

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1217

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-214.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 214.9. "Mandatory reporter", for purposes of IC 16-34-6, has the meaning set forth in IC 16-34-6-2.**

SECTION 2. IC 16-18-2-282, AS AMENDED BY P.L.153-2018, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 282. (a) "Physician", except as provided in subsections (b), ~~and~~ (c), **and (e)**, means a licensed physician (as defined in section 202 of this chapter).

(b) "Physician", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-7.

(c) "Physician", for purposes of IC 16-37-1-3.1 and IC 16-37-3-5, means an individual who:

(1) was the physician last in attendance (as defined in section 282.2 of this chapter); or

(2) is licensed under IC 25-22.5.

(d) "Physician", for purposes of IC 16-48-1, is subject to IC 16-48-1-2.

(e) "Physician", for purposes of IC 16-34-6, has the meaning set forth in IC 16-34-6-3.

SECTION 3. IC 16-18-2-317.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2022]: **Sec. 317.3. "Reproductive health care facility", for purposes of IC 16-34-6, has the meaning set forth in IC 16-34-6-4.**

SECTION 4. IC 16-34-2-1.1, AS AMENDED BY P.L.218-2021, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the private, not group, 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 registered nurse (as defined in IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has informed the pregnant woman orally and in writing of the following:

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

(B) That follow-up care by the physician or the physician's designee (if the designee is licensed under IC 25-22.5) is available on an appropriate and timely basis when clinically necessary.

(C) The nature of the proposed procedure or information concerning the abortion inducing drug that includes the following statement: "Some evidence suggests that effects of Mifepristone may be avoided, ceased, or reversed if the second pill, Misoprostol, has not been taken. Immediately contact the following for more information at (insert applicable abortion inducing drug reversal Internet web site and corresponding hotline number)."

(D) Objective scientific information of the risks of and alternatives to the procedure or the use of an abortion inducing drug, including:

- (i) the risk of infection and hemorrhage;
- (ii) the potential danger to a subsequent pregnancy; and
- (iii) the potential danger of infertility.



(E) That human physical life begins when a human ovum is fertilized by a human sperm.

(F) The probable gestational age of the fetus at the time the abortion is to be performed, including:

- (i) a picture of a fetus;
- (ii) the dimensions of a fetus; and
- (iii) relevant information on the potential survival of an unborn fetus;

at this stage of development.

(G) That objective scientific information shows that a fetus can feel pain at or before twenty (20) weeks of postfertilization age.

(H) The medical risks associated with carrying the fetus to term.

(I) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(J) That the pregnancy of a child less than fifteen (15) years of age may constitute child abuse under Indiana law if the act included an adult and must be reported to the department of child services or the local law enforcement agency under IC 31-33-5.

(K) That Indiana does not allow a fetus to be aborted solely because of the fetus's race, color, national origin, ancestry, sex, or diagnosis or potential diagnosis of the fetus having Down syndrome or any other disability.

(L) That no one has the right to coerce the pregnant woman to have an abortion.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be informed orally and in writing of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the county office of the division of family resources.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(D) That there are physical risks to the pregnant woman in having an abortion, both during the abortion procedure and



after.

(E) That Indiana has enacted the safe haven law under IC 31-34-2.5.

(F) The:

(i) Internet web site address of the state department of health's web site; and

(ii) description of the information that will be provided on the web site and that ~~are~~; **is**;

described in section 1.5 of this chapter.

(G) For the facility in which the abortion is to be performed, an emergency telephone number that is available and answered on a twenty-four (24) hour a day, seven (7) day a week basis.

(H) On a form developed by the state department and as described in IC 16-34-3, that the pregnant woman has a right to determine the final disposition of the remains of the aborted fetus.

(I) On a form developed by the state department, that the pregnant woman has a right, after a surgical abortion, to:

(i) dispose of the remains of the aborted fetus by interment in compliance with IC 23-14-54, or cremation through a licensee (as defined in IC 25-15-2-19) and in compliance with IC 23-14-31; or

(ii) have the health care facility or abortion clinic dispose of the remains of the aborted fetus by interment in compliance with IC 23-14-54, or cremation through a licensee (as defined in IC 25-15-2-19) and in compliance with IC 23-14-31, and ask which method of disposition will be used by the health care facility or abortion clinic.

(J) On a form developed by the state department:

(i) that a pregnant woman, after an abortion induced by an abortion inducing drug, will expel an aborted fetus; and

(ii) the disposition policy of the health care facility or the abortion clinic concerning the disposition of the aborted fetus. The disposition policy must allow the pregnant woman to return the aborted fetus to the health care facility or abortion clinic for disposition by interment in compliance with IC 23-14-54, or cremation through a licensee (as defined in IC 25-15-2-19) and in compliance with IC 23-14-31.

(K) On a form developed by the state department, information concerning any counseling that is available to a pregnant



woman after having an abortion.

The state department shall develop and distribute the forms required by clauses (H) through (K).

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

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

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

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

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

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

(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 registered nurse (as defined in IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) 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.

(5) At least eighteen (18) hours before an abortion is performed and at the same time that the pregnant woman receives the information required by subdivision (1), the provider shall perform, and the pregnant woman shall view, the fetal ultrasound



imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible unless the pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that the pregnant woman:

- (A) does not want to view the fetal ultrasound imaging; and
- (B) does not want to listen to the auscultation of the fetal heart tone if the fetal heart tone is audible.

A pregnant woman must be advised, prior to the pregnant woman's decision concerning fetal ultrasound imaging, that an ultrasound image of the fetus will be provided to the pregnant woman to keep at no charge to the pregnant woman if the fetal ultrasound is performed.

