

Indiana

Members of the Med. Licensing Bd. of Ind. v. Planned Parenthood Great Nw., No. 22S-PL-338 (Ind. Jun. 30, 2023) (rejecting the preliminary injunction of S.B., 122nd Leg., 1st Spec. Sess. (Ind. 2022), and thus allowing the law to take effect on August 1, 2023.)

Ind. Code § 16-34-2-1. Abortion to be criminal act — Exceptions — Partial birth abortions — Dismemberment abortion.

(a) Abortion shall in all instances be a criminal act, except when performed under the following circumstances:

(1) Except as prohibited in IC 16-34-4, before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age of the fetus, if:

(A) for reasons based upon the professional, medical judgment of the pregnant woman's physician, if either:

(i) the abortion is necessary when reasonable medical judgment dictates that performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman's life; or

(ii) the fetus is diagnosed with a lethal fetal anomaly;

(B) the abortion is performed by the physician in a hospital licensed under IC 16-21 or an ambulatory outpatient surgical center (as defined in [IC 16-18-2-14](#)) that has a majority ownership by a hospital licensed under IC 16-21;

(C) the woman submitting to the abortion has filed her consent with her physician. However, if in the judgment of the physician the abortion is necessary to preserve the life of the woman, her consent is not required;

(D) the woman submitting to the abortion has filed with her physician the written consent of her parent or legal guardian if required under section 4 [IC 16-34-2-4] of this chapter; and

(E) before the abortion, the attending physician shall certify in writing to the hospital or ambulatory outpatient surgical center in which the abortion is to be performed, that:

(i) in the attending physician's reasonable medical judgment, performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman's life; or

(ii) the fetus has been diagnosed with a lethal fetal anomaly.

All facts and reasons supporting the certification shall be set forth by the physician in writing and attached to the certificate.

However, under this article, an abortion inducing drug may not be dispensed, prescribed, administered, or otherwise given to a pregnant woman after eight (8) weeks of postfertilization age. A physician must dispense the abortion inducing drug in person and have the pregnant woman consume the drug in the presence of the physician. A physician shall examine a pregnant woman in person before prescribing or dispensing an abortion inducing drug. The physician shall provide the pregnant woman with a copy of the manufacturer's instruction sheets and require that the pregnant woman sign the manufacturer's patient agreement form. A physician shall also provide, orally and in writing, along with other discharge information, the following statement: "Some evidence suggests that the 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)." The physician shall retain a copy of the signed patient agreement form, and the signed physician's agreement form required by the manufacturer, in the patient's file. As used in this subdivision, "in person" does not include the use of telehealth or telemedicine services.

(2) Except as prohibited by IC 16-34-4, during the first ten (10) weeks of postfertilization age of the fetus, if:

(A) the pregnancy is a result of rape or incest;

(B) all the circumstances and provisions required for legal abortion set forth in subdivision (1)(C) through (1)(D) are present and adhered to;

(C) the abortion is performed in a hospital licensed under IC 16-21 or ambulatory outpatient surgical center (as defined in [IC 16-18-2-14](#)) that has a majority ownership by a hospital licensed under IC 16-21; and

(D) before the abortion, the attending physician shall certify in writing to the ambulatory outpatient surgical center or hospital in which the abortion is to be performed, after proper examination, the abortion is being performed at the woman's request because the pregnancy is the result of rape or incest. All facts and reasons supporting the certification shall be set forth by the physician in writing and attached to the certificate.

