



SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1258 be amended to read as follows:

1 Page 7, between lines 17 and 18, begin a new paragraph and insert:
2 "SECTION 5. IC 16-18-2-1.6, AS ADDED BY P.L.136-2013,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2026]: Sec. 1.6. "Abortion inducing drug" means ~~a medicine,~~
5 ~~drug,~~ or substance prescribed or dispensed with the intent of
6 terminating a clinically diagnosable pregnancy with the knowledge that
7 the termination will, with reasonable likelihood, cause the death of the
8 fetus. The term includes the off-label use of a drug known to have
9 abortion inducing properties if the drug is prescribed with the intent of
10 causing an abortion: **a drug, a medicine, or any other substance,**
11 **including a regimen of two (2) or more drugs, medicines, or**
12 **substances, prescribed, dispensed, or administered with the intent**
13 **of terminating a clinically diagnosable pregnancy of a woman and**
14 **with knowledge that the termination will, with reasonable**
15 **likelihood, cause the death of the woman's unborn child. The term**
16 **includes off label use of drugs, medicines, or other substances**
17 **known to have abortion inducing properties that are prescribed,**
18 **dispensed, or administered with the intent of causing an abortion,**
19 **including:**
20 **(1) the mifepristone (Mifeprex) regimen;**
21 **(2) misoprostol (Cytotec); and**
22 **(3) methotrexate.**
23 **The term does not include a drug, medicine, or other substance**
24 **that may be known to cause an abortion but is prescribed,**
25 **dispensed, or administered for other medical reasons.**
26 SECTION 6. IC 16-18-2-167, AS AMENDED BY P.L.117-2015,
27 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2026]: Sec. 167. (a) "Health facility":

2 (1) except for purposes of IC 16-28-15, means a building, a
3 structure, an institution, or other place for the reception,
4 accommodation, board, care, or treatment extending beyond a
5 continuous twenty-four (24) hour period in a week of more than
6 four (4) individuals who need or desire such services because of
7 physical or mental illness, infirmity, or impairment; ~~and~~

8 (2) for purposes of IC 16-28-15, has the meaning set forth in
9 IC 16-28-15-3; ~~and~~

10 **(3) for purposes of IC 16-34-7, has the meaning set forth in**
11 **IC 16-34-7-3(3).**

12 (b) The term does not include the premises used for the reception,
13 accommodation, board, care, or treatment in a household or family, for
14 compensation, of a person related by blood to the head of the
15 household or family (or to the spouse of the head of the household or
16 family) within the degree of consanguinity of first cousins.

17 (c) The term does not include any of the following:

18 (1) Hotels, motels, or mobile homes when used as such.

19 (2) Hospitals or mental hospitals, except for that part of a hospital
20 that provides long term care services and functions as a health
21 facility, in which case that part of the hospital is licensed under
22 IC 16-21-2, but in all other respects is subject to IC 16-28.

23 (3) Hospices that furnish inpatient care and are licensed under
24 IC 16-25-3.

25 (4) Institutions operated by the federal government.

26 (5) Foster family homes or day care centers.

27 (6) Schools for individuals who are deaf or blind.

28 (7) Day schools for individuals with an intellectual disability.

29 (8) Day care centers.

30 (9) Children's homes and child placement agencies.

31 (10) Offices of practitioners of the healing arts.

32 (11) Any institution in which health care services and private duty
33 nursing services are provided that is listed and certified by the
34 Commission for Accreditation of Christian Science Nursing
35 Organizations/Facilities, Inc.

36 (12) Industrial clinics providing only emergency medical services
37 or first aid for employees.

38 (13) A residential facility (as defined in IC 12-7-2-165).

39 (14) Maternity homes.

40 (15) Offices of Christian Science practitioners.

41 SECTION 7. IC 16-18-2-282, AS AMENDED BY P.L.93-2022,
42 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
43 JULY 1, 2026]: Sec. 282. (a) "Physician", except as provided in
44 subsections (b), (c), and (e), means a licensed physician (as defined in
45 section 202 of this chapter).

46 (b) "Physician", for purposes of IC 16-41-12, has the meaning set

- 1 forth in IC 16-41-12-7.
- 2 (c) "Physician", for purposes of IC 16-37-1-3.1 and IC 16-37-3-5,
- 3 means an individual who:
- 4 (1) was the physician last in attendance (as defined in section
- 5 282.2 of this chapter); or
- 6 (2) is licensed under IC 25-22.5.
- 7 (d) "Physician", for purposes of IC 16-48-1, is subject to
- 8 IC 16-48-1-2.
- 9 (e) "Physician", for purposes of IC 16-34-6, has the meaning set
- 10 forth in IC 16-34-6-3.
- 11 **(f) "Physician", for purposes of IC 16-34-7, has the meaning set**
- 12 **forth in IC 16-34-7-3(4)."**

13 Page 12, between lines 17 and 18, begin a new paragraph and insert:
 14 "SECTION 11. IC 16-34-1-4, AS AMENDED BY P.L.218-2021,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2026]: Sec. 4. No:

- 17 (1) physician;
- 18 (2) nurse;
- 19 (3) physician assistant;
- 20 (4) pharmacist;
- 21 (5) employee or member of the staff of a hospital or other facility
- 22 in which an abortion may be performed; or
- 23 (6) mental health provider;

24 shall be required to perform an abortion, to prescribe, administer, or
 25 dispense an abortion inducing drug **in violation of IC 16-34-7**, to
 26 provide advice or counsel to a pregnant woman concerning medical
 27 procedures resulting in, or intended to result in, an abortion, to assist
 28 or participate in medical procedures resulting in, or intended to result
 29 in an abortion, or to handle or dispose of aborted remains, if that
 30 individual objects to such procedures on ethical, moral, or religious
 31 grounds.

32 SECTION 12. IC 16-34-2-1, AS AMENDED BY THE
 33 TECHNICAL CORRECTIONS BILL OF THE 2026 GENERAL
 34 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2026]: Sec. 1. (a) Abortion shall in all instances be a criminal
 36 act, except when performed under the following circumstances:

- 37 (1) Except as prohibited in IC 16-34-4, before the earlier of
- 38 viability of the fetus or twenty (20) weeks of postfertilization age
- 39 of the fetus, if:
- 40 (A) for reasons based upon the professional, medical judgment
- 41 of the pregnant woman's physician, if either:
- 42 (i) the abortion is necessary when reasonable medical
- 43 judgment dictates that performing the abortion is necessary
- 44 to prevent any serious health risk to the pregnant woman or
- 45 to save the pregnant woman's life; or
- 46 (ii) the fetus is diagnosed with a lethal fetal anomaly;

1 (B) the abortion is performed by the physician in a hospital
2 licensed under IC 16-21 or an ambulatory outpatient surgical
3 center (as defined in IC 16-18-2-14) that has a majority
4 ownership by a hospital licensed under IC 16-21;
5 (C) the woman submitting to the abortion has filed her consent
6 with her physician. However, if in the judgment of the
7 physician the abortion is necessary to preserve the life of the
8 woman, her consent is not required;
9 (D) the woman submitting to the abortion has filed with her
10 physician the written consent of her parent or legal guardian
11 if required under section 4 of this chapter; and
12 (E) before the abortion, the attending physician shall certify in
13 writing to the hospital or ambulatory outpatient surgical center
14 in which the abortion is to be performed, that:
15 (i) in the attending physician's reasonable medical judgment,
16 performing the abortion is necessary to prevent any serious
17 health risk to the pregnant woman or to save the pregnant
18 woman's life; or
19 (ii) the fetus has been diagnosed with a lethal fetal anomaly.
20 All facts and reasons supporting the certification shall be set
21 forth by the physician in writing and attached to the certificate.
22 However, under this article, an abortion inducing drug may not be
23 dispensed, prescribed, administered, or otherwise given to a
24 pregnant woman ~~after eight (8) weeks of postfertilization age~~
25 **unless the abortion inducing drug is being administered as**
26 **part of an abortion authorized under this article or for the**
27 **removal of a dead fetus due to miscarriage.** A physician must
28 dispense the abortion inducing drug in person and have the
29 pregnant woman consume the drug in the presence of the
30 physician. A physician shall examine a pregnant woman in person
31 before prescribing or dispensing an abortion inducing drug. The
32 physician shall provide the pregnant woman with a copy of the
33 manufacturer's instruction sheets and require that the pregnant
34 woman sign the manufacturer's patient agreement form. A
35 physician shall also provide, orally and in writing, along with
36 other discharge information, the following statement: "Some
37 evidence suggests that the effects of Mifepristone may be
38 avoided, ceased, or reversed if the second pill, Misoprostol, has
39 not been taken. Immediately contact the following for more
40 information at (insert applicable abortion inducing drug reversal
41 ~~Internet web site~~ **website** and corresponding hotline number).".
42 The physician shall retain a copy of the signed patient agreement
43 form, and the signed physician's agreement form required by the
44 manufacturer, in the patient's file. As used in this subdivision, "in
45 person" does not include the use of telehealth or telemedicine
46 services.

