



Indiana
Department
of
Health



Mike Braun

Governor

Lindsay M. Weaver, MD, FACEP

State Health Commissioner

To: Governor Mike Braun
From: Dr. Lindsay Weaver, Commissioner, Indiana Department of Health
Jon Ferguson, General Counsel, Indiana Department of Health
Subject: Enforcement of Indiana's Pro-Life Laws, EO 25-20 Report
Date: July 1, 2025

Executive Summary

Indiana Code 16-34-1-1 articulates the state's public policy, emphasizing that childbirth is "preferred, encouraged, and supported over abortion." This article of the Indiana Code reflects Indiana's commitment to promoting life-affirming policies and underscores the state's stance on the sanctity of life. Also, Article 5, Section 16 of the Indiana Constitution mandates that the Governor shall ensure the faithful execution of the laws. This constitutional directive entrusts the Governor with the responsibility to oversee and implement state laws effectively, including those pertaining to abortion. Despite these requirements, there have been concerns that the Indiana Department of Health ("IDOH") has not always faithfully carried out Indiana's pro-life laws.

In alignment with his constitutional obligation and to promote increased public confidence, Governor Mike Braun issued Executive Order ("EO") 25-20, reaffirming the State's commitment to fully enforcing Indiana's abortion laws and directing an evaluation of IDOH's current enforcement policies and procedures. IDOH has completed the evaluation of our enforcement of abortion laws and has identified policies, practices, procedures, and personnel changes to ensure compliance with EO 25-20 and Indiana Code.

To **promote, protect, and improve** the health and safety of all Hoosiers.



Summary of IDOH Historical Enforcement and Changes Due to EO 25-20

IDOH has historically enforced Indiana's abortion laws through:

- reporting and data collection,
- licensing and facility oversight,
- informed consent and forms,
- enforcement and oversight policies, and
- coordination with other state agencies.

Through the evaluation directed by EO 25-20, we did find areas for policy change to ensure full compliance with Indiana's abortion laws, including:

- increased executive level oversight,
- increased transparency with terminated pregnancy reports,
- Increased enforcement actions and potential for financial penalties for noncompliance,
- improved collaboration with other state entities, and
- creation of continued medical education trainings for Indiana's abortion laws.

IDOH has taken several notable actions in response to Governor Braun's directive and IDOH will continue this work to ensure compliance with Indiana Code. There are also significant challenges in front of IDOH to fully comply with EO 25-20, and it is important to note these challenges, concerns, and potential solutions to help enforce Governor Braun's directive and Indiana laws.

IDOH Historical Enforcement of Indiana Pro-Life Laws

1. Reporting and Data Collection

Terminated Pregnancy Reports (TPRs): Healthcare providers in Indiana are mandated to submit a Terminated Pregnancy Report ("TPR") for every abortion performed, whether surgical or medication-induced. These reports must be filed within 30 days of the procedure, or within 3 days for minors younger than 16, with copies sent to the Department of Child Services ("DCS"). Non-compliance with this reporting requirement constitutes a Class B misdemeanor, emphasizing the state's commitment to monitoring abortion practices and ensuring accountability.



Complications Reporting: Providers are also required to report specific medical or psychological complications related to abortions within 30 days, using a standardized state form. This reporting mechanism enables the state to track and address potential health risks associated with abortion procedures, thereby safeguarding patient well-being.

Data Systems and Public Reports: The Indiana Department of Health maintains a secure vital records registry known as the Database Registration of Indiana's Vital Events ("DRIVE"). In addition to birth and death records, this system collects and aggregates abortion data from TPRs and publishes annual and quarterly statistical summaries, ensuring confidentiality while facilitating compliance tracking and public transparency.

2. Licensing and Facility Oversight

Historical Clinic Licensure: Historically, IDOH licensed and inspected standalone abortion clinics to ensure adherence to health and safety standards. However, as of 2023, following the implementation of SEA 1 (2022 special session), abortion clinics are no longer permitted to operate in Indiana. Abortions must now be performed in hospitals or ambulatory surgical centers ("ASCs") that are majority-owned by hospitals, reflecting a shift toward more regulated healthcare settings.

Current Oversight Focus: IDOH now concentrates its oversight efforts on hospitals and ASCs that perform abortions under the legal exceptions outlined in state law. IDOH conducts inspections and audits to ensure these facilities comply with regulatory requirements, maintaining high standards of patient care and legal adherence.

3. Enforcement and Oversight

Legal Compliance Monitoring: The department audits patient records for accuracy and completeness, ensuring that documentation supports the legality of each procedure. IDOH reviews the reasons for abortions to ensure they align with state law exceptions, deferring to medical judgment while checking for anomalies in the information reported.

Complaint Investigations: IDOH investigates complaints from patients or the public against providers or facilities. In cases of legal violations, providers may be referred



to the Professional Licensing Agency ("PLA"). The department can issue citations, require corrective plans, or refer matters to legal authorities, demonstrating a commitment to enforcing compliance and addressing misconduct.