(3) Except as provided in subsection (b) or as prohibited by IC 16-34-4, at the earlier of viability of the fetus or twenty (20) weeks of postfertilization age and any time after, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) based on reasonable medical judgment, performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman's life;

(B) all the circumstances and provisions required for legal abortion set forth in subdivision (1)(C) through (1)(D) are present and adhered to;

- (C) the abortion is performed in a hospital licensed under IC 16-21;
 - (D) the abortion is performed in compliance with section 3 [IC 16-34-2-3] of this chapter; and
 - (E) before the abortion, the attending physician shall certify in writing to the hospital in which the abortion is to be performed, that in the attending physician's reasonable medical judgment, performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman's life. All facts and reasons supporting the certification shall be set forth by the physician in writing and attached to the certificate.
- (b) A person may not knowingly or intentionally perform a partial birth abortion unless a physician reasonably believes that:
- (1) performing the partial birth abortion is necessary to save the mother's life; and
 - (2) no other medical procedure is sufficient to save the mother's life.
- (c) A person may not knowingly or intentionally perform a dismemberment abortion unless reasonable medical judgment dictates that performing the dismemberment abortion is necessary:
- (1) to prevent any serious health risk to the mother; or
 - (2) to save the mother's life.
- (d) Telehealth and telemedicine may not be used to provide any abortion, including the writing or filling of a prescription for any purpose that is intended to result in an abortion.

16-34-2-1.1. Voluntary and informed consent.

- (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 website 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) website address of the state department's website; and

(ii) description of the information that will be provided on the website and that is described in section 1.5 [IC 16-34-2-1.5] 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 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.

(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 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 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 website 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 website.

(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.

[Burns Ind. Code Ann. § 16-34-2-1.1](#)

16-34-2-1.2. Medical emergency compelling abortion.

When a medical emergency compels the performance of an abortion, the physician who will perform the abortion shall inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert:

(1) The woman's death; or

(2) A substantial and irreversible impairment of a major bodily function.

[Burns Ind. Code Ann. § 16-34-2-1.2](#)

16-34-2-3. Abortions performed after fetus is viable — Fetus born alive — Failure to attempt to preserve life — Child to become ward of department of child services if parents do not keep child.

(a) All abortions performed on and after the earlier of the time a fetus is viable or the time the postfertilization age of the fetus is at least twenty (20) weeks shall be:

(1) governed by section 1 [IC 16-34-2-1] of this chapter;

(2) performed in a hospital having premature birth intensive care units, unless compliance with this requirement would result in an increased risk to the life or health of the mother; and

(3) performed in the presence of a second physician as provided in subsection (b).

(b) An abortion may be performed after the earlier of the time a fetus is viable or the time the postfertilization age of the fetus is at least twenty (20) weeks only if there is in attendance a physician, other than the physician performing the abortion, who shall take control of and provide immediate care for a child born alive as a result of the abortion. During the performance of the abortion, the physician performing the abortion, and after the abortion, the physician required by this subsection to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child. However, this subsection does not apply if compliance would result in an increased risk to the life or health of the mother.

(c) Any fetus born alive shall be treated as a person under the law, and a birth certificate shall be issued certifying the child's birth even though the child may subsequently die, in which event a death certificate shall be issued. Failure to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of the live born person shall subject the responsible persons to Indiana laws governing homicide, manslaughter, and civil liability for wrongful death and medical malpractice.

(d) If, before the abortion, the mother, and if married, her husband, has or have stated in writing that she does or they do not wish to keep the child in the event that the abortion results in a live birth, and this writing is not retracted before the abortion, the child, if born alive, shall immediately upon birth become a ward of the department of child services.

[Burns Ind. Code Ann. § 16-34-2-3](#)

16-34-2-4. Written consent of parent or guardian of pregnant minor — Petition by minor whose parents object — Petition of juvenile court by physician — Parental notification — Time for ruling by juvenile court — Appointment of attorney — Appeal — When procedure not applicable.

(a) This section does not apply to a minor who is less than eighteen (18) years of age who is pregnant as a result of rape or incest by a parent, legal guardian, or custodian of the unemancipated minor.

