

HOUSE BILL No. 1128

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-34-2-1.1.

Synopsis: Informed consent requirements for abortion drugs. Requires that a pregnant woman be informed orally and in writing before a chemical abortion that the chemical abortion may be possibly arrested or reversed. Makes a technical correction.

Effective: July 1, 2017.

Bacon

January 5, 2017, read first time and referred to Committee on Public Policy.



First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1128

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.213-2016,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: 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 private, not group, presence of the pregnant woman, the physician
10 who is to perform the abortion, the referring physician or a
11 physician assistant (as defined in IC 25-27.5-2-10), an advanced
12 practice nurse (as defined in IC 25-23-1-1(b)), or a certified nurse
13 midwife (as defined in IC 34-18-2-6.5) to whom the responsibility
14 has been delegated by the physician who is to perform the
15 abortion or the referring physician has informed the pregnant
16 woman orally and in writing of the following:

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



- 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) is
 7 available on an appropriate and timely basis when clinically
 8 necessary.
- 9 (C) The nature of the proposed procedure or information
 10 concerning the abortion inducing drug.
- 11 (D) Objective scientific information of the risks of and
 12 alternatives to the procedure or the use of an abortion inducing
 13 drug, including:
- 14 (i) the risk of infection and hemorrhage;
 - 15 (ii) the potential danger to a subsequent pregnancy; and
 - 16 (iii) the potential danger of infertility.
- 17 (E) That human physical life begins when a human ovum is
 18 fertilized by a human sperm.
- 19 (F) The probable gestational age of the fetus at the time the
 20 abortion is to be performed, including:
- 21 (i) a picture of a fetus;
 - 22 (ii) the dimensions of a fetus; and
 - 23 (iii) relevant information on the potential survival of an
 24 unborn fetus;
- 25 at this stage of development.
- 26 (G) That objective scientific information shows that a fetus
 27 can feel pain at or before twenty (20) weeks of postfertilization
 28 age.
- 29 (H) The medical risks associated with carrying the fetus to
 30 term.
- 31 (I) The availability of fetal ultrasound imaging and
 32 auscultation of fetal heart tone services to enable the pregnant
 33 woman to view the image and hear the heartbeat of the fetus
 34 and how to obtain access to these services.
- 35 (J) That the pregnancy of a child less than fifteen (15) years of
 36 age may constitute child abuse under Indiana law if the act
 37 included an adult and must be reported to the department of
 38 child services or the local law enforcement agency under
 39 IC 31-33-5.
- 40 (K) That Indiana does not allow a fetus to be aborted solely
 41 because of the fetus's race, color, national origin, ancestry, sex,
 42 or diagnosis or potential diagnosis of the fetus having Down



- 1 syndrome or any other disability.
- 2 (2) At least eighteen (18) hours before the abortion, the pregnant
- 3 woman will be informed orally and in writing of the following:
- 4 (A) That medical assistance benefits may be available for
- 5 prenatal care, childbirth, and neonatal care from the county
- 6 office of the division of family resources.
- 7 (B) That the father of the unborn fetus is legally required to
- 8 assist in the support of the child. In the case of rape, the
- 9 information required under this clause may be omitted.
- 10 (C) That adoption alternatives are available and that adoptive
- 11 parents may legally pay the costs of prenatal care, childbirth,
- 12 and neonatal care.
- 13 (D) That there are physical risks to the pregnant woman in
- 14 having an abortion, both during the abortion procedure and
- 15 after.
- 16 (E) That Indiana has enacted the safe haven law under
- 17 IC 31-34-2.5.
- 18 (F) The:
- 19 (i) Internet web site address of the state department of
- 20 health's web site; and
- 21 (ii) description of the information that will be provided on
- 22 the web site and that are;
- 23 described in section 1.5 of this chapter.
- 24 (G) For the facility in which the abortion is to be performed,
- 25 an emergency telephone number that is available and
- 26 answered on a twenty-four (24) hour a day, seven (7) day a
- 27 week basis.
- 28 (H) On a form developed by the state department and as
- 29 described in IC 16-34-3, that the pregnant woman has a right
- 30 to determine the final disposition of the remains of the aborted
- 31 fetus.
- 32 (I) On a form developed by the state department, information
- 33 concerning the available options for disposition of the aborted
- 34 fetus.
- 35 (J) On a form developed by the state department, information
- 36 concerning any counseling that is available to a pregnant
- 37 woman after having an abortion.
- 38 **(K) That after taking an abortifacient pill, a chemical**
- 39 **abortion may be possibly arrested or reversed. This clause**
- 40 **applies only to a pregnant woman who is considering a**
- 41 **chemical abortion.**
- 42 The state department shall develop and distribute the forms



1 required by clauses (H) through (J).