(6) At least eighteen (18) hours before the abortion, 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 registered nurse (as defined in IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician shall, in the private, not group, presence of the pregnant woman, verbally ask the pregnant woman if she is being coerced to have an abortion.

(b) This subsection applies to a pregnant woman whose unborn child has been diagnosed with a lethal fetal anomaly. The requirements of this subsection are in addition to the other requirements of this section. At least eighteen (18) hours before an abortion is performed on the pregnant woman, the physician who will perform the abortion shall:

- (1) orally and in person, inform the pregnant woman of the availability of perinatal hospice services; and
- (2) provide the pregnant woman copies of the perinatal hospice brochure developed by the state department under IC 16-25-4.5-4 and the list of perinatal hospice providers and programs developed under IC 16-25-4.5-5, by printing the perinatal hospice brochure and list of perinatal hospice providers from the state department's Internet web site.

(c) If a pregnant woman described in subsection (b) chooses to have an abortion rather than continuing the pregnancy in perinatal hospice care, the pregnant woman shall certify in writing, on a form developed by the state department under IC 16-25-4.5-6, at least eighteen (18) hours before the abortion is performed, that the pregnant woman has been provided the information described in subsection (b) in the manner required by subsection (b).



(d) For any abortion performed under this article, 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 registered nurse (as defined in IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician shall include, or ensure the inclusion of, a copy of a pregnant woman's ultrasound report in the pregnant woman's patient file.

(e) If the physician who is to perform the abortion, the referring physician, a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice registered nurse (as defined in IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) suspects a pregnant woman is being coerced to have an abortion after making the inquiry required under subsection (a)(6), the physician, physician assistant, advanced practice registered nurse, or certified nurse midwife shall:

- (1) inform the pregnant woman that coercing a pregnant woman to have an abortion is illegal;**
- (2) inform the pregnant woman that a demand by the father to have an abortion does not relieve him of financial support responsibilities; and**
- (3) provide the pregnant woman with:**
 - (A) information about:**
 - (i) assistance;**
 - (ii) counseling; and**
 - (iii) protective services offered by social programs and local or state law enforcement agencies;**
 - (B) access to a telephone if she needs to make a private telephone call; and**
 - (C) access to an alternate exit from the health care facility.**

(f) Except as provided in subsection (g), if a physician, physician assistant (as defined in IC 25-27.5-2-10), advanced practice registered nurse (as defined in IC 25-23-1-1(b)), or certified nurse midwife (as defined in IC 34-18-2-6.5) has specific and credible information that a pregnant woman is being coerced into having an abortion, then an abortion may not be provided to the pregnant woman during the twenty-four (24) hour period after the physician, physician assistant (as defined in IC 25-27.5-2-10), advanced practice registered nurse (as defined in IC 25-23-1-1(b)), or certified nurse midwife (as defined in IC 34-18-2-6.5) makes a report under IC 16-34-6-6(b).



(g) The twenty-four (24) hour period described in subsection (f) may be waived if a physician, in the physician's best medical judgment, determines that an abortion is necessary to prevent the death of the pregnant woman or to prevent substantial and irreversible injury to a major bodily function of the pregnant woman.

SECTION 5. IC 16-34-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

Chapter 6. Coerced Abortions

Sec. 1. As used in this chapter, "abortion" has the meaning set forth in IC 16-18-2-1.

Sec. 2. As used in this chapter, "mandatory reporter" means any person providing health care services, including:

- (1) a physician;**
- (2) a surgeon;**
- (3) a physical therapist;**
- (4) a psychiatrist;**
- (5) a psychologist;**
- (6) a medical resident;**
- (7) a medical intern;**
- (8) hospital staff;**
- (9) a licensed nurse;**
- (10) a nurse's aide;**
- (11) any emergency medical technician;**
- (12) a paramedic; and**
- (13) any:**
 - (A) employee;**
 - (B) staff member; or**
 - (C) volunteer;**

at a reproductive health care facility.

Sec. 3. As used in this chapter, "physician" means any person licensed to practice medicine in Indiana. The term includes a medical doctor and a doctor of osteopathy.

Sec. 4. As used in this chapter, "reproductive health care facility" means any office, clinic, or other physical location licensed by the state to provide surgical or medical abortions, abortion counseling, abortion referrals, contraceptives, contraceptive counseling, sex education, or gynecological services.

Sec. 5. A person who knowingly or intentionally coerces a pregnant woman to have an abortion commits a Level 6 felony.

Sec. 6. (a) A mandatory reporter must report to law



enforcement every instance of alleged or suspected coerced abortion. A mandatory reporter may not use discretion in deciding whether a case should or should not be reported to law enforcement.

(b) A mandatory reporter must make a report described in subsection (a) immediately to law enforcement when the coercion or attempted coercion is brought to the mandatory reporter's attention.

(c) A mandatory reporter may not delegate the responsibility to report coercion or attempted coercion under subsection (a) to another individual.

(d) The mandatory reporter making a report under subsection (a) shall provide the following information:

- (1) The name and address of the pregnant woman.
- (2) The name and address of the person who is responsible for the care or custody of the pregnant woman if she is less than eighteen (18) years of age.
- (3) Any pertinent information relating to the alleged or suspected coercion or attempted coercion of the pregnant woman to undergo an abortion.

(e) After receiving a report under subsection (a), a law enforcement agency must immediately respond and initiate an investigation. The law enforcement agency shall conduct an investigation under this chapter in the same manner that the law enforcement agency would conduct any other criminal investigation.

(f) A reproductive health care facility that knowingly employs a mandatory reporter after a mandatory reporter violates this section commits a Class C infraction.

SECTION 6. IC 35-52-16-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 23.5. IC 16-34-6-5 defines a crime concerning coerced abortion.**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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