- 1 (2) Except as prohibited by IC 16-34-4, during the first ten (10)
 2 weeks of postfertilization age of the fetus, if:
 3 (A) the pregnancy is a result of rape or incest;
 4 (B) all the circumstances and provisions required for legal
 5 abortion set forth in subdivision (1)(C) through (1)(D) are
 6 present and adhered to;
 7 (C) the abortion is performed in a hospital licensed under
 8 IC 16-21 or ambulatory outpatient surgical center (as defined
 9 in IC 16-18-2-14) that has a majority ownership by a hospital
 10 licensed under IC 16-21; and
 11 (D) before the abortion, the attending physician shall certify in
 12 writing to the ambulatory outpatient surgical center or hospital
 13 in which the abortion is to be performed, after proper
 14 examination, the abortion is being performed at the woman's
 15 request because the pregnancy is the result of rape or incest.
 16 All facts and reasons supporting the certification shall be set
 17 forth by the physician in writing and attached to the certificate.
- 18 (3) Except as provided in subsection (b) or as prohibited by
 19 IC 16-34-4, at the earlier of viability of the fetus or twenty (20)
 20 weeks of postfertilization age and any time after, for reasons
 21 based upon the professional, medical judgment of the pregnant
 22 woman's physician if:
 23 (A) based on reasonable medical judgment, performing the
 24 abortion is necessary to prevent any serious health risk to the
 25 pregnant woman or to save the pregnant woman's life;
 26 (B) all the circumstances and provisions required for legal
 27 abortion set forth in subdivision (1)(C) through (1)(D) are
 28 present and adhered to;
 29 (C) the abortion is performed in a hospital licensed under
 30 IC 16-21;
 31 (D) the abortion is performed in compliance with section 3 of
 32 this chapter; and
 33 (E) before the abortion, the attending physician shall certify in
 34 writing to the hospital in which the abortion is to be
 35 performed, that in the attending physician's reasonable medical
 36 judgment, performing the abortion is necessary to prevent any
 37 serious health risk to the pregnant woman or to save the
 38 pregnant woman's life. All facts and reasons supporting the
 39 certification shall be set forth by the physician in writing and
 40 attached to the certificate.
- 41 (b) A person may not knowingly or intentionally perform a partial
 42 birth abortion unless a physician reasonably believes that:
 43 (1) performing the partial birth abortion is necessary to save the
 44 mother's life; and
 45 (2) no other medical procedure is sufficient to save the mother's
 46 life.

1 (c) A person may not knowingly or intentionally perform a
 2 dismemberment abortion unless reasonable medical judgment dictates
 3 that performing the dismemberment abortion is necessary:

- 4 (1) to prevent any serious health risk to the mother; or
 5 (2) to save the mother's life.

6 (d) Telehealth and telemedicine may not be used to provide any
 7 abortion, including the writing or filling of a prescription for any
 8 purpose that is intended to result in an abortion.

9 SECTION 13. IC 16-34-2-1.5, AS AMENDED BY THE
 10 TECHNICAL CORRECTIONS BILL OF THE 2026 GENERAL
 11 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2026]: Sec. 1.5. (a) The state department shall develop an
 13 informed consent brochure and post the informed consent brochure on
 14 the state department's ~~Internet web site:~~ **website.**

15 (b) The state department shall develop an informed consent
 16 brochure that includes the following:

- 17 (1) Objective scientific information concerning the probable
 18 anatomical and physiological characteristics of a fetus every two
 19 (2) weeks of gestational age, including the following:

20 (A) Realistic pictures in color for each age of the fetus,
 21 including the dimensions of the fetus.

22 (B) Whether there is any possibility of the fetus surviving
 23 outside the womb.

- 24 (2) Objective scientific information concerning the medical risks
 25 associated with each abortion procedure, ~~or the use of an abortion~~
 26 ~~inducing drug~~, including the following:

27 (A) The risks of infection and hemorrhaging.

28 (B) The potential danger:

- 29 (i) to a subsequent pregnancy; or
 30 (ii) of infertility.

- 31 (3) Information concerning the medical risks associated with
 32 carrying the child to term.

33 (4) Information that medical assistance benefits may be available
 34 for prenatal care, childbirth, and neonatal care.

35 (5) Information that the biological father is liable for assistance in
 36 support of the child, regardless of whether the biological father
 37 has offered to pay for an abortion.

38 (6) Information regarding telephone 211 dialing code services for
 39 accessing human services as described in IC 12-13-16, and the
 40 types of services that are available through this service.

41 (7) Information concerning Indiana's safe haven law under
 42 IC 31-34-2.5-1.

43 (8) Information that, under certain conditions, a pregnant woman
 44 may relinquish a child who is, or who appears to be, not more
 45 than thirty (30) days of age:

- 46 (A) to an emergency medical services provider (as defined in

1 IC 16-41-10-1); or

2 (B) in a newborn safety device described in IC 31-34-2.5-1.

3 (c) In the development of the informed consent brochure described
4 in this section, the state department shall use information and pictures
5 that are available at no cost or nominal cost to the state department.

6 (d) The informed consent brochure must include the requirements
7 specified in this chapter.

8 SECTION 14. IC 16-34-2-4.5, AS AMENDED BY
9 P.L.179-2022(ss), SECTION 25, IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4.5. (a) A physician
11 may not perform an abortion ~~including an abortion using an abortion~~
12 ~~inducing drug~~, unless the physician:

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

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

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

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

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

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

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

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

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

45 (2) each hospital located in a county that is contiguous to the
46 county described in subdivision (1);

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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.

SECTION 15. IC 16-34-3-2, AS AMENDED BY P.L.179-2022(ss), SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2. (a) A pregnant woman who has an abortion under this article has the right to have the hospital or ambulatory outpatient surgical center dispose 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. The pregnant woman who selects to have the hospital or ambulatory outpatient surgical center dispose of the aborted fetus has the right to ask which method will be used by the hospital or ambulatory outpatient surgical center.

(b) After receiving the notification and information required by IC 16-34-2-1.1(a)(2)(H) **and** IC 16-34-2-1.1(a)(2)(I), ~~and IC 16-34-2-1.1(a)(2)(J)~~; the pregnant woman shall inform the hospital or ambulatory outpatient surgical center:

- (1) in writing; and
- (2) on a form prescribed by the state department;

of the pregnant woman's decision for final disposition of the aborted fetus by cremation or interment, ~~and; in an abortion induced by an abortion inducing drug; whether the pregnant woman will return the aborted fetus to the hospital or ambulatory outpatient surgical center 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.

(c) If the pregnant woman is a minor, the hospital or ambulatory outpatient surgical center shall obtain parental consent in the disposition of the aborted fetus unless the minor has received a waiver of parental consent under IC 16-34-2-4.

(d) The hospital or ambulatory outpatient surgical center shall document the pregnant woman's decision concerning disposition of the aborted fetus in the pregnant woman's medical record.

