

Adopted	Rejected
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## COMMITTEE REPORT

YES:	8
NO:	5

### MR. SPEAKER:

*Your Committee on Public Policy, to which was referred Senate Bill 371, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1           Page 1, between the enacting clause and line 1, begin a new
- 2           paragraph and insert:
- 3           "SECTION 1. IC 16-18-2-1 IS AMENDED TO READ AS
- 4           FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. "Abortion" means
- 5           the termination of human pregnancy with an intention other than to
- 6           produce a live birth or to remove a dead fetus. **The term includes**
- 7           **abortions by surgical procedures and by abortion inducing drugs."**
- 8           Page 1, line 6, after "(2)" insert "**beginning January 1, 2014,**".
- 9           Page 2, line 2, delete ", for purposes of" and insert "**means a**
- 10          **medicine, drug, or substance prescribed or dispensed with the**
- 11          **intent of terminating a clinically diagnosable pregnancy with the**
- 12          **knowledge that the termination will, with reasonable likelihood,**
- 13          **cause the death of the fetus. The term includes the off-label use of**
- 14          **a drug known to have abortion inducing properties if the drug is**
- 15          **prescribed with the intent of causing an abortion."**

1 Page 2, delete lines 3 through 42, begin a new paragraph and insert:  
 2 "SECTION 4. IC 16-21-2-2.5, AS ADDED BY P.L.96-2005,  
 3 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2013]: Sec. 2.5. (a) The state department shall adopt rules  
 5 under IC 4-22-2 to do the following concerning birthing centers and  
 6 abortion clinics:

- 7 (1) Establish minimum license qualifications.
- 8 (2) Establish the following requirements:
  - 9 (A) Sanitation standards.
  - 10 (B) Staff qualifications.
  - 11 (C) Necessary emergency equipment.
  - 12 (D) Procedures to provide emergency care.
  - 13 (E) Quality assurance standards.
  - 14 (F) Infection control.
- 15 (3) Prescribe the operating policies, supervision, and maintenance  
 16 of medical records.
- 17 (4) Establish procedures for the issuance, renewal, denial, and  
 18 revocation of licenses under this chapter. The rules adopted under  
 19 this subsection must address the following:
  - 20 (A) The form and content of the license.
  - 21 (B) The collection of an annual license fee.
- 22 (5) Prescribe the procedures and standards for inspections.

23 **(b) The state department may not exempt an abortion clinic**  
 24 **from the requirements described in subsection (a) or the licensure**  
 25 **requirements set forth in an administrative rule, including physical**  
 26 **plant requirements. This subsection applies to a person applying**  
 27 **for a license as an abortion clinic after December 31, 2013.**

- 28 ~~(b)~~ (c) A person who knowingly or intentionally:
- 29 (1) operates a birthing center or an abortion clinic that is not  
 30 licensed under this chapter; or
  - 31 (2) advertises the operation of a birthing center or an abortion  
 32 clinic that is not licensed under this chapter;
- 33 commits a Class A misdemeanor.

34 SECTION 5. IC 16-34-2-1, AS AMENDED BY P.L.193-2011,  
 35 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2013]: Sec. 1. (a) Abortion shall in all instances be a criminal  
 37 act, except when performed under the following circumstances:

- 38 (1) During the first trimester of pregnancy for reasons based upon

1 the professional, medical judgment of the pregnant woman's  
2 physician if:

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

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

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

11 **However, an abortion inducing drug may not be dispensed,**  
12 **prescribed, administered, or otherwise given to a pregnant**  
13 **woman after nine (9) weeks of postfertilization age unless the**  
14 **Food and Drug Administration has approved the abortion**  
15 **inducing drug to be used for abortions later than nine (9)**  
16 **weeks of postfertilization age. A physician shall examine a**  
17 **pregnant woman in person before prescribing or dispensing**  
18 **an abortion inducing drug. As used in this subdivision, "in**  
19 **person" does not include the use of telehealth or telemedicine**  
20 **services.**

21 (2) **For an abortion performed by a surgical procedure,** after  
22 the first trimester of pregnancy and before the earlier of viability  
23 of the fetus or twenty (20) weeks of postfertilization age, for  
24 reasons based upon the professional, medical judgment of the  
25 pregnant woman's physician if:

26 (A) all the circumstances and provisions required for legal  
27 abortion during the first trimester are present and adhered to;  
28 and

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

31 (3) Except as provided in subsection (b), **and for an abortion**  
32 **performed by a surgical procedure,** at the earlier of viability of  
33 the fetus or twenty (20) weeks of postfertilization age and any  
34 time after, for reasons based upon the professional, medical  
35 judgment of the pregnant woman's physician if:

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

1 (B) the abortion is performed in compliance with section 3 of  
 2 this chapter; and  
 3 (C) before the abortion the attending physician shall certify in  
 4 writing to the hospital in which the abortion is to be  
 5 performed, that in the attending physician's professional,  
 6 medical judgment, after proper examination and review of the  
 7 woman's history, the abortion is necessary to prevent a  
 8 substantial permanent impairment of the life or physical health  
 9 of the pregnant woman. All facts and reasons supporting the  
 10 certification shall be set forth by the physician in writing and  
 11 attached to the certificate.