Enforcement Actions: Criminal violations, such as unreported abortions, are referred to prosecutors. IDOH coordinates with professional licensing boards for disciplinary actions as necessary, reinforcing the seriousness of adherence to abortion laws and regulations.

4. Coordination with Other Agencies

Department of Child Services (DCS): IDOH submits copies of TPRs through the DRIVE system when a minor under 16 receives an abortion, facilitating child welfare oversight and ensuring that potential abuse or exploitation cases are appropriately addressed.

Local Health Departments: The department coordinates with local health departments on burial or cremation permits for fetal remains, ensuring that these processes comply with legal and health standards.

5. Informed Consent and Forms

Brochure and Consent Materials: IDOH publishes state-mandated informed consent brochures, which must be provided to patients at least 18 hours before an abortion. These materials are designed to ensure that patients are fully informed about the procedure, potential risks, and alternatives, promoting autonomous and educated decision-making.

Required Forms: The department issues various forms, including informed consent documentation, ultrasound and heartbeat certifications, perinatal hospice acknowledgments, post-abortion counseling information, and fetal remains disposition forms. These forms standardize the consent process and ensure compliance with legal requirements.

Provider Compliance: IDOH reviews the usage of these forms during audits and inspections to verify that providers adhere to informed consent protocols and maintain accurate records, thereby upholding patient rights and legal standards.



IDOH Changes Due to EO 25-20

To fulfill Governor Braun's directive in EO 25-20, IDOH has implemented a series of internal policy and legal changes designed to improve oversight, strengthen enforcement, and enhance transparency in the administration of Indiana's pro-life laws.

1. Executive-Level Oversight

Executive Level Oversight: IDOH has instituted executive-level oversight of all abortion-related matters. This structural change ensures that decisions related to enforcement, data handling, and provider compliance are reviewed at the highest levels within the agency. The aim is to promote consistency, accountability, and fidelity to statutory mandates, the intent of Indiana's public policy on abortion, and Governor Braun's direction.

2. Reporting and Data Collection

Terminated Pregnancy Reports (TPRs): IDOH has taken steps to increase public transparency by moving to release all TPRs since the issuance of EO 25-20. In 2023, IDOH sought an opinion from the Indiana Public Access Counselor that TPRs were medical records and not disclosable in response to an access to public records request. This position represented a change in the decades-long practice of IDOH to release TPRs to the public. IDOH's change in policy was challenged in court in the case of *Voices for Life, Inc. v. Indiana Department of Health*. IDOH agreed to settle the *Voices for Life* lawsuit in February 2025, consistent with Governor Braun's directive in EO 25-20. The effort to return to IDOH's historical practice of releasing individual TPRs is currently the subject of active litigation in *Bernard v. Indiana State Health Commissioner*. While that case is pending, IDOH has continued to publish aggregated quarterly reports as required by Indiana Code, as well as aggregated annual reports based on the TPR data. These reports offer insight into abortion trends and provider compliance, but do not include the full details contained in the individual TPRs.

3. Enforcement and Oversight

Enforcement Actions: IDOH initiated oversight and enforcement actions against abortion providers who have failed to appropriately comply with the disclosure and reporting requirements in Indiana law through the filing of completed TPRs. These efforts are discussed more in the challenges section below.



Financial Penalties for Noncompliance: In response to identified compliance challenges, IDOH has begun to promulgate new rules enabling the agency to issue fines against hospitals and ASCs that fail to meet abortion-related legal requirements. This regulatory tool adds a layer of enforcement that does not rely solely on licensure action or criminal referral, allowing IDOH to address non-compliance swiftly and proportionately.

4. Coordination with Other Agencies

Office of the Attorney General (OAG): IDOH has begun efforts to work more closely with the Office of the Attorney General ("OAG") to ensure that legal referrals are handled efficiently and that relevant data, including TPR information, is shared appropriately. This has been carried out through a series of meetings between IDOH and OAG to discuss the processes at each agency, what information each agency has and needs, and how the two entities can better collaborate. Consistent with Governor Braun's direction, IDOH has committed to ensuring OAG has the information it needs to faithfully carry out its obligations related to Indiana's pro-life laws.

Professional Licensing Agency (PLA): IDOH has improved collaboration with PLA to ensure that issues of provider non-compliance are quickly addressed through professional disciplinary processes when appropriate. This has been carried out through a series of meetings between IDOH and PLA as well as both agencies with the OAG to ensure that appropriately and timely shared between the various agencies. Consistent with Governor Braun's direction, IDOH has committed to ensuring PLA has the information it needs to faithfully carry out its obligations related to Indiana's pro-life laws.

Department of Child Services (DCS): Looking ahead, IDOH is prioritizing enhanced interagency coordination to improve the overall effectiveness of abortion law enforcement in Indiana. Specifically, IDOH plans to strengthen communication with DCS, particularly in cases involving minors under the age of 16. Ensuring consistent and timely submission of TPRs to DCS will support child welfare investigations and ensure compliance with mandatory reporting laws.