2 (3) The pregnant woman certifies in writing, on a form developed
3 by the state department, before the abortion is performed, that:

4 (A) the information required by subdivisions (1) and (2) has
5 been provided to the pregnant woman;

6 (B) the pregnant woman has been offered by the provider the
7 opportunity to view the fetal ultrasound imaging and hear the
8 auscultation of the fetal heart tone if the fetal heart tone is
9 audible and that the woman has:

10 (i) viewed or refused to view the offered fetal ultrasound
11 imaging; and

12 (ii) listened to or refused to listen to the offered auscultation
13 of the fetal heart tone if the fetal heart tone is audible; and

14 (C) the pregnant woman has been given a written copy of the
15 printed materials described in section 1.5 of this chapter.

16 (4) At least eighteen (18) hours before the abortion and in the
17 presence of the pregnant woman, the physician who is to perform
18 the abortion, the referring physician or a physician assistant (as
19 defined in IC 25-27.5-2-10), an advanced practice nurse (as
20 defined in IC 25-23-1-1(b)), or a **certified nurse** midwife (as
21 defined in ~~IC 34-18-2-19~~ **IC 34-18-2-6.5**) to whom the
22 responsibility has been delegated by the physician who is to
23 perform the abortion or the referring physician has provided the
24 pregnant woman with a color copy of the informed consent
25 brochure described in section 1.5 of this chapter by printing the
26 informed consent brochure from the state department's Internet
27 web site and including the following information on the back
28 cover of the brochure:

29 (A) The name of the physician performing the abortion and the
30 physician's medical license number.

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

34 (C) A statement that follow-up care by the physician or the
35 physician's designee who is licensed under IC 25-22.5 is
36 available on an appropriate and timely basis when clinically
37 necessary.

38 (5) At least eighteen (18) hours before an abortion is performed
39 and at the same time that the pregnant woman receives the
40 information required by subdivision (1), the provider shall
41 perform, and the pregnant woman shall view, the fetal ultrasound
42 imaging and hear the auscultation of the fetal heart tone if the



- 1 fetal heart tone is audible unless the pregnant woman certifies in
2 writing, on a form developed by the state department, before the
3 abortion is performed, that the pregnant woman:
- 4 (A) does not want to view the fetal ultrasound imaging; and
 - 5 (B) does not want to listen to the auscultation of the fetal heart
6 tone if the fetal heart tone is audible.
- 7 (b) This subsection applies to a pregnant woman whose unborn
8 child has been diagnosed with a lethal fetal anomaly. The requirements
9 of this subsection are in addition to the other requirements of this
10 section. At least eighteen (18) hours before an abortion is performed on
11 the pregnant woman, the physician who will perform the abortion shall:
- 12 (1) orally and in person, inform the pregnant woman of the
13 availability of perinatal hospice services; and
 - 14 (2) provide the pregnant woman copies of the perinatal hospice
15 brochure developed by the state department under IC 16-25-4.5-4
16 and the list of perinatal hospice providers and programs
17 developed under IC 16-25-4.5-5, by printing the perinatal hospice
18 brochure and list of perinatal hospice providers from the state
19 department's Internet web site.
- 20 (c) If a pregnant woman described in subsection (b) chooses to have
21 an abortion rather than continuing the pregnancy in perinatal hospice
22 care, the pregnant woman shall certify in writing, on a form developed
23 by the state department under IC 16-25-4.5-6, at least eighteen (18)
24 hours before the abortion is performed, that the pregnant woman has
25 been provided the information described in subsection (b) in the
26 manner required by subsection (b).