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

- 14 (1) performing the partial birth abortion is necessary to save the  
 15 mother's life; and  
 16 (2) no other medical procedure is sufficient to save the mother's  
 17 life.

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

- 25 (1) At least eighteen (18) hours before the abortion and in the  
 26 presence of the pregnant woman, the physician who is to perform  
 27 the abortion, the referring physician or a physician assistant (as  
 28 defined in IC 25-27.5-2-10), an advanced practice nurse (as  
 29 defined in IC 25-23-1-1(b)), or a midwife (as defined in  
 30 IC 34-18-2-19) to whom the responsibility has been delegated by  
 31 the physician who is to perform the abortion or the referring  
 32 physician has informed the pregnant woman orally and in writing  
 33 of the following:

- 34 (A) The name of the physician performing the abortion, the  
 35 physician's medical license number, and an emergency  
 36 telephone number where the physician or the physician's  
 37 designee may be contacted on a twenty-four (24) hour a day,  
 38 seven (7) day a week basis.

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

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

1 nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined  
 2 in IC 34-18-2-19) to whom the responsibility has been  
 3 delegated by the physician who is to perform the abortion or  
 4 the referring physician has provided the pregnant woman  
 5 with a color copy of the informed consent brochure described  
 6 in section 1.5 of this chapter by printing the informed consent  
 7 brochure from the state department's Internet web site and  
 8 including the following information on the back cover of the  
 9 brochure:

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

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

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

19 (b) Before an abortion is performed, **the provider shall perform,**  
 20 **and** the pregnant woman shall view, the fetal ultrasound imaging and  
 21 hear the auscultation of the fetal heart tone if the fetal heart tone is  
 22 audible unless the pregnant woman certifies in writing, **on a form**  
 23 **developed by the state department,** before the abortion is performed,  
 24 that the pregnant woman:

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

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

28 SECTION 7. IC 16-34-2-1.5, AS ADDED BY P.L.193-2011,  
 29 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2013]: Sec. 1.5. (a) The state department shall **develop an**  
 31 **informed consent brochure and post Internet web site links**  
 32 **concerning materials described in this section the informed consent**  
 33 **brochure** on the state department's Internet web site.

34 (b) The state department shall ~~post Internet web site links relating~~  
 35 ~~to materials~~ **develop an informed consent brochure** that ~~include~~  
 36 **includes** the following:

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

- 1 (2) weeks of gestational age, including the following:
- 2 (A) Realistic pictures in color for each age of the fetus,
- 3 including the dimensions of the fetus.
- 4 (B) Whether there is any possibility of the fetus surviving
- 5 outside the womb.
- 6 (2) Objective scientific information concerning the medical risks
- 7 associated with each abortion procedure **or the use of an**
- 8 **abortion inducing drug**, including the following:
- 9 (A) The risks of infection and hemorrhaging.
- 10 (B) The potential danger:
- 11 (i) to a subsequent pregnancy; or
- 12 (ii) of infertility.
- 13 (3) Information concerning the medical risks associated with
- 14 carrying the child to term.
- 15 (4) Information that medical assistance benefits may be available
- 16 for prenatal care, childbirth, and neonatal care.
- 17 (5) Information that the biological father is liable for assistance in
- 18 support of the child, regardless of whether the biological father
- 19 has offered to pay for an abortion.
- 20 (6) Information regarding telephone 211 dialing code services for
- 21 accessing human services as described in IC 8-1-19.5, and the
- 22 types of services that are available through this service.
- 23 (c) In complying with subsection (b)(6), the state department shall
- 24 consult with the recognized 211 service providers and the Indiana
- 25 utility regulatory commission as required by IC 8-1-19.5-9.
- 26 **(d) In the development of the informed consent brochure**
- 27 **described in this section, the state department shall use**
- 28 **information and pictures that are available at no cost or nominal**
- 29 **cost to the state department.**
- 30 (e) **The informed consent brochure must include the**



- 1 **requirements specified in this chapter."**
- 2 Delete pages 3 through 7.
- 3 Renumber all SECTIONS consecutively.  
(Reference is to SB 371 as reprinted February 26, 2013.)

**and when so amended that said bill do pass.**

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Representative Davis