(b) No physician shall perform an abortion on an unemancipated pregnant minor less than eighteen (18) years of age without first having obtained from one (1) of the parents, a legal guardian, or a custodian accompanying the unemancipated pregnant minor:

(1) the notarized written consent of the parent, legal guardian, or custodian of the unemancipated pregnant minor;

(2) government issued proof of identification of the parent or the legal guardian or custodian of the unemancipated pregnant minor; and

(3) some evidence, which may include identification or other written documentation that provides an articulable basis for a reasonably prudent person to believe that the person is the parent or legal guardian or custodian of the unemancipated pregnant minor.

The physician shall keep records of the documents required under this subsection in the unemancipated pregnant minor's medical file for at least seven (7) years.

(c) A minor:

(1) who objects to having to obtain the written consent of her parent or legal guardian or custodian under this section; or

(2) whose parent or legal guardian or custodian refuses to consent to an abortion; may petition, on her own behalf or by next friend, the juvenile court in the county in which the pregnant minor resides or in which the abortion is to be performed, for a waiver of the parental consent requirement under subsection (b) and the parental notification requirement under subsection (e). A next friend may not be a physician or provider of abortion services, representative of the physician or provider, or other person that may receive a direct financial benefit from the performance of an abortion.

(d) A physician who feels that compliance with the parental consent requirement in subsection (b) would have an adverse effect on the welfare of the pregnant minor or on her pregnancy may petition the juvenile court within twenty-four (24) hours of the abortion request for a waiver of the parental consent requirement under subsection (b) and the parental notification requirement under subsection (e).

(e) Unless the juvenile court finds that it is in the best interests of an unemancipated pregnant minor to obtain an abortion without parental notification following a hearing on a petition filed under subsection (c) or (d), a parent, legal guardian, or custodian of a pregnant unemancipated minor is entitled to receive notice of the emancipated minor's intent to obtain an abortion before the abortion is performed on the unemancipated pregnant minor. The attorney representing the unemancipated pregnant minor shall serve the notice required by this subsection by certified mail or by personal service and provide the court with documentation of the attorney's good faith effort to serve the notice, including any return receipt for a certified mailing. The court shall retain the documentation provided in the confidential records of the waiver proceedings held under this section.

(f) The juvenile court must rule on a petition filed by a pregnant minor under subsection (c) or by her physician under subsection (d) within forty-eight (48) hours of the filing of the petition. Before ruling on the petition, the court shall consider the concerns expressed by the pregnant minor and her physician. The requirement of parental consent under this section shall be waived by the juvenile court if the court finds that the minor is mature enough to make the abortion decision independently or that an abortion would be in the minor's best interests. The juvenile court shall waive the requirement of parental notification under subsection (e) if the court finds that obtaining an abortion without parental notification is in the best interests of the unemancipated pregnant minor. If the juvenile court does not find that obtaining an abortion without

parental notification is in the best interests of the unemancipated pregnant minor, the court shall, subject to an appeal under subsection (h), order the attorney representing the unemancipated pregnant minor to serve the notice required under subsection (e).

(g) Unless the juvenile court finds that the pregnant minor is already represented by an attorney, the juvenile court shall appoint an attorney to represent the pregnant minor in a waiver proceeding brought by the minor under subsection (c) and on any appeals. The cost of legal representation appointed for the minor under this section shall be paid by the county.

(h) A minor or the minor's physician who desires to appeal an adverse judgment of the juvenile court in a waiver proceeding under subsection (c) or (d) is entitled to an expedited appeal, under rules to be adopted by the supreme court.

(i) All records of the juvenile court and of the supreme court or the court of appeals that are made as a result of proceedings conducted under this section are confidential.

(j) A minor who initiates legal proceedings under this section is exempt from the payment of filing fees.

(k) This section does not apply where there is an emergency need for a medical procedure to be performed to avert the pregnant minor's death or a substantial and irreversible impairment of a major bodily function of the pregnant minor, and the attending physician certifies this in writing.