~~(e) In the case of an abortion induced by an abortion inducing drug; the pregnant woman may return the aborted fetus to the hospital or ambulatory outpatient surgical center 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.~~

SECTION 16. IC 16-34-3-4, AS AMENDED BY P.L.179-2022(ss),

1 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2026]: Sec. 4. (a) A hospital or ambulatory outpatient surgical
3 center having possession of an aborted fetus shall provide for the final
4 disposition of the aborted fetus. The burial transit permit requirements
5 of IC 16-37-3 apply to the final disposition of an aborted fetus, which
6 must be interred or cremated. However:

- 7 (1) a person is not required to designate a name for the aborted
- 8 fetus on the burial transit permit and the space for a name may
- 9 remain blank; and
- 10 (2) any information submitted under this section that may be used
- 11 to identify the pregnant woman is confidential and must be
- 12 redacted from any public records maintained under IC 16-37-3.

13 Aborted fetuses may be cremated by simultaneous cremation.

14 (b) If the hospital or ambulatory outpatient surgical center conducts
15 the cremation of aborted fetal remains on site, the hospital or
16 ambulatory outpatient surgical center must comply with all state laws
17 concerning the cremation of human remains as prescribed in
18 IC 23-14-31. The hospital or ambulatory outpatient surgical center
19 must make the onsite cremation equipment available to the state
20 department for inspection at the time the hospital or ambulatory
21 outpatient surgical center is inspected. When the hospital or
22 ambulatory outpatient surgical center contracts with a licensed funeral
23 home for the disposal of the aborted fetal remains, the contract must be
24 made available for review by the state department at the time the
25 hospital or ambulatory outpatient surgical center is inspected.

26 (c) Except in extraordinary circumstances where the required
27 information is unavailable or unknown, a burial transit permit issued
28 under IC 16-37-3 that includes multiple fetal remains must be
29 accompanied by a log prescribed by the state department containing the
30 following information about each fetus included under the burial transit
31 permit:

- 32 (1) The date of the abortion.
- 33 ~~(2) Whether the abortion was surgical or induced by an abortion~~
- 34 ~~inducing drug.~~
- 35 ~~(3)~~ (2) The name of the funeral director licensee who will be
- 36 retrieving the aborted fetus.
- 37 ~~(4) In the case of an abortion induced by an abortion inducing~~
- 38 ~~drug:~~
- 39 ~~(A) whether the pregnant woman will cremate or inter the~~
- 40 ~~fetus; or will return the fetus to the hospital or ambulatory~~
- 41 ~~outpatient surgical center for disposition; and~~
- 42 ~~(B) if the pregnant woman returns the fetus to the hospital or~~
- 43 ~~ambulatory outpatient surgical center; whether the returned~~
- 44 ~~fetus is included in the burial transit permit.~~

45 The hospital or ambulatory outpatient surgical center must keep a copy
46 of the burial transit permit and accompanying log in a permanent file.

1 (d) Each time the fetal remains are transported from one entity to
 2 another for disposition, the entity receiving the fetal remains must
 3 confirm that the number of fetal remains matches the information
 4 contained in the burial transit permit and accompanying log. After final
 5 disposition, a copy of the log will be sent back to the hospital or
 6 ambulatory outpatient surgical center. The final log will be attached to
 7 the original log described in subsection (c) and will be made available
 8 for review by the state department at the time of inspection.

9 (e) A hospital or ambulatory outpatient surgical center is responsible
 10 for demonstrating to the state department that the hospital or
 11 ambulatory outpatient surgical center has complied with the protocol
 12 provided in this section.

13 (f) A certificate of stillbirth is not required to be issued for an
 14 aborted fetus with a gestational age of less than twenty (20) weeks of
 15 age.

16 (g) IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, and
 17 IC 29-2-19-17 concerning the authorization of disposition of human
 18 remains apply to this section.

19 SECTION 17. IC 16-34-7 IS ADDED TO THE INDIANA CODE
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2026]:

22 **Chapter 7. Abortion Inducing Drugs**

23 **Sec. 1. (a) This chapter does not apply to and a civil action**
 24 **under this chapter may not be brought against:**

- 25 (1) a hospital or health facility licensed, owned, maintained,
 26 or operated by the state;
- 27 (2) a physician or health care provider who is:
 28 (A) licensed by the state; and
 29 (B) located in Indiana;
- 30 (3) an Internet service provider or an affiliate of subsidiary of
 31 an Internet service provider;
- 32 (4) an Internet service engine;
- 33 (5) a cloud service provider providing access or connection to
 34 or from:
 35 (A) a website;
 36 (B) other information or content on the Internet;
 37 (C) a facility, system, or network that is not under the
 38 provider's control, including:
 39 (i) transmission;
 40 (ii) downloading;
 41 (iii) intermediate storage; or
 42 (iv) access software.

43 (b) This chapter does not apply to the transport of an abortion
 44 inducing drug from a person in another state in continuous transit
 45 through Indiana to a person in another state.

46 **Sec. 2. This chapter may not be construed to require the actual**

1 performance, inducement, or attempted performance of an
2 abortion in order for a person to bring a civil action under this
3 chapter.

4 **Sec. 3. The following definitions apply throughout this chapter:**

5 (1) "Delivery network company" has the meaning set forth in
6 IC 8-2.1-17-5.3.

7 (2) "DNC driver" has the meaning set forth in IC 8-2.1-17-5.7.

8 (3) "Health facility" means a building, a structure, an
9 institution, or other place for the reception, accommodation,
10 board, care, or treatment extending beyond a continuous
11 twenty-four (24) hour period in a week of more than four (4)
12 individuals who need or desire such services because of
13 physical or mental illness, infirmity, or impairment. The term
14 does not include a hospital.

15 (4) "Physician" means an individual licensed to practice
16 medicine in Indiana, include a medical doctor and a doctor of
17 osteopathic medicine.

18 **Sec. 4. (a) Except as provided by subsection (b), a person may**
19 **not knowingly or intentionally:**

20 (1) manufacture, distribute, or possess an abortion inducing
21 drug; or

22 (2) mail, transport, deliver, prescribe, or provide an abortion
23 inducing drug in any manner to or from any person or
24 location in Indiana.

25 **(b) Subsection (a) does not prohibit:**

26 (1) speech or conduct protected by the First Amendment to
27 the Constitution of the United States, as made applicable to
28 the states through the United States Supreme Court's
29 interpretation of the Fourteenth Amendment to the
30 Constitution of the United States, or protected by Article 1,
31 Section 9 of the Constitution of the State of Indiana;

32 (2) conduct that a pregnant woman takes in the course of
33 aborting or attempting to abort the woman's unborn child;

34 (3) the manufacture, distribution, mailing, transport, delivery,
35 prescribing, provision, or possession of an abortion inducing
36 drug solely for purposes that do not include performing,
37 inducing, attempting, assisting, or aiding or abetting an illegal
38 abortion; or

39 (4) conduct that a person takes under the direction of a
40 federal agency, contractor, or employee to carry out a duty
41 under federal law, if prohibiting that conduct would violate
42 the doctrine of preemption or intergovernmental immunity.

43 **Sec. 5. (a) Notwithstanding any other law, the prohibitions in**
44 **section 4 of this chapter may be enforced only through a wrongful**
45 **death action brought under section 6 of this chapter or a qui tam**
46 **action brought under section 9 of this chapter.**

47 **(b) No other direct or indirect enforcement of section 4 of this**

1 chapter may be taken or threatened by:

- 2 (1) the State of Indiana;
 3 (2) a political subdivision of the state;
 4 (3) a prosecuting attorney;
 5 (4) a county attorney;
 6 (5) any officer or employee of the state; or
 7 (6) any officer or employee of a political subdivision of the
 8 state;

9 against any person, except through a wrongful death action
 10 brought under section 6 of this chapter or a qui tam action brought
 11 under section 9 of this chapter.

12 (c) This section does not preclude or limit the enforcement of
 13 any other law or regulation against conduct that is independently
 14 prohibited by the other law or regulation and that would remain
 15 prohibited by the other law or regulation in the absence of section
 16 4 of this chapter.

17 Sec. 6. (a) Notwithstanding any other law, and except as
 18 provided in subsections (b) and (f), a person who manufactures,
 19 distributes, mails, transports, delivers, prescribes, or provides an
 20 abortion inducing drug, or who aids or abets the manufacture,
 21 distribution, mailing, transportation, delivery, prescription, or
 22 provision of an abortion inducing drug, is strictly, absolutely, and
 23 jointly and severally liable for:

- 24 (1) the wrongful death of an unborn child or pregnant woman
 25 from the use of the abortion inducing drug; and
 26 (2) personal injury of an unborn child or pregnant woman
 27 from the use of the abortion inducing drug.

