



February 22, 2013

## SENATE BILL No. 489

DIGEST OF SB 489 (Updated February 20, 2013 6:51 pm - DI 104)

**Citations Affected:** IC 16-34.

**Synopsis:** Abortion forms. Requires that the written certification required of a pregnant woman before undergoing an abortion must be on a form developed by the state department of health (state department). Requires the state department to develop an informed consent brochure and post the brochure on the state department's website. 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 that in writing on a form developed by the state department of health.

**Effective:** July 1, 2013.

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**Young R Michael**

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January 14, 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 489—LS 6779/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. 489

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

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

17 (A) The name of the physician performing the abortion, the

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

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

COPY



1 **brochure from the state department's Internet web site and**  
 2 **including the following information on the back cover of the**  
 3 **brochure:**

4 **(A) The name of the physician performing the abortion**  
 5 **and the physician's medical license number.**

6 **(B) An emergency telephone number where the physician**  
 7 **or the physician's designee may be contacted twenty-four**  
 8 **(24) hours a day, seven (7) days a week.**

9 **(C) A statement that follow-up care by the physician or the**  
 10 **physician's designee who is licensed under IC 25-22.5 is**  
 11 **available on an appropriate and timely basis when**  
 12 **clinically necessary.**

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

19 **(1) does not want to view the fetal ultrasound imaging; and**

20 **(2) does not want to listen to the auscultation of the fetal heart**  
 21 **tone if the fetal heart tone is audible.**

22 SECTION 2. IC 16-34-2-1.5, AS ADDED BY P.L.193-2011,  
 23 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2013]: Sec. 1.5. (a) The state department shall **develop an**  
 25 **informed consent brochure and post Internet web site links**  
 26 **concerning materials described in this section the informed consent**  
 27 **brochure** on the state department's Internet web site.

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

31 (1) Objective scientific information concerning the probable  
 32 anatomical and physiological characteristics of a fetus every two

33 (2) weeks of gestational age, including the following:

34 (A) Realistic pictures in color for each age of the fetus,  
 35 including the dimensions of the fetus.

36 (B) Whether there is any possibility of the fetus surviving  
 37 outside the womb.

38 (2) Objective scientific information concerning the medical risks  
 39 associated with each abortion procedure, including the following:

40 (A) The risks of infection and hemorrhaging.

41 (B) The potential danger:

42 (i) to a subsequent pregnancy; or

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- 1 (ii) of infertility.
- 2 (3) Information concerning the medical risks associated with
- 3 carrying the child to term.
- 4 (4) Information that medical assistance benefits may be available
- 5 for prenatal care, childbirth, and neonatal care.
- 6 (5) Information that the biological father is liable for assistance in
- 7 support of the child, regardless of whether the biological father
- 8 has offered to pay for an abortion.
- 9 (6) Information regarding telephone 211 dialing code services for
- 10 accessing human services as described in IC 8-1-19.5, and the
- 11 types of services that are available through this service.
- 12 (c) In complying with subsection (b)(6), the state department shall
- 13 consult with the recognized 211 service providers and the Indiana
- 14 utility regulatory commission as required by IC 8-1-19.5-9.
- 15 **(d) In the development of the informed consent brochure**
- 16 **described in this section, the state department shall use**
- 17 **information and pictures that are available at no cost or nominal**
- 18 **cost to the state department.**
- 19 (e) **The informed consent brochure must include the**
- 20 **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. 489, 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 2, line 19, strike "or drawing".

Page 3, between lines 32 and 33, begin a new line block indented and insert:

**"(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."**

Page 3, after line 41, begin a new paragraph and insert:

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

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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, 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.**

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 489 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 8, Nays 4.

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