6. Informed Consent and Forms

Provider Education: To support improved provider understanding of legal requirements and to prevent violations, IDOH will develop and hold Continuing Medical Education ("CME") events focused on reporting obligations, enforcement procedures, and applicable state and federal laws. These educational efforts are intended to offer clear, accessible guidance to medical professionals involved in any aspect of abortion care, helping ensure lawful and consistent practice across Indiana.

These changes reflect IDOH's ongoing commitment to enforcing Indiana's pro-life laws with integrity, transparency, and diligence consistent with Governor Braun's directive to the agency.

IDOH Challenges with Compliance

1. Reporting and Data Collection

Court Challenges to Release of Individual TPRs: As mentioned above, there is currently litigation pending in the Indiana judicial system that challenges the release of TPRs reports to the public – *Bernard*. This case was brought in February 2025 by doctors to block the public release of TPRs received by IDOH. This case is being actively litigated now and preventing release of TPRs to the public.

Vacated Biden-Era HIPAA Reproductive Health Privacy Rule: In a separate lawsuit brought in federal court, *Scifres*, a doctor filed a lawsuit against IDOH and the medical licensing board challenging the requirement that abortionists report information to IDOH in TPRs is a violation of a Biden-era Reproductive Health Rule that went into effect in 2024. Recently, a Texas federal court vacated the Reproductive Health Rule.

2. Enforcement and Oversight

Hospital Cooperation: Currently, there are two hospital systems in Indiana that have refused to file TPRs with IDOH, IU Health and Eskenazi. This is a significant challenge for IDOH because it does not allow the agency to fully capture data regarding provision of abortions in Indiana and ensure appropriate compliance with Indiana's laws. IU Health and Eskenazi based their refusal on the recently vacated Biden-era Reproductive Health Rule. IDOH is in consultation with OAG, IU Health, and Eskenazi



regarding how to proceed in light of the court order vacating this Biden-era regulation.

Legal and Legislative History of Abortion in Indiana

Pre-Roe Era

By the late 1800s, Indiana, consistent with the prevailing legal standards of the time, had criminalized abortion except when necessary to save the life of the mother. These early statutes reflected societal and medical norms that prioritized life and maternal health, establishing a legal framework that prohibited elective abortions.

Post-Roe Developments (1973–2000s)

Following the 1973 United States Supreme Court decision in *Roe v. Wade*, which legalized abortion nationwide, Indiana enacted various laws to regulate access to abortion services. The State implemented procedural requirements, such as mandatory counseling and waiting periods, as well as consent provisions, particularly concerning minors seeking abortions. These measures aimed to ensure informed decision-making and parental involvement, aligning with the State's interest in protecting life and maternal health.

2000s–2010s: State-Imposed Restrictions

In 2005, Indiana enacted legislation requiring abortion providers to offer patients the option of viewing an ultrasound image of the fetus. This provision was intended to enhance informed consent by providing visual information about fetal development. In 2011, the state passed a law banning abortions after 20 weeks post-fertilization, except in cases where the mother's life or health was at risk. This gestational limit was based on the theory that fetuses could feel pain at that stage of development.

In 2016, Indiana passed House Enrolled Act 1337, which introduced several significant abortion restrictions. The law prohibited abortions based on fetal characteristics such as race, sex, or disability and mandated the burial or cremation of fetal remains. While portions of the law faced legal challenges and were blocked as unconstitutional, the Supreme Court later upheld the fetal remains provision in *Box v. Planned Parenthood* (2019), though it declined to review the discrimination-based ban.



Post-Dobbs Era and Near-Total Ban (2022–Present)

In June 2022, the United States Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* overturned *Roe v. Wade*, returning the authority to regulate abortion to individual states. Subsequently, on August 5, 2022, Indiana enacted Senate Enrolled Act 1 (SEA 1), becoming the first state post-*Dobbs* to implement a near-total abortion ban. The law included exceptions for cases of rape or incest (up to 10 weeks), lethal fetal anomalies, and situations where the pregnancy posed a risk to the mother's life or serious health. The law took effect on September 15, 2022, but was temporarily blocked by a Monroe County judge on September 22, 2022, pending further legal review. In April 2023, the Indiana Supreme Court upheld Indiana's law, ruling that the Indiana Constitution does not protect a right to abortion. Additional challenges to the law are still pending in Indiana courts.

Conclusion

The Indiana Department of Health, consistent with Governor Braun's EO 25-20, carries out its responsibility to faithfully execute Indiana's abortion laws with a clear commitment to life, law, and transparency. Through enforcement, oversight, and proactive policy changes, IDOH has reinforced its role as a key partner in implementing the state's pro-life public policy. Whether through direct regulatory action, educational outreach to providers, or improved coordination with other agencies, IDOH has shown a willingness to adapt and strengthen its practices as directed by Governor Braun to meet both legal and public expectations.

As the legal and political landscape continues to evolve, IDOH remains focused on its statutory duties and will continue to administer the law fairly, firmly, and in accordance with the values and directives set forth by Governor Braun and the Indiana General Assembly.

Sincerely,

A handwritten signature in black ink that reads "Lindsay Weaver".

Lindsay Weaver, MD, FACEP
State Health Commissioner