(l) A physician receiving parental consent under subsection (b) shall execute an affidavit for inclusion in the unemancipated pregnant minor's medical record. The affidavit must contain the following information:

(1) The physician's name.

(2) Certification that, to the physician's best information and belief, a reasonable person under similar circumstances would rely on the information provided by the unemancipated pregnant minor and the unemancipated pregnant minor's parent or legal guardian or custodian as sufficient evidence of identity and relationship.

(3) The physician's signature.

(m) A person who, with intent to avoid the parental notification requirements described in subsection (b), falsely claims to be the parent or legal guardian or custodian of an unemancipated pregnant minor by:

(1) making a material misstatement while purportedly providing the written consent described in subsection (b)(1); or

(2) providing false or fraudulent identification to meet the requirement described in subsection (b)(2); commits a Level 6 felony

[Burns Ind. Code Ann. § 16-34-2-4](#)

16-34-2-4.2. Aiding unemancipated pregnant minor in obtaining abortion without required consent prohibited — Liability — Court injunction.

(a) This section applies only if consent is required under section 4 [IC 16-34-2-4] of this chapter and has not been given.

(b) This section does not apply to a person who aids or assists an unemancipated pregnant minor who has obtained or is seeking to obtain:

(1) parental consent; or

(2) a waiver of parental consent; under section 4 of this chapter.

(c) A person may not knowingly or intentionally aid or assist an unemancipated pregnant minor in obtaining an abortion without the consent required by section 4 of this chapter.

(d) Except as provided in subsection (g), a person who violates subsection (c) is civilly liable to the unemancipated pregnant minor and the parent or legal guardian or custodian of the unemancipated pregnant minor. A court may award damages to the unemancipated pregnant minor or the parent or legal guardian or custodian of the unemancipated pregnant minor who is adversely affected by a violation of this section, including the following damages:

(1) Compensation for physical or emotional injury, without the need of being physically present at the act or event.

(2) Attorney's fees.

(3) Court costs.

(4) Punitive damages.

However, an adult who engaged in or consented to another person engaging in a sex act with a minor in violation of IC 35-42-4-3(a) or IC 35-42-4-9 that resulted in the pregnancy may not be awarded damages

under this subsection.

(e) An unemancipated pregnant minor does not have the capacity to consent to any action in violation of this section or section 4 of this chapter. A person may not use as a defense to a violation of subsection (c) that the abortion was performed or induced with consent of the unemancipated pregnant minor and otherwise met the requirements of this chapter.

(f) The parent or legal guardian or custodian of the unemancipated pregnant minor may petition a court to enjoin conduct that would violate this section if the parent or legal guardian or custodian can show that the conduct is reasonably anticipated to occur in the future. A court may enjoin conduct that would violate this section.

(g) A person may not bring a cause of action under this section against a person who is related to the minor as a:

(1) parent or stepparent;

(2) grandparent or stepgrandparent; or

(3) sibling or stepsibling.

[Burns Ind. Code Ann. § 16-34-2-4.2](#)

16-34-2-4.5. Requirements for abortion clinics and physicians.

(a) A physician may not perform an abortion, including an abortion using an abortion inducing drug, unless the physician:

(1) has admitting privileges in writing at a hospital located in the county where abortions are provided or in a contiguous county; or

(2) has entered into a written agreement with a physician who has written admitting privileges at a hospital in the county or contiguous county concerning the management of possible complications of the services provided.

A written agreement described in subdivision (2) must be renewed annually.

(b) A physician who performs an abortion, including an abortion using an abortion inducing drug, shall notify the patient of the location of the hospital at which the physician or a physician with whom the physician has entered into an agreement under subsection (a)(2) has admitting privileges and where the patient may receive follow-up care by the physician if complications arise.

