and Genetic Abnormality Abortion**
9 **Ban**

10 **Sec. 1. As used in this chapter, "Down syndrome" means a**
11 **chromosomal disorder associated with an extra chromosome 21 or**
12 **an effective trisomy for chromosome 21.**

13 **Sec. 2. As used in this chapter, "genetic abnormality" means**
14 **any disease, defect, or disorder that is genetically inherited. The**
15 **term includes the following:**

- 16 (1) A physical disability.
- 17 (2) A mental disability or retardation.
- 18 (3) A physical disfigurement.
- 19 (4) Scoliosis.
- 20 (5) Dwarfism.
- 21 (6) Down syndrome.
- 22 (7) Albinism.
- 23 (8) Amelia.
- 24 (9) A physical or mental abnormality or disease.

25 **Sec. 3. As used in this chapter, "sex-selective abortion" means**
26 **an abortion that is performed solely because of the gender of the**
27 **fetus.**

28 **Sec. 4. (a) A person may not intentionally perform or attempt to**
29 **perform an abortion before the earlier of viability of the fetus or**
30 **twenty (20) weeks of postfertilization age if the person knows that**
31 **the pregnant woman is seeking a sex-selective abortion.**

32 **(b) A person may not intentionally perform or attempt to**
33 **perform an abortion after viability or twenty (20) weeks of**
34 **postfertilization if the person knows that the pregnant woman is**
35 **seeking a sex-selective abortion.**

36 **(c) This section is severable as specified in IC 1-1-1-8.**

37 **Sec. 5. (a) A person may not intentionally perform or attempt to**
38 **perform an abortion before the earlier of viability of the fetus or**
39 **twenty (20) weeks of postfertilization age if the person knows that**
40 **the pregnant woman is seeking the abortion solely because the**
41 **fetus has been diagnosed with Down syndrome or a potential for**
42 **Down syndrome.**



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1 (b) A person may not intentionally perform or attempt to
2 perform an abortion after viability or twenty (20) weeks of
3 postfertilization if the person knows that the pregnant woman is
4 seeking the abortion solely because the fetus has been diagnosed
5 with Down syndrome or a potential for Down syndrome.

6 (c) This section is severable as specified in IC 1-1-1-8.

7 Sec. 6. (a) A person may not intentionally perform or attempt to
8 perform an abortion before the earlier of viability of the fetus or
9 twenty (20) weeks of postfertilization age if the person knows that
10 the pregnant woman is seeking the abortion solely because the
11 fetus has been diagnosed with a genetic abnormality or a potential
12 for a genetic abnormality.

13 (b) A person may not intentionally perform or attempt to
14 perform an abortion after viability or twenty (20) weeks of
15 postfertilization if the person knows that the pregnant woman is
16 seeking the abortion solely because the fetus has been diagnosed
17 with a genetic abnormality or a potential for a genetic abnormality.

18 (c) This section is severable as specified in IC 1-1-1-8.

19 Sec. 7. (a) A person who knowingly or intentionally performs an
20 abortion in violation of this chapter commits a Class C felony.

21 (b) In addition to the criminal penalty under subsection (a), a
22 person who violates this chapter may be subject to:

- 23 (1) disciplinary sanctions under IC 25-1-9; and
- 24 (2) civil liability for wrongful death and medical malpractice.

25 (c) A pregnant woman upon whom an abortion is performed in
26 violation of this chapter may not be prosecuted for violating or
27 conspiring to violate this chapter.

28 Sec. 8. Any records that are made as a result of proceedings
29 conducted under section 7 of this chapter are confidential.

30 SECTION 6. IC 35-51-16-1, AS ADDED BY P.L.70-2011,
31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2013]: Sec. 1. The following statutes define crimes in IC 16:

- 33 IC 16-19-12-1 (Concerning the state department of health).
- 34 IC 16-20-9-1 (Concerning local health departments).
- 35 IC 16-21-2-2.5 (Concerning licensure of hospitals).
- 36 IC 16-21-5-3 (Concerning licensure of hospitals).
- 37 IC 16-21-6-12 (Concerning hospital financial disclosure law).
- 38 IC 16-21-7-5 (Concerning hospitals).
- 39 IC 16-25-5-8 (Concerning hospices).
- 40 IC 16-25-6-1 (Concerning hospices).
- 41 IC 16-27-1-15 (Concerning home health agencies).
- 42 IC 16-27-2-3 (Concerning home health agencies).