28 (b) A claimant may not bring an action under this section if the
 29 action is preempted by 47 U.S.C. 230(c).

30 (c) A person who engages in conduct described by subsection (a)
 31 is liable for damages resulting from the death or personal injury
 32 sustained by an unborn child or pregnant woman if the person's
 33 conduct contributed in any way to the death or injury, regardless
 34 of whether the person's conduct was the actual or proximate cause
 35 of the death or injury.

36 (d) Notwithstanding any other law, the mother or father of an
 37 unborn child may bring a civil action under this section for the
 38 wrongful death of the unborn child from the use of an abortion
 39 inducing drug, regardless of whether the other parent brings a civil
 40 action for the wrongful death. The biological father of an unborn
 41 child may bring the action regardless of whether the father was
 42 married to the unborn child's mother at the time of the unborn
 43 child's conception or death.

44 (e) Notwithstanding any other law, a civil action may not be
 45 brought under this section:

- 46 (1) against the woman who used or sought to obtain abortion
 47 inducing drugs to abort or attempt to abort her unborn child;

- 1 **(2) against a person that acted under the direction of a federal**
- 2 **agency, contractor, or employee who is carrying out duties**
- 3 **under federal law if the imposition of liability would violate**
- 4 **the doctrine of preemption or intergovernmental immunity;**
- 5 **(3) by any person who has committed a sex crime as defined**
- 6 **in IC 35-42-4, or by another person who acts in concert or**
- 7 **participation with such a person;**
- 8 **(4) against a transportation network company or a driver for**
- 9 **using a transportation network company's digital network to**
- 10 **provide a digitally prearranged ride;**
- 11 **(5) against a delivery network company or a DNC driver for**
- 12 **using a delivery network company's digital network to**
- 13 **provide a digitally prearranged delivery;**
- 14 **(6) against a person described in section 1 of this chapter; or**
- 15 **(7) against a common carrier that took every reasonable**
- 16 **precaution to ensure that the common carrier would not**
- 17 **manufacture, distribute, mail, transport, deliver, prescribe,**
- 18 **provide, possess, or aid or abet the manufacture, distribution,**
- 19 **mailing, transportation, delivery, prescription, provision, or**
- 20 **possession of abortion inducing drugs for the purpose of**
- 21 **performing, inducing, attempting, or assisting an illegal**
- 22 **abortion, including by adopting a policy that the common**
- 23 **carrier will not manufacture, distribute, mail, transport,**
- 24 **deliver, prescribe, provide, possess, or aid or abet the**
- 25 **manufacture, distribution, mailing, transportation, delivery,**
- 26 **prescription, provision, or possession of abortion inducing**
- 27 **drugs for this purpose.**

28 **(f) Notwithstanding any other law, including Trial Rule 23 of the**
 29 **Indiana Rules of Trial Procedure, an action brought under this**
 30 **section may not be litigated on behalf of a claimant class or a**
 31 **defendant class, and a court may not certify a class in the action.**

32 **Sec. 7. (a) It is an affirmative defense to an action brought under**
 33 **section 6 of this chapter that the defendant:**

- 34 **(1) was unaware the defendant was engaged in the conduct**
- 35 **described by section 6(a) of this chapter; and**
- 36 **(2) took every reasonable precaution to ensure the defendant**
- 37 **would not manufacture, distribute, mail, transport, deliver,**
- 38 **prescribe, provide, or possess abortion inducing drugs.**

39 **(b) A defendant has the burden of proving an affirmative**
 40 **defense under subsection (a) by a preponderance of the evidence.**

41 **(c) Notwithstanding any other law, the following are not a**
 42 **defense to an action brought under section 6 of this chapter:**

- 43 **(1) A defendant's ignorance or mistake of law, including a**
- 44 **defendant's mistaken belief that the requirements or**
- 45 **provisions of this chapter are unconstitutional or were**
- 46 **unconstitutional.**
- 47 **(2) A defendant's reliance on a court decision that has been**

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vacated, reversed, or overruled on appeal or by a subsequent court, even if the court decision had not been vacated, reversed, or overruled when the cause of action accrued.

(3) A defendant's reliance on a state or federal court decision that is not binding on the court in which the action has been brought.

(4) A defendant's reliance on a federal statute, agency rule or action, or treaty that has been repealed, superseded, or declared invalid or unconstitutional, even if the federal statute, agency rule or action, or treaty had not been repealed, superseded, or declared invalid or unconstitutional when the cause of action accrued.

(5) The laws of another state or jurisdiction, including an abortion shield law, unless the Constitution of the State of Indiana or federal law compels the court to enforce that law.

(6) Nonmutual issue preclusion or nonmutual claim preclusion.

(7) The consent of the claimant or the unborn child's mother to the abortion.

(8) Contributory or comparative negligence.

(9) Assumption of risk.

(10) Lack of actual or proximate cause.

(11) Sovereign immunity, governmental immunity, or official immunity, except that sovereign immunity, governmental immunity, or official immunity is not waived for:

(A) a hospital owned and operated by the state that facilitates or makes available abortion inducing drugs solely for purposes that do not include performing, inducing, attempting, assisting, or aiding or abetting an illegal abortion; or

(B) a political subdivision, including a hospital district, that facilitates or makes available abortion inducing drugs solely for purposes that do not include performing, inducing, attempting, assisting, or aiding or abetting an illegal abortion.

(12) A claim that the enforcement of this chapter or the imposition of civil liability against the defendant will violate the constitutional or federally protected rights of third parties.

Sec. 8. (a) Notwithstanding any other law, and except as provided in subsection (b), if a claimant who brings an action under section 6 of this chapter is unable to identify the specific manufacturer of the abortion inducing drug that caused the death or injury that is the basis for the action, the liability is apportioned among all manufacturers of abortion inducing drugs in proportion to each manufacturer's share of the national market for abortion inducing drugs at the time the death or injury occurred.

- 1 **(b) A manufacturer is not subject to liability under this section**
- 2 **if it manufactures abortion inducing drugs solely for purposes that**
- 3 **do not include performing, inducing, attempting, or assisting, or**
- 4 **aiding or abetting an illegal abortion.**
- 5 **Sec. 9. (a) A person, other than the state of Indiana, a political**
- 6 **subdivision of the state, or an officer or employee of the state or a**
- 7 **political subdivision of the state, has standing to bring and may**
- 8 **bring a qui tam action against any person who:**
- 9 **(1) violates section 4 of this chapter; or**
- 10 **(2) intends to violate section 4 of this chapter.**
- 11 **(b) An action brought under this section must be brought in the**
- 12 **name of the qui tam relator, who is an assignee of the state's claim**
- 13 **for relief. Notwithstanding any other law, the transfer of the state's**
- 14 **claim to the qui tam relator is absolute, with the state retaining no**
- 15 **interest in the subject matter of the claim.**
- 16 **(c) A qui tam relator may not bring an action under this section**
- 17 **if the action is preempted by 47 U.S.C. 230(c).**
- 18 **(d) A qui tam action may not be brought under this section:**
- 19 **(1) against a woman for using, obtaining, or seeking to obtain**
- 20 **abortion inducing drugs to abort or attempt to abort her**
- 21 **unborn child;**
- 22 **(2) against a person acting under the direction of a federal**
- 23 **agency, contractor, or employee who is carrying out a duty**
- 24 **under federal law if the imposition of liability would violate**
- 25 **the doctrine of preemption or intergovernmental immunity;**
- 26 **(3) by any person who has committed a sex crime as defined**
- 27 **in IC 35-42-4, or by another person who acts in concert or**
- 28 **participation with such a person;**
- 29 **(4) against a transportation network company or a driver for**
- 30 **using a transportation network company's digital network to**
- 31 **provide a digitally prearranged ride;**
- 32 **(5) against a delivery network company or a DNC driver for**
- 33 **using a delivery network company's digital network to**
- 34 **provide a digitally prearranged delivery;**
- 35 **(6) against a person described in section 1 of this chapter; or**
- 36 **(7) against a common carrier that took reasonable**
- 37 **precautions to ensure that the common carrier would not**
- 38 **manufacture, distribute, mail, transport, deliver, prescribe,**
- 39 **provide, possess, or aid or abet the manufacture, distribution,**
- 40 **mailing, transportation, delivery, prescription, provision, or**
- 41 **possession of abortion inducing drugs for the purpose of**
- 42 **performing, inducing, attempting, or assisting an illegal**
- 43 **abortion, including by adopting a policy that the common**
- 44 **carrier will not manufacture, distribute, mail, transport,**
- 45 **deliver, prescribe, provide, possess, or aid or abet the**
- 46 **manufacture, distribution, mailing, transportation, delivery,**
- 47 **prescription, provision, or possession of abortion inducing**