(c) A hospital or ambulatory outpatient surgical center in which abortions are performed shall:

(1) keep at the hospital or ambulatory outpatient surgical center a copy of the admitting privileges of a physician described in subsection (a)(1) and (a)(2) who is performing abortions at the hospital or ambulatory outpatient surgical center; and

(2) submit a copy of the admitting privileges described in subdivision (1) to the state department. The state department shall verify the validity of the admitting privileges document. The state department shall remove any identifying information from the admitting privileges document before releasing the document under IC 5-14-3.

(d) The state department shall annually submit a copy of the admitting privileges described in subsection (a)(1) and a copy of the written agreement described in subsection (a)(2) to:

(1) each hospital located in the county in which the hospital granting the admitting privileges described in subsection (a) is located; and

(2) each hospital located in a county that is contiguous to the county described in subdivision (1); where abortions are performed.

(e) The state department shall confirm to a member of the public, upon request, that the admitting privileges required to be submitted under this section for a hospital or ambulatory outpatient surgical center have been received by the state department.

(f) Notwithstanding IC 5-14-3-6 and IC 5-14-3-6.5, this section only allows for the redaction of information that is described in subsection (c). This section does not allow the state department to limit the disclosure of information in other public documents.

[Burns Ind. Code Ann. § 16-34-2-4.5](#)

16-34-2-4.7. Abortion complication — Report — Information to providers on new reporting requirements — Public report — Rules.

(a) As used in this section, “abortion complication” means only the following physical or psychological

conditions arising from the induction or performance of an abortion:

- (1) Uterine perforation.
 - (2) Cervical laceration.
 - (3) Infection.
 - (4) Vaginal bleeding that qualifies as a Grade 2 or higher adverse event according to the Common Terminology Criteria for Adverse Events (CTCAE).
 - (5) Pulmonary embolism.
 - (6) Deep vein thrombosis.
 - (7) Failure to terminate the pregnancy.
 - (8) Incomplete abortion (retained tissue).
 - (9) Pelvic inflammatory disease.
 - (10) Missed ectopic pregnancy.
 - (11) Cardiac arrest.
 - (12) Respiratory arrest.
 - (13) Renal failure.
 - (14) Shock.
 - (15) Amniotic fluid embolism.
 - (16) Coma.
 - (17) Placenta previa in subsequent pregnancies.
 - (18) Pre-term delivery in subsequent pregnancies.
 - (19) Free fluid in the abdomen.
 - (20) Hemolytic reaction due to the administration of ABO-incompatible blood or blood products.
 - (21) Hypoglycemia occurring while the patient is being treated at the hospital or ambulatory outpatient surgical center.
 - (22) Allergic reaction to anesthesia or abortion inducing drugs.
 - (23) Psychological complications, including depression, suicidal ideation, anxiety, and sleeping disorders.
 - (24) Death.
 - (25) Any other adverse event as defined by criteria provided in the Food and Drug Administration Safety Information and Adverse Event Reporting Program.
- (b) The following persons shall report to the state department each case in which the person treated a patient suffering from an abortion complication:
- (1) A physician licensed under IC 25-22.5.
 - (2) A hospital licensed under IC 16-21.
 - (3) Beginning September 1, 2022, an ambulatory outpatient surgical center licensed under IC 16-21-2.
- (c) The state department shall develop a process for the submission of a report under this section.
- (d) A report under this section shall be submitted to the state department in the manner prescribed by the state department.
- (e) The report under this section must include the following information concerning the abortion complication:
- (1) The date the patient presented for treatment for the abortion complication.
 - (2) The age of the patient.
 - (3) The race of the patient.
 - (4) The county and state of the patient's residence.
 - (5) The type of abortion obtained by the patient.
 - (6) The date of abortion obtained by the patient.
 - (7) The name of the:
 - (A) hospital; or
 - (B) ambulatory outpatient surgical center;where the patient obtained the abortion.
 - (8) Whether the patient obtained abortion medication via mail order or Internet web site, and if so, information identifying the source of the medication.
 - (9) Whether the complication was previously managed by the abortion provider or the abortion provider's required back-up physician.
 - (10) The name of the medications taken by the patient as part of the pharmaceutical abortion regimen, if any.
 - (11) A list of each diagnosed complication.
 - (12) A list of each treated complication, with a description of the treatment provided.

