



February 22, 2013

SENATE BILL No. 371

DIGEST OF SB 371 (Updated February 20, 2013 6:56 pm - DI 104)

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

Synopsis: Abortion inducing drugs. Amends the definition of "abortion clinic" to include facilities that provide abortion inducing drugs. Specifies that only a physician may administer to a pregnant woman an abortion inducing drug. Sets forth the procedure an abortion clinic must follow before giving, selling, dispensing, administering, prescribing, or providing an abortion inducing drug to a pregnant woman. Requires certain physicians who learn of an adverse event following the use of an abortion inducing drug to report the adverse event to the medical licensing board. Specifies that the reports of adverse events related to abortion inducing drugs and maintained by the medical licensing board are public records. Makes a violation concerning distribution of an abortion inducing drug and failure to report an adverse event a Class A misdemeanor.

Effective: July 1, 2013.

Holdman

January 8, 2013, read first time and referred to Committee on Health and Provider Services.
February 21, 2013, amended, reported favorably — Do Pass.

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SB 371—LS 6943/DI 104+



February 22, 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.

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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 16-18-2-1.5, AS ADDED BY P.L.96-2005,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 1.5. (a) "Abortion clinic", for purposes of
4 IC 16-21-2, means a freestanding entity that:
5 (1) performs surgical abortion procedures; **or**
6 (2) **provides an abortion inducing drug for the purpose of**
7 **inducing an abortion.**
8 (b) The term does not include the following:
9 (1) A hospital that is licensed as a hospital under IC 16-21-2.
10 (2) An ambulatory outpatient surgical center that is licensed as an
11 ambulatory outpatient surgical center under IC 16-21-2.
12 (3) A physician's office as long as:
13 (A) the surgical procedures performed at the physician's office
14 are not primarily surgical abortion procedures; **and**
15 (B) **abortion inducing drugs are not the primarily**
16 **dispensed or prescribed drug at the physician's office.**
17 SECTION 2. IC 16-18-2-1.6 IS ADDED TO THE INDIANA CODE

SB 371—LS 6943/DI 104+



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2013]: **Sec. 1.6. "Abortion inducing drug", for purposes of**
3 **IC 16-34-3, has the meaning set forth in IC 16-34-3-1.**

4 SECTION 3. IC 16-18-2-7.5 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2013]: **Sec. 7.5. "Adverse event", for purposes of IC 16-34-3, has**
7 **the meaning set forth in IC 16-34-3-2.**

8 SECTION 4. IC 16-18-2-101.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2013]: **Sec. 101.5. "Drug label", for purposes**
11 **of IC 16-34-3, has the meaning set forth in IC 16-34-3-3.**

12 SECTION 5. IC 16-34-3 IS ADDED TO THE INDIANA CODE AS
13 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2013]:

15 **Chapter 3. Abortion Inducing Drugs**

16 **Sec. 1. As used in this chapter, "abortion inducing drug" means**
17 **a medicine, drug, or substance prescribed or dispensed with the**
18 **intent of terminating a clinically diagnosable pregnancy with the**
19 **knowledge that the termination will, with reasonable likelihood,**
20 **cause the death of the fetus. The term includes the off-label use of**
21 **a drug known to have abortion inducing properties if the drug is**
22 **prescribed with the intent of causing an abortion.**

23 **Sec. 2. As used in this chapter, "adverse event" means an**
24 **undesirable experience associated with the use of an abortion**
25 **inducing drug. The term includes the following incidents:**

- 26 (1) **Death.**
27 (2) **Life threatening occurrence.**
28 (3) **Hospitalization.**
29 (4) **Disability or permanent damage.**
30 (5) **Congenital anomaly or birth defect of the fetus.**
31 (6) **Medical intervention required to prevent permanent**
32 **impairment or damage.**

33 **Sec. 3. As used in this chapter, "drug label" means the pamphlet**
34 **or document accompanying an abortion inducing drug that:**

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

41 **Sec. 4. (a) It is unlawful for an individual to knowingly give, sell,**
42 **dispense, administer, prescribe, or otherwise provide an abortion**



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1 inducing drug to a pregnant woman for the purpose of inducing an
 2 abortion or enabling a person to induce an abortion unless the
 3 individual is a physician licensed under IC 25-22.5.

4 (b) Before giving, selling, dispensing, administering, prescribing,
 5 or otherwise providing an abortion inducing drug to a pregnant
 6 woman, an abortion clinic licensed under IC 16-21-2 shall do the
 7 following:

8 (1) Have the pregnant woman examined in person by a
 9 physician licensed under IC 25-22.5.