- 1 **drugs for this purpose.**
- 2 **(e) Notwithstanding any other law, including Trial Rule 23 of**
- 3 **the Indiana Rules of Trial Procedure, an action brought under this**
- 4 **section may not be litigated on behalf of a claimant class or a**
- 5 **defendant class, and a court may not certify a class in the action.**
- 6 **Sec. 10. (a) It is an affirmative defense to an action brought**
- 7 **under section 9 of this chapter that the defendant:**
- 8 **(1) was unaware the defendant was engaged in the conduct**
- 9 **prohibited by section 4 of this chapter; and**
- 10 **(2) took reasonable precautions to ensure the defendant would**
- 11 **not violate section 4 of this chapter.**
- 12 **(b) The defendant has the burden of proving an affirmative**
- 13 **defense under this section by a preponderance of the evidence.**
- 14 **(c) The following are not defenses to an action brought under**
- 15 **section 9 of this chapter:**
- 16 **(1) A defendant's ignorance or mistake of law, including a**
- 17 **defendant's mistaken belief that the requirements or**
- 18 **provisions of this chapter are unconstitutional or were**
- 19 **unconstitutional.**
- 20 **(2) A defendant's reliance on a court decision that has been**
- 21 **vacated, reversed, or overruled on appeal or by a subsequent**
- 22 **court, even if the court decision had not been vacated,**
- 23 **reversed, or overruled when the cause of action accrued.**
- 24 **(3) A defendant's reliance on a state or federal court decision**
- 25 **that is not binding on the court in which the action has been**
- 26 **brought.**
- 27 **(4) A defendant's reliance on a federal agency rule or action**
- 28 **that has been repealed, superseded, or declared invalid or**
- 29 **unconstitutional, even if the federal agency rule or action had**
- 30 **not been repealed, superseded, or declared invalid or**
- 31 **unconstitutional when the cause of action accrued.**
- 32 **(5) The laws of another state or jurisdiction, including an**
- 33 **abortion shield law, unless the Constitution of the State of**
- 34 **Indiana or federal law compels the court to enforce that law.**
- 35 **(6) Nonmutual issue preclusion or nonmutual claim**
- 36 **preclusion.**
- 37 **(7) Sovereign immunity, governmental immunity, or official**
- 38 **immunity, other than sovereign immunity, governmental**
- 39 **immunity, or official immunity applicable to:**
- 40 **(A) a hospital owned and operated by the state that**
- 41 **facilitates or makes available abortion inducing drugs**
- 42 **solely for purposes that do not include performing,**
- 43 **inducing, attempting, assisting, or aiding or abetting an**
- 44 **illegal abortion; or**
- 45 **(B) a political subdivision, including a hospital district, that**
- 46 **facilitates or makes available abortion inducing drugs**
- 47 **solely for purposes that do not include performing,**

1 inducing, attempting, assisting, or aiding or abetting an
2 illegal abortion.

3 (8) A claim that the enforcement of this chapter or the
4 imposition of civil liability against the defendant will violate
5 the constitutional or federally protected rights of third
6 parties.

7 (9) Consent to the abortion by the claimant or the unborn
8 child's mother.

9 Sec. 11. (a) Notwithstanding any other law and except as
10 provided in subsection (b), if a qui tam relator prevails in an action
11 brought under section 9 of this chapter, the court shall award to
12 the relator:

13 (1) injunctive relief sufficient to prevent the defendant from
14 violating section 4 of this chapter;
15 (2) an amount of not less than one hundred thousand dollars
16 (\$100,000) for each violation of section 4 of this chapter; and
17 (3) costs and reasonable attorney's fees.

18 (b) A court may not award relief under subsection (a)(2) or
19 (a)(3) in response to a violation of section 4 of this chapter if the
20 defendant demonstrates that:

21 (1) a court previously ordered the defendant to pay an amount
22 under subsection (a)(2) in another action for that particular
23 violation; and
24 (2) the court order described by subdivision (1) has not been
25 vacated, reversed, or overturned.

26 (c) Notwithstanding any other law, a court may not award costs
27 or attorney's fees to a defendant against whom an action is brought
28 under section 6 or 9 of this chapter except:

29 (1) in response to frivolous, malicious, or bad faith conduct;
30 or
31 (2) as required by federal law.

32 Sec. 12. Notwithstanding any other law, a person may bring an
33 action under section 6 or 9 of this chapter not later than twenty
34 (20) years after the date on which the cause of action accrues.

35 Sec. 13. (a) It is an affirmative defense to an action brought
36 under section 6 or 9 of this chapter that:

37 (1) the imposition of civil liability on the defendant will violate
38 the defendant's rights under federal law, including the
39 Constitution of the United States;
40 (2) the defendant:
41 (A) has standing to assert the rights of a third party under
42 the tests for third party standing established by the United
43 States Supreme Court; and
44 (B) demonstrates that the imposition of civil liability on the
45 defendant will violate the third party's rights under federal
46 law, including the Constitution of the United States;
47 (3) the imposition of civil liability on the defendant will violate

1 the defendant's rights under the Constitution of the State of
2 Indiana; or
3 (4) the imposition of civil liability on the defendant will violate
4 limits on extraterritorial jurisdiction imposed by the
5 Constitution of the United States or the Constitution of the
6 State of Indiana.

7 (b) The defendant has the burden of proving an affirmative
8 defense under subsection (a) by a preponderance of the evidence.

9 (c) Notwithstanding any other law, this chapter does not impose
10 liability for:

11 (1) death or personal injury resulting from an abortion
12 described in IC 16-34-2-1(a)(1), IC 16-34-2-1(a)(2), or
13 IC 16-34-2-1(a)(3);

14 (2) the manufacture, distribution, mailing, transportation,
15 delivery, prescription, provision, or possession of an abortion
16 inducing drug for the purpose of performing, inducing,
17 attempting, or assisting, or aiding or abetting an abortion
18 described in IC 16-34-2-1(a)(1), IC 16-34-2-1(a)(2), or
19 IC 16-34-2-1(a)(3);

20 (3) speech or conduct protected by the First Amendment to
21 the Constitution of the United States, as made applicable to
22 the states through the United States Supreme Court's
23 interpretation of the Fourteenth Amendment to the
24 Constitution of the United States, or protected by Article 1,
25 Section 9 of the Constitution of the State of Indiana;

26 (4) conduct that this state is prohibited from regulating under
27 the Constitution of the State of Indiana or federal law,
28 including the Constitution of the United States;

29 (5) conduct taken by a pregnant woman in the course of
30 aborting or seeking to abort her unborn child; or

31 (6) conduct that a person engages in under the direction of a
32 federal agency, contractor, or employee to carry out a duty
33 under federal law, if a prohibition on that conduct would
34 violate the doctrine of preemption or intergovernmental
35 immunity.

36 Sec. 14. Notwithstanding any other law, a waiver or purported
37 waiver of the right to bring an action under section 6 or 9 of this
38 chapter is void as against public policy and is not enforceable in
39 any court.

40 Sec. 15. (a) Notwithstanding any other law, the courts of the
41 state have personal jurisdiction over a defendant sued under
42 section 6 or 9 of this chapter to the maximum extent permitted by
43 the Fourteenth Amendment to the Constitution of the United States
44 and the defendant may be served outside Indiana.

45 (b) Notwithstanding any other law, Indiana law applies to the
46 use of an abortion inducing drug by a resident, regardless of where
47 the use of the drug occurs, and to an action brought under section

1 6 or 9 of this chapter, to the maximum extent permitted by the
2 Constitution of the State of Indiana and federal law, including the
3 Constitution of the United States.