- (13) Whether the patient's visit to treat the complications was the original visit or a follow-up visit.
 - (14) The date of each follow-up visit, if any.
 - (15) A list of each complication diagnosed at a follow-up visit, if any.
 - (16) A list of each complication treated at a follow-up visit, if any.
 - (f) On a quarterly basis, the state department shall compile a public report summarizing the information collected under this section. The report must include statistics for the previous calendar quarter, with updated information for the most recent calendar quarter.
 - (g) The state department shall summarize the aggregate data from the data submitted under this section and submit the data, on or before June 30 of each year, to the United States Centers for Disease Control and Prevention for its inclusion in the annual Vital Statistics Report.
 - (h) The state department shall ensure that no identifying information of a pregnant woman is included in the report described in subsection (f).
 - (i) This subsection applies after August 31, 2020. Each failure to report an abortion complication as required under this section is a Class B misdemeanor.
 - (j) The state department shall adopt rules under IC 4-22-2 to implement this section.
- [Burns Ind. Code Ann. § 16-34-2-4.7](#)

16-34-2-5. Compilation of maternal life and health factors and data — Monitoring of abortions — Form to be completed by physician — Failure to file — Penalty — Public report.

(a) Every health care provider who performs a surgical abortion or provides, prescribes, administers, or dispenses an abortion inducing drug for the purposes of inducing an abortion shall report the performance of the abortion or the provision, prescribing, administration, or dispensing of an abortion inducing drug on a form drafted by the state department, the purpose and function of which shall be the improvement of maternal health and life through the compilation of relevant maternal life and health factors and data, and a further purpose and function shall be to monitor all abortions performed in Indiana to assure the abortions are done only under the authorized provisions of the law. For each abortion performed and abortion inducing drug provided, prescribed, administered, or dispensed, the report shall include, among other things, the following:

- (1) The age of the patient.
- (2) Whether a waiver of consent under section 4 [IC 16-34-2-4] of this chapter was obtained.
- (3) Whether a waiver of notification under section 4 of this chapter was obtained.
- (4) The date and location, including the facility name and city or town, where the:
 - (A) pregnant woman:
 - (i) provided consent; and
 - (ii) received all information; required under section 1.1 [IC 16-34-2-1.1] of this chapter; and
 - (B) abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.
- (5) The health care provider's full name and address, including the name of the physicians performing the abortion or providing, prescribing, administering, or dispensing the abortion inducing drug.
- (6) The city and county where the pregnancy termination occurred.
- (7) The age of the father, or the approximate age of the father if the father's age is unknown.
- (8) The patient's county and state of residence.
- (9) The marital status of the patient.
- (10) The educational level of the patient.
- (11) The race of the patient.
- (12) The ethnicity of the patient.
- (13) The number of the patient's previous live births.
- (14) The number of the patient's deceased children.
- (15) The number of the patient's spontaneous pregnancy terminations.
- (16) The number of the patient's previous induced terminations.
- (17) The date of the patient's last menses.
- (18) The physician's determination of the gestation of the fetus in weeks.