10 (2) Conduct ultrasound imaging or oversee fetal ultrasound
 11 imaging by an individual who is licensed or certified in
 12 Indiana and whose scope of practice within the licensure or
 13 certification includes conducting ultrasound imaging.

14 (3) Document the following information on the pregnant
 15 woman's medical chart:

16 (A) The gestational age of the fetus.

17 (B) The intrauterine location of the fetus.

18 (4) Provide the following information to the pregnant woman:

19 (A) A copy of the final printed drug label.

20 (B) The information required in IC 16-34-2-1.1.

21 (5) Comply with the admitting privilege requirements set
 22 forth in IC 16-34-2-4.5.

23 (c) A physician licensed under IC 25-22.5 and retained by an
 24 abortion clinic licensed under IC 16-21-2 who gives, sells,
 25 dispenses, administers, prescribes, or otherwise provides an
 26 abortion inducing drug to a pregnant woman shall schedule a
 27 follow-up appointment with the woman at approximately fourteen
 28 (14) days after administration of the abortion inducing drug to:

29 (1) confirm that the pregnancy is terminated by conducting
 30 ultrasound imaging; and

31 (2) assess the degree of bleeding experienced by the pregnant
 32 woman.

33 (d) The physician described in subsection (c) shall make a
 34 reasonable effort to ensure that the pregnant woman returns for
 35 the follow-up appointment described in subsection (c), including
 36 recording in the pregnant woman's medical records the date, and
 37 time of the follow-up appointment, a brief description of the efforts
 38 by the physician and the physician's staff to ensure the woman's
 39 return, and the name of the individual who performed the efforts.

40 Sec. 5. (a) A physician licensed under IC 25-22.5 and retained by
 41 an abortion clinic licensed under IC 16-21-2 who gives, sells,
 42 dispenses, administers, prescribes, or otherwise provides an

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1 **abortion inducing drug to a pregnant woman and who is aware of**
2 **a subsequent adverse event from the abortion inducing drug shall**
3 **report the adverse event not later than three (3) days following the**
4 **physician's knowledge of the adverse event to the medical licensing**
5 **board of Indiana.**

6 **(b) The medical licensing board of Indiana shall do the**
7 **following:**

8 **(1) Compile and retain the reports received under subsection**
9 **(a).**

10 **(2) Make the reports available as public records and open to**
11 **inspection. However, the medical licensing board of Indiana**
12 **shall ensure that personally identifiable information**
13 **contained in the reports concerning a patient are redacted**
14 **before the reports are made available to the public under this**
15 **section.**

16 **Sec. 6. (a) A person who intentionally, knowingly, or recklessly**
17 **violates this chapter commits an unlawful activity related to an**
18 **abortion inducing drug, a Class A misdemeanor. A pregnant**
19 **woman upon whom the drug induced abortion is performed may**
20 **not be assessed a penalty under this section.**

21 **(b) In addition to the criminal penalty under subsection (a), a**
22 **person who violates this chapter may be subject to disciplinary**
23 **sanctions under IC 25-1-9 and civil liability for wrongful death and**
24 **medical malpractice.**

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

- 28 IC 16-19-12-1 (Concerning the state department of health).
- 29 IC 16-20-9-1 (Concerning local health departments).
- 30 IC 16-21-2-2.5 (Concerning licensure of hospitals).
- 31 IC 16-21-5-3 (Concerning licensure of hospitals).
- 32 IC 16-21-6-12 (Concerning hospital financial disclosure law).
- 33 IC 16-21-7-5 (Concerning hospitals).
- 34 IC 16-25-5-8 (Concerning hospices).
- 35 IC 16-25-6-1 (Concerning hospices).
- 36 IC 16-27-1-15 (Concerning home health agencies).
- 37 IC 16-27-2-3 (Concerning home health agencies).
- 38 IC 16-27-4-23 (Concerning home health agencies).
- 39 IC 16-28-7-5 (Concerning monitors).
- 40 IC 16-28-9-3 (Concerning monitors).
- 41 IC 16-28-9-4 (Concerning monitors).
- 42 IC 16-28-9-5 (Concerning monitors).

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

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

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- 1 IC 16-42-21-4 (Concerning the Indiana Legend Drug Act).
- 2 IC 16-44-1-1 (Concerning product labeling and inspection).
- 3 IC 16-44-2-22 (Concerning product labeling and inspection).
- 4 IC 16-46-6-12 (Concerning state health grants and programs).

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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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