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- 1 IC 16-27-4-23 (Concerning home health agencies).
 2 IC 16-28-7-5 (Concerning monitors).
 3 IC 16-28-9-3 (Concerning monitors).
 4 IC 16-28-9-4 (Concerning monitors).
 5 IC 16-28-9-5 (Concerning monitors).
 6 IC 16-30-5-1 (Concerning health planning).
 7 IC 16-31-3-16 (Concerning emergency medical services).
 8 IC 16-31-3-22 (Concerning emergency medical services).
 9 IC 16-31-10-2 (Concerning emergency medical services).
 10 IC 16-34-2-5 (Concerning abortion).
 11 IC 16-34-2-6 (Concerning abortion).
 12 IC 16-34-2-7 (Concerning abortion).
 13 **IC 16-34-3-7 (Concerning abortion).**
 14 IC 16-36-4-15 (Concerning medical consent).
 15 IC 16-36-4-16 (Concerning medical consent).
 16 IC 16-36-5-27 (Concerning medical consent).
 17 IC 16-36-5-28 (Concerning medical consent).
 18 IC 16-37-1-12 (Concerning vital statistics).
 19 IC 16-37-1-13 (Concerning vital statistics).
 20 IC 16-37-2-2.1 (Concerning vital statistics).
 21 IC 16-37-2-19 (Concerning vital statistics).
 22 IC 16-37-3-16 (Concerning vital statistics).
 23 IC 16-38-5-4 (Concerning health registries).
 24 IC 16-39-7.1-3 (Concerning health records).
 25 IC 16-39-7.1-6 (Concerning health records).
 26 IC 16-41-1-3 (Concerning communicable diseases).
 27 IC 16-41-2-9 (Concerning communicable diseases).
 28 IC 16-41-3-3 (Concerning communicable diseases).
 29 IC 16-41-4-3 (Concerning communicable diseases).
 30 IC 16-41-5-3 (Concerning communicable diseases).
 31 IC 16-41-6-3 (Concerning communicable diseases).
 32 IC 16-41-7-5 (Concerning communicable diseases).
 33 IC 16-41-8-1 (Concerning communicable diseases).
 34 IC 16-41-8-3 (Concerning communicable diseases).
 35 IC 16-41-8-5 (Concerning communicable diseases).
 36 IC 16-41-9-1.5 (Concerning communicable diseases).
 37 IC 16-41-10-5 (Concerning communicable diseases).
 38 IC 16-41-10-7 (Concerning communicable diseases).
 39 IC 16-41-12-13 (Concerning communicable diseases).
 40 IC 16-41-12-14 (Concerning communicable diseases).
 41 IC 16-41-12-15 (Concerning communicable diseases).
 42 IC 16-41-13-3 (Concerning communicable diseases).

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- 1 IC 16-41-13-4 (Concerning communicable diseases).
- 2 IC 16-41-13-6 (Concerning communicable diseases).
- 3 IC 16-41-14-13 (Concerning communicable diseases).
- 4 IC 16-41-14-15 (Concerning communicable diseases).
- 5 IC 16-41-14-16 (Concerning communicable diseases).
- 6 IC 16-41-14-17 (Concerning communicable diseases).
- 7 IC 16-41-14-20 (Concerning communicable diseases).
- 8 IC 16-41-15-18 (Concerning communicable diseases).
- 9 IC 16-41-16-11 (Concerning communicable diseases).
- 10 IC 16-41-18-6 (Concerning prevention and treatment programs).
- 11 IC 16-41-19-10 (Concerning prevention and treatment programs).
- 12 IC 16-41-20-13 (Concerning health, sanitation, and safety).
- 13 IC 16-41-21-18 (Concerning health, sanitation, and safety).
- 14 IC 16-41-21-19 (Concerning health, sanitation, and safety).
- 15 IC 16-41-22-21 (Concerning health, sanitation, and safety).
- 16 IC 16-41-22-22 (Concerning health, sanitation, and safety).
- 17 IC 16-41-23-4 (Concerning health, sanitation, and safety).
- 18 IC 16-41-24-11 (Concerning health, sanitation, and safety).
- 19 IC 16-41-25-2 (Concerning health, sanitation, and safety).
- 20 IC 16-41-27-34 (Concerning health, sanitation, and safety).
- 21 IC 16-41-29-5 (Concerning regulation of lodging facilities and
- 22 bedding materials).
- 23 IC 16-41-32-30 (Concerning regulation of lodging facilities and
- 24 bedding materials).
- 25 IC 16-41-33-9 (Concerning pest control).
- 26 IC 16-41-34-8 (Concerning pest control).
- 27 IC 16-41-35-40 (Concerning radiation).
- 28 IC 16-41-38-10 (Concerning radon gas).
- 29 IC 16-42-1-16 (Concerning Uniform Food, Drug, and Cosmetic
- 30 Act).
- 31 IC 16-42-1-34 (Concerning Uniform Food, Drug, and Cosmetic
- 32 Act).
- 33 IC 16-42-2-8 (Concerning Uniform Food, Drug, and Cosmetic
- 34 Act).
- 35 IC 16-42-2-9 (Concerning Uniform Food, Drug, and Cosmetic
- 36 Act).
- 37 IC 16-42-3-12 (Concerning Uniform Food, Drug, and Cosmetic
- 38 Act).
- 39 IC 16-42-4-5 (Concerning Uniform Food, Drug, and Cosmetic
- 40 Act).
- 41 IC 16-42-5-26 (Concerning sanitary requirements for food
- 42 establishments).

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- 1 IC 16-42-5-27 (Concerning sanitary requirements for food
- 2 establishments).
- 3 IC 16-42-10-13 (Concerning food).
- 4 IC 16-42-18-7 (Concerning food).
- 5 IC 16-42-19-27 (Concerning the Indiana Legend Drug Act).
- 6 IC 16-42-21-4 (Concerning the Indiana Legend Drug Act).
- 7 IC 16-44-1-1 (Concerning product labeling and inspection).
- 8 IC 16-44-2-22 (Concerning product labeling and inspection).
- 9 IC 16-46-6-12 (Concerning state health grants and programs).

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