- (19) The reason for the abortion.
- (20) Whether the patient indicated that the patient was seeking an abortion as a result of being:
- (A) abused;
 - (B) coerced;
 - (C) harassed; or
 - (D) trafficked.
- (21) The following information concerning the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug:
- (A) The postfertilization age of the fetus (in weeks).
 - (B) The manner in which the postfertilization age was determined.
 - (C) The gender of the fetus, if detectable.
 - (D) Whether the fetus has been diagnosed with or has a potential diagnosis of having Down syndrome or any other disability.
 - (E) If after the earlier of the time the fetus obtains viability or the time the postfertilization age of the fetus is at least twenty (20) weeks, the medical reason for the performance of the abortion.
- (22) For a surgical abortion, the medical procedure used for the abortion and, if the fetus had a postfertilization age of at least twenty (20) weeks:
- (A) whether the procedure, in the reasonable judgment of the health care provider, gave the fetus the best opportunity to survive;
 - (B) the basis for the determination that the pregnant woman had a condition described in this chapter that required the abortion to avert the death of or serious impairment to the pregnant woman; and
 - (C) the name of the second doctor present, as required under IC 16-34-2-3(a)(3).
- (23) For a nonsurgical abortion, the precise drugs provided, prescribed, administered, or dispensed, and the means of delivery of the drugs to the patient.
- (24) For a nonsurgical abortion, that the manufacturer's instructions were provided to the patient and that the patient signed the patient agreement.
- (25) For an abortion performed before twenty (20) weeks of postfertilization age of the fetus, the medical indication by diagnosis code for the fetus and the mother.
- (26) The mother's obstetrical history, including dates of other abortions, if any.
- (27) Any preexisting medical conditions of the patient that may complicate the abortion.
- (28) The results of pathological examinations if performed.
- (29) For a surgical abortion, whether the fetus was delivered alive, and if so, how long the fetus lived.
- (30) Records of all maternal deaths occurring at the location where the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.
- (31) The date the form was transmitted to the state department and, if applicable, separately to the department of child services.
- (b) The health care provider shall complete the form provided for in subsection (a) and shall transmit the completed form to the state department, in the manner specified on the form, within thirty (30) days after the date of each abortion. However, if an abortion is for a female who is less than sixteen (16) years of age, the health care provider shall transmit the form to the state department and separately to the department of child services within three (3) days after the abortion is performed.
- (c) The dates supplied on the form may not be redacted for any reason before the form is transmitted as provided in this section.
- (d) Each failure to complete or timely transmit a form, as required under this section, for each abortion performed or abortion inducing drug that was provided, prescribed, administered, or dispensed, is a Class B misdemeanor.
- (e) On a quarterly basis, the state department shall compile a public report providing the following:
- (1) Statistics for the previous calendar quarter from the information submitted under this section.
 - (2) Statistics for previous calendar years compiled by the state department under this subsection, with updated information for the calendar quarter that was submitted to the state department after the compilation of the statistics.
- The state department shall ensure that no identifying information of a pregnant woman is contained in the report.
- (f) The state department shall:
- (1) summarize aggregate data from all data submitted under this section; and
 - (2) submit the data, before July 1 of each year, to the United States Centers for Disease Control and

Prevention for its inclusion in the annual Vital Statistics Report.

[Burns Ind. Code Ann. § 16-34-2-5](#)

Ind. Code § 16-34-2-6. Experiments not to be conducted on aborted fetuses — Penalty.

(a) No experiments except pathological examinations may be conducted on any fetus aborted under this chapter. A person who conducts such an experiment commits a Class A misdemeanor.

(b) Except as provided by subsection (c), a person who knowingly transports an aborted fetus into, or out of, Indiana commits a Class A misdemeanor.

(c) A person may transport an aborted fetus into, or out of, Indiana for the sole purpose of conducting the final disposition of the aborted fetus by cremation or interment under [IC 16-34-3-4](#).

Ind. Code § 16-34-2-7. Performing abortion not provided for at law — Penalty.

(a) Except as provided in subsections (b) and (c), a person who knowingly or intentionally performs an abortion prohibited by section 1 [IC 16-34-2-1] of this chapter commits a Level 5 felony.

(b) A physician who performs an abortion intentionally or knowingly in violation of section 1(a)(1)(D) or 4 [IC 16-34-2-1(a)(1)(D) or IC 16-34-2-4] of this chapter commits a Class A misdemeanor.

(c) A person who knowingly or intentionally performs an abortion in violation of section 1.1 [IC 16-34-2-1.1] of this chapter commits a Class A infraction.