4 (c) Notwithstanding any other law, any contractual
5 choice-of-law provision that requires or purports to require
6 application of the laws of a different jurisdiction is void based on
7 the state's public policy and is not enforceable in any court.

8 (d) Notwithstanding any other law, IC 34-7-7 and IC 34-13-9 do
9 not apply to an action brought under section 6 or 9 of this chapter.

10 (e) Notwithstanding any other law, a court may not apply the
11 law of another state or jurisdiction to an action brought under
12 section 6 or 9 of this chapter unless the Constitution of the State of
13 Indiana or federal law compels the court to apply that law.

14 Sec. 16. (a) Notwithstanding any other law, the state, a political
15 subdivision of the state, or an officer or employee of the state or a
16 political subdivision of the state may not:

- 17 (1) act in concert or participation with a claimant bringing an
- 18 action under section 6 or 9 of this chapter;
- 19 (2) establish or attempt to establish any type of agency or
- 20 fiduciary relationship with a claimant bringing an action
- 21 under section 6 or 9 of this chapter;
- 22 (3) attempt to control or influence a person's decision to bring
- 23 an action under section 6 or 9 of this chapter or that person's
- 24 conduct of the litigation; or
- 25 (4) intervene in an action brought under section 6 or 9 of this
- 26 chapter

27 (b) This section does not prohibit the state, a political
28 subdivision of the state, or an officer or employee of the state or a
29 political subdivision of the state from filing an amicus curiae brief
30 in an action brought under section 6 or 9 of this chapter if the state,
31 the political subdivision, the officer, or the employee does not act
32 in concert or participation with the claimant who brings the action.

33 Sec. 17. (a) Notwithstanding any other law, including the
34 Indiana Rules of Trial Procedure, an action brought under section
35 6 or 9 of this chapter may be brought in:

- 36 (1) the county in which all or a substantial part of the events
- 37 or omissions giving rise to the claim occurred;
- 38 (2) the county of a defendant's residence at the time the cause
- 39 of action accrued if a defendant is an individual;
- 40 (3) the county of the principal office in the state of a defendant
- 41 that is not an individual; or
- 42 (4) the county of the claimant's residence if the claimant is an
- 43 individual residing in Indiana.

44 (b) If an action brought under section 6 or 9 of this chapter is
45 brought in a venue described by subsection (a), the action may not
46 be transferred to a different venue without the written consent of
47 all parties.

1 (c) Notwithstanding any other law, any contractual
2 choice-of-forum provision that requires or purports to require an
3 action brought under section 6 or 9 of this chapter to be litigated
4 in a particular forum is void based on the state's public policy and
5 is not enforceable in any court.

6 Sec. 18. (a) The attorney general has parens patriae standing to
7 bring an action under this section on behalf of unborn children of
8 residents of Indiana.

9 (b) Except as provided by subsection (c), the attorney general
10 may bring an action for damages or injunctive relief on behalf of
11 an unborn child of a resident of Indiana against any person who,
12 with the intent of performing, inducing, attempting, assisting, or
13 aiding or abetting an illegal abortion:

14 (1) violates 18 U.S.C. 1461 through 18 U.S.C. 1462 by using
15 the mails for the mailing, carriage in the mails, or delivery of:

16 (A) any article or thing designed, adapted, or intended for
17 producing abortion; or

18 (B) any article, instrument, substance, drug, medicine, or
19 thing which is advertised or described in a manner
20 calculated to lead another to use or apply it for producing
21 abortion;

22 (2) violates 18 U.S.C. 1462 by:

23 (A) using any express company or other common carrier
24 or interactive computer service for carriage in interstate
25 or foreign commerce of any drug, medicine, article, or
26 thing designed, adapted, or intended for producing
27 abortion; or

28 (B) knowingly taking or receiving, from such express
29 company or other common carrier or interactive computer
30 service, any matter or thing described in subdivision (1); or

31 (3) aids or abets the violations of 18 U.S.C. 1461 or 18 U.S.C.
32 1462 described in subdivisions (1) and (2).

33 (c) Notwithstanding any other law, an action under this section
34 may not be brought:

35 (1) against a woman for conduct taken in the course of
36 aborting or seeking to abort her unborn child;

37 (2) against a person that acted under the direction of a federal
38 agency, contractor, or employee who is carrying out duties
39 under federal law if the imposition of liability would violate
40 the doctrine of preemption or intergovernmental immunity;

41 (3) against a transportation network company or a driver for
42 using a transportation network company's digital network to
43 provide a digitally prearranged ride;

44 (4) against a delivery network company or a DNC driver for
45 using a delivery network company's digital network to
46 provide a digitally prearranged delivery;

47 (5) against a person described in section 1 of this chapter; or

1 (6) against a common carrier that took every reasonable
 2 precaution to ensure that the common carrier would not
 3 manufacture, distribute, mail, transport, deliver, prescribe,
 4 provide, possess, or aid or abet the manufacture, distribution,
 5 mailing, transportation, delivery, prescription, provision, or
 6 possession of abortion inducing drugs for the purpose of
 7 performing, inducing, attempting, or assisting an illegal
 8 abortion, including by adopting a policy that the common
 9 carrier will not manufacture, distribute, mail, transport,
 10 deliver, prescribe, provide, possess, or aid or abet the
 11 manufacture, distribution, mailing, transportation, delivery,
 12 prescription, provision, or possession of abortion inducing
 13 drugs for this purpose.

14 Sec. 19. (a) For purposes of this section, "clawback provision"
 15 refers to any law of another state or jurisdiction that authorizes the
 16 bringing of a civil action against a person for:

- 17 (1) bringing or engaging in an action authorized by this
- 18 chapter, including an action brought under section 6, 9, or 18
- 19 of this chapter;
- 20 (2) bringing or engaging in an action that alleges a violation
- 21 of any federal or state abortion law;
- 22 (3) attempting, intending, or threatening to bring or engage in
- 23 an action described by subdivision (1) or (2); or
- 24 (4) providing legal representation or any type of assistance to
- 25 a person who brings or engages in an action described by
- 26 subdivision (1) or (2).

27 (b) Notwithstanding any other law and except as otherwise
 28 provided by federal law or the Constitution of the State of Indiana,
 29 Indiana law applies to:

- 30 (1) conduct described by subsection (a);
- 31 (2) an action brought against a person for engaging in conduct
- 32 described by subsection (a);
- 33 (3) an action brought under a clawback provision against a
- 34 resident of Indiana; and
- 35 (4) an action brought under subsection (f).

36 (c) Notwithstanding any other law, in an action described by
 37 subsection (a)(1), the court shall, on request, issue a temporary,
 38 preliminary, or permanent injunction that restrains each
 39 defendant in the action, each person in privity with the defendant,
 40 and each person with whom the defendant is in active concert or
 41 participation from:

- 42 (1) bringing an action under any clawback provision against
- 43 a claimant or prosecutor, a person in privity with the claimant
- 44 or prosecutor, or a person providing legal representation or
- 45 any type of assistance to the claimant or prosecutor; and
- 46 (2) continuing to litigate an action under any clawback
- 47 provision that has been brought against a claimant or

- 1 prosecutor, a person in privity with the claimant or
 2 prosecutor, or a person providing legal representation or any
 3 type of assistance to the claimant or prosecutor.
- 4 (d) Notwithstanding any other law, the doctrines of *res judicata*
 5 and collateral estoppel preclude a defendant against whom a
 6 judgment is entered in an action described by subsection (a)(1) and
 7 each person in privity with the defendant from litigating or
 8 relitigating any claim or issue under any clawback provision
 9 against a claimant, prosecutor, or person in privity with the
 10 claimant or prosecutor that was raised or could have been raised
 11 as a claim, cross-claim, counterclaim, or affirmative defense under
 12 the Federal or Indiana Rules of Civil Procedure.
- 13 (e) Notwithstanding any other law, a court of Indiana may not
 14 enforce an out-of-state judgment obtained in an action brought
 15 under a clawback provision unless federal law or the Constitution
 16 of the State of Indiana requires the court to enforce the judgment.
- 17 (f) Notwithstanding any other law, if an action is brought or
 18 judgment is entered against a person under a clawback provision
 19 based wholly or partly on the person's decision to engage in
 20 conduct described by subsection (a), that person is entitled to
 21 injunctive relief and damages from any person who brought the
 22 action or obtained the judgment or who sought to enforce the
 23 judgment. Notwithstanding any other law, the relief described by
 24 this subsection must include:
- 25 (1) compensatory damages, including money damages in an
 26 amount equal to the judgment damages and costs, expenses,
 27 and reasonable attorney's fees spent in defending the action;
 28 (2) costs, expenses, and reasonable attorney's fees incurred in
 29 bringing an action under this subsection;
 30 (3) additional amounts consisting of the greater of:
 31 (A) twice the sum of the damages, costs, expenses, and fees
 32 described by subdivisions (1) and (2); or
 33 (B) one hundred thousand dollars (\$100,000); and
 34 (4) injunctive relief that restrains each person who brought
 35 the action under the clawback provision, each person in
 36 privity with the person, and each person acting in concert or
 37 participation with the person from:
 38 (A) bringing further actions under any clawback provision
 39 against the person against whom the action was brought,
 40 each person in privity with the person, or any person
 41 providing legal representation or any type of assistance to
 42 the person;
 43 (B) continuing to litigate any actions brought under a
 44 clawback provision against the persons described by clause
 45 (A); and
 46 (C) enforcing or attempting to enforce any judgment
 47 obtained in any actions brought under a clawback

- 1 provision against the persons described by clause (A).
- 2 (g) It is not a defense to an action brought under subsection (f)
- 3 that:
- 4 (1) the claimant failed to seek recovery under subsection (f) in
- 5 an action brought against the claimant under a clawback
- 6 provision; or
- 7 (2) a court in a preceding action brought against the claimant
- 8 declined to recognize or enforce subsection (f) or held any
- 9 provision of that subsection invalid, unconstitutional, or
- 10 preempted by federal law, notwithstanding the doctrines of
- 11 issue or claim preclusion.
- 12 (h) Notwithstanding any other law, IC 34-7-7 and IC 34-13-9 do
- 13 not apply to an action brought under subsection (f).
- 14 Sec. 20. (a) Notwithstanding any other law, a person, including
- 15 an entity, attorney, or law firm, who seeks declaratory or
- 16 injunctive relief to prevent the state, a political subdivision of the
- 17 state, an officer, employee, or agent of the state or a political
- 18 subdivision of the state, or any person from enforcing or bringing
- 19 an action to enforce a law, including a statute, ordinance, rule, or
- 20 regulation, that regulates or restricts abortion or that limits
- 21 taxpayer funding for persons performing or promoting abortions
- 22 in any state or federal court, or who represents a litigant seeking
- 23 such relief in any state or federal court, is jointly and severally
- 24 liable to pay the costs and reasonable attorney's fees of the
- 25 prevailing party, including the costs and reasonable attorney's fees
- 26 the prevailing party incurs in its efforts to recover costs and fees.
- 27 (b) For purposes of this section, a party is considered a
- 28 prevailing party if:
- 29 (1) a state or federal court dismisses a claim or cause of action
- 30 brought against the party by a litigant that seeks the
- 31 declaratory or injunctive relief described by subsection (a),
- 32 regardless of the reason for the dismissal;
- 33 (2) a state or federal court enters judgment in the party's
- 34 favor on that claim or cause of action; or
- 35 (3) the litigant that seeks the declaratory or injunctive relief
- 36 described by subsection (a) voluntarily dismisses or nonsuits
- 37 its claims against the party under Rule 41 of the Federal Rules
- 38 of Civil Procedure, or any other procedural rule.
- 39 (c) A prevailing party may recover costs and reasonable
- 40 attorney's fees under this section only to the extent that the costs
- 41 and attorney's fees were incurred while defending claims or causes
- 42 of action on which the party prevailed.
- 43 (d) Regardless of whether a prevailing party sought to recover
- 44 costs or attorney's fees in the underlying action, a prevailing party
- 45 under this section may bring a civil action to recover costs and
- 46 attorney's fees against a person, including an entity, attorney, or
- 47 law firm, who sought declaratory or injunctive relief described by

- 1 subsection (a) not later than three (3) years after the date on which,
- 2 as applicable:
- 3 (1) the dismissal or judgment described by subsection (b)
- 4 becomes final on the conclusion of appellate review; or
- 5 (2) the time for seeking appellate review expires.
- 6 (e) It is not a defense to a civil action brought under subsection
- 7 (d) that:
- 8 (1) a prevailing party under this section failed to seek
- 9 recovery of costs or attorney's fees in the underlying action;
- 10 (2) the court in the underlying action declined to recognize or
- 11 enforce this section; or
- 12 (3) the court in the underlying action held that any provisions
- 13 of this section are invalid, unconstitutional, or preempted by
- 14 federal law, notwithstanding the doctrine of issue or claim
- 15 preclusion.
- 16 (f) Notwithstanding any other law, a civil action brought under
- 17 subsection (d) may be brought in:
- 18 (1) the county in which all or a substantial part of the events
- 19 or omissions giving rise to the claim occurred;
- 20 (2) the county of residence of a defendant at the time the cause
- 21 of action accrued, if the defendant is an individual;
- 22 (3) the county of the principal office in the state of a defendant
- 23 that is not an individual; or
- 24 (4) the county of residence of the claimant, if the claimant is
- 25 an individual residing in Indiana.
- 26 (g) If a civil action is brought under subsection (d) in a venue
- 27 described by subsection (f), the action may not be transferred to a
- 28 different venue without the written consent of all parties.
- 29 (h) Notwithstanding any other law, any contractual
- 30 choice-of-forum provision that purports to require a civil action
- 31 under subsection (d) be litigated in another forum is void based on
- 32 the state's public policy and is not enforceable in any state or
- 33 federal court.
- 34 (i) Notwithstanding any other law, IC 34-7-7 and IC 34-13-9 do
- 35 not apply to an action brought under subsection (d).
- 36 (j) A court may not award attorney's fees or costs under this
- 37 section if the award would violate:
- 38 (1) the Constitution of the State of Indiana;
- 39 (2) the Constitution of the United States; or
- 40 (3) federal law.
- 41 Sec. 21. (a) Notwithstanding any other law, the state has
- 42 sovereign immunity, a political subdivision of the state has
- 43 governmental immunity, and an officer or employee of the state or
- 44 a political subdivision of the state has official immunity (as well as
- 45 sovereign or governmental immunity, as appropriate) in an action,
- 46 claim, counterclaim, or any other type of legal or equitable action
- 47 that:

- 1 **(1) challenges the validity of any provision or application of**
- 2 **this chapter, on constitutional grounds or otherwise; or**
- 3 **(2) seeks to prevent or enjoin the state, a political subdivision**
- 4 **of the state, or an officer, employee, or agent of the state or a**
- 5 **political subdivision of the state from:**
- 6 **(A) enforcing any provision or application of this chapter;**
- 7 **or**
- 8 **(B) filing, hearing, adjudicating, or docketing an action**
- 9 **brought under section 6, 9, 18, or 20 of this chapter.**
- 10 **(b) Notwithstanding any other law, the immunities described in**
- 11 **or conferred by this section apply in court, and in every type of**
- 12 **adjudicative proceeding.**
- 13 **(c) Notwithstanding any other law, a provision of Indiana law**
- 14 **may not be construed to waive or abrogate an immunity conferred**
- 15 **by this section unless it expressly waives or abrogates immunity**
- 16 **with specific reference to this section.**
- 17 **(d) Notwithstanding any other law, an attorney representing the**
- 18 **state, a political subdivision of the state, or an officer or employee**
- 19 **of the state or a political subdivision of the state may not waive an**
- 20 **immunity conferred by this section or take an action that would**
- 21 **result in a waiver of that immunity. A purported waiver or action**
- 22 **described by this subsection is considered void and an ultra vires**
- 23 **act.**

24 **Sec. 22. Notwithstanding any other law, including IC 34-14-1, a**
 25 **court of the state does not have jurisdiction to consider and may**
 26 **not award relief under any action, claim, or counterclaim that:**