(d) A woman upon whom a partial birth abortion is performed may not be prosecuted for violating or conspiring to violate section 1(b) of this chapter.

(e) A woman upon whom a dismemberment abortion is performed may not be prosecuted for violating or conspiring to violate section 1(c) of this chapter.

16-34-2-8. Liability for damages related to dismemberment abortion.

(a) A woman upon whom a dismemberment abortion was performed is not liable for any damages related to the dismemberment abortion.

(b) The following individuals who worked at the direction of a physician who performed a dismemberment abortion are not liable for damages for the dismemberment abortion:

(1) A nurse.

(2) A technician.

(3) A secretary.

(4) A receptionist.

(5) An employee or agent who is not a physician but acts at the direction of a physician.

(6) A pharmacist or other individual who is not a physician but who fills a prescription or provides instruments or materials used in the dismemberment abortion.

[Burns Ind. Code Ann. § 16-34-2-8](#)

16-34-2-9. Petition for injunction against person who performed dismemberment abortion in violation of IC 16-34-2-1(c).

(a) The following may petition a court for an injunction against a person who performed a dismemberment

abortion in violation of section 1(c) [IC 16-34-2-1(c)] of this chapter:

- (1) A woman upon whom the person performed a dismemberment abortion.
- (2) The parent or guardian of a female upon whom a dismemberment abortion was performed who was less than eighteen (18) years of age at the time the person performed the dismemberment abortion.
- (3) A prosecuting attorney in the jurisdiction where:
 - (A) the dismemberment abortion was performed; or
 - (B) the female upon whom a dismemberment abortion was performed resides.
- (b) An injunction issued under this section shall prohibit the defendant from performing or attempting to perform further dismemberment abortions in violation of section 1(c) of this chapter.
- (c) An injunction may not be obtained by a plaintiff under this section if the pregnancy resulted from the plaintiff's criminal conduct.

[Burns Ind. Code Ann. § 16-34-2-9](#)

16-34-4-5. Person may not intentionally perform or attempt to perform abortion because of sex of fetus.

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- (a) A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking a sex selective abortion.
 - (b) A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking a sex selective abortion.
 - (c) This section is severable as specified in IC 1-1-1-8.

[Burns Ind. Code Ann. § 16-34-4-5](#)

16-34-4-6. Person may not intentionally perform or attempt to perform abortion because of Down syndrome.

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- (a) A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome.
 - (b) A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome.
 - (c) This section is severable as specified in IC 1-1-1-8.

[Burns Ind. Code Ann. § 16-34-4-6](#)

16-34-4-7. Person may not intentionally perform or attempt to perform abortion because of disability.

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- (a) A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability.
 - (b) A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability.
 - (c) This section is severable as specified in IC 1-1-1-8.

[Burns Ind. Code Ann. § 16-34-4-7](#)

16-34-4-8. Person may not intentionally perform or attempt to perform abortion because of race, color, national origin, or ancestry.

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- (a) A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking the abortion solely because of the race, color, national origin, or ancestry of the fetus.

(b) A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking the abortion solely because of the race, color, national origin, or ancestry of the fetus.

(c) This section is severable as specified in [IC 1-1-1-8](#).

Ind. Code § 35-42-1-6. Feticide.

(a) This section does not apply to:

(1) the pregnant mother whose pregnancy is terminated;

(2) a person who in good faith provides medical treatment to a pregnant woman that results in the accidental or unintentional termination of the pregnancy; or

(3) a physician licensed under IC 25-22.5 who, upon the request of a pregnant woman, performs a medical procedure to terminate her pregnancy, even if the procedure is not authorized under [IC 16-34-2-1](#).

(b) A person who knowingly or intentionally terminates a human pregnancy with an intention other than to produce a live birth or to remove a dead fetus commits feticide, a Level 3 **felony**.