- 27 **(1) seeks declaratory or injunctive relief, or any type of writ,**
- 28 **including a writ of prohibition, that would pronounce any**
- 29 **provision or application of this article invalid or**
- 30 **unconstitutional; or**
- 31 **(2) would restrain the state, a political subdivision of the state,**
- 32 **an officer, employee, or agent of the state or a political**
- 33 **subdivision of the state, or any person from:**
- 34 **(A) enforcing any provision or application of this article;**
- 35 **or**
- 36 **(B) filing, hearing, adjudicating, or docketing an action**
- 37 **brought under section 6, 9, 18, or 20 of this chapter.**

38 **Sec. 23. This chapter may not be construed to prevent a litigant**
 39 **from asserting the invalidity or unconstitutionality of a provision**
 40 **or application of this chapter as a defense to an action, claim, or**
 41 **counterclaim brought against the litigant."**

42 Page 22, between lines 7 and 8, begin a new paragraph and insert:
 43 "SECTION 25. IC 34-6-2.1-84, AS AMENDED BY P.L.186-2025,
 44 SECTION 274, IS AMENDED TO READ AS FOLLOWS
 45 [EFFECTIVE JULY 1, 2026]: Sec. 84. (a) "Health care services":

- 46 **(1) except as provided in subdivision (2), for purposes of**
- 47 **IC 34-30-13, has the meaning set forth in IC 27-13-1-18(a); and**

- 1 (2) for purposes of IC 34-30-13-1.2, means only noninvasive
- 2 examinations, treatments, and procedures and the following
- 3 invasive procedures:
- 4 (A) Routine dental services.
- 5 (B) Injections.
- 6 (C) Suturing of minor lacerations.
- 7 (D) Incisions of boils or superficial abscesses.
- 8 The term does not include performance of an abortion, including
- 9 abortion by surgical means, by use of an abortion inducing drug
- 10 **in violation of IC 16-34-7**, or by prescribing a controlled
- 11 substance or scheduled drug under IC 35-48.
- 12 (b) "Health care services", for purposes of IC 34-30-13.5, means:
- 13 (1) any services provided by an individual licensed under:
- 14 (A) IC 25-2.5;
- 15 (B) IC 25-10;
- 16 (C) IC 25-13;
- 17 (D) IC 25-14;
- 18 (E) IC 25-19;
- 19 (F) IC 25-22.5;
- 20 (G) IC 25-23;
- 21 (H) IC 25-23.5;
- 22 (I) IC 25-23.6;
- 23 (J) IC 25-24;
- 24 (K) IC 25-26;
- 25 (L) IC 25-27;
- 26 (M) IC 25-27.5;
- 27 (N) IC 25-29;
- 28 (O) IC 25-33;
- 29 (P) IC 25-34.5; or
- 30 (Q) IC 25-35.6;
- 31 (2) services provided as the result of hospitalization, to an
- 32 individual admitted to a health facility licensed under IC 16-28,
- 33 or to a person residing in a housing with services establishment
- 34 (as defined by IC 12-10-15-3);
- 35 (3) services incidental to the furnishing of services described in
- 36 ~~subdivisions~~ **subdivision** (1) or (2);
- 37 (4) any services by individuals:
- 38 (A) licensed as paramedics;
- 39 (B) certified as advanced emergency medical technicians; or
- 40 (C) certified as emergency medical technicians under
- 41 IC 16-31;
- 42 (5) any services provided by individuals certified as emergency
- 43 medical responders under IC 16-31;
- 44 (6) any services provided by certified health care professionals
- 45 who are registered with the Indiana department of health and the
- 46 certified health care professions commission, including:

- 1 (A) certified nurse aides certified under IC 16-27.5-3;
- 2 (B) qualified medication aides certified under IC 16-27.5-4;
- 3 and
- 4 (C) home health aides registered under rules adopted under
- 5 IC 16-27.5-5;
- 6 (7) any services provided by unlicensed health care professionals
- 7 who have successfully completed any applicable training required
- 8 by the Indiana department of health;
- 9 (8) any services provided by health care volunteers who are
- 10 permitted to practice during an event that is declared a disaster
- 11 emergency under IC 10-14-3-12 to respond to COVID-19;
- 12 (9) any services provided by individuals with provisional or
- 13 temporary licenses who are permitted to practice during an event
- 14 that is declared a disaster emergency under IC 10-14-3-12 to
- 15 respond to COVID-19; or
- 16 (10) any other services or goods furnished for the purpose of
- 17 preventing, alleviating, curing, or healing human illness, physical
- 18 disability, or injury.

19 SECTION 26. IC 34-7-7-1 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) This chapter
 21 applies to an act in furtherance of a person's right of petition or free
 22 speech under the Constitution of the United States or the Constitution
 23 of the State of Indiana in connection with a public issue or an issue of
 24 public interest that arises after June 30, 1998. This chapter does not
 25 apply to an action that was filed and is pending before July 1, 1998.

- 26 (b) This chapter does not apply to:
- 27 (1) an enforcement action brought in the name of the state of
- 28 Indiana by the attorney general, a prosecuting attorney, or another
- 29 attorney acting as a public prosecutor; **or**
- 30 (2) **an action brought under:**
- 31 (A) **IC 16-34-7-6;**
- 32 (B) **IC 16-34-7-9;**
- 33 (C) **IC 16-34-7-18; or**
- 34 (D) **IC 16-34-7-20.**

35 SECTION 27. IC 34-13-9-0.7, AS ADDED BY P.L.4-2015,
 36 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2026]: Sec. 0.7. This chapter does not:

- 38 (1) authorize a provider to refuse to offer or provide services,
- 39 facilities, use of public accommodations, goods, employment, or
- 40 housing to any member or members of the general public on the
- 41 basis of race, color, religion, ancestry, age, national origin,
- 42 disability, sex, sexual orientation, gender identity, or United
- 43 States military service;
- 44 (2) establish a defense to a civil action or criminal prosecution for
- 45 refusal by a provider to offer or provide services, facilities, use of
- 46 public accommodations, goods, employment, or housing to any

1 member or members of the general public on the basis of race,
 2 color, religion, ancestry, age, national origin, disability, sex,
 3 sexual orientation, gender identity, or United States military
 4 service; ~~or~~
 5 **(3) limit or curtail the scope of any law of the state of Indiana**
 6 **that regulates or restricts abortion or that withholds taxpayer**
 7 **funds from entities that perform or promote abortions; or**
 8 ~~(3)~~ **(4) negate any rights available under the Constitution of the**
 9 **State of Indiana.**

10 SECTION 27. IC 34-13-9-2, AS ADDED BY P.L.3-2015,
 11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2026]: Sec. 2. **(a)** A governmental entity statute, ordinance,
 13 resolution, executive or administrative order, regulation, custom, or
 14 usage may not be construed to be exempt from the application of this
 15 chapter unless a state statute expressly exempts the statute, ordinance,
 16 resolution, executive or administrative order, regulation, custom, or
 17 usage from the application of this chapter by citation to this chapter.

18 **(b) This chapter does not apply to IC 16-34 or any action to**
 19 **enforce the requirements of IC 16-34.**

20 SECTION 28. IC 34-30-2.1-218.5 IS ADDED TO THE INDIANA
 21 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 22 **[EFFECTIVE JULY 1, 2026]: Sec. 218.5. IC 16-34-7-21 (Concerning**
 23 **abortion inducing drugs)."**

24 Page 34, between lines 2 and 3, begin a new paragraph and insert:

25 "SECTION 37. IC 35-46-5-1.5, AS ADDED BY P.L.213-2016,
 26 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2026]: Sec. 1.5. (a) As used in this section, "aborted" means
 28 the termination of human pregnancy with an intention other than to
 29 produce a live birth or to remove a dead fetus. The term includes
 30 abortions by surgical procedures and by abortion inducing drugs **in**
 31 **violation of IC 16-34-7.**

32 (b) As used in this section, "fetal tissue" includes tissue, organs, or
 33 any other part of an aborted fetus.

34 (c) This section does not apply to the proper medical disposal of
 35 fetal tissue.

36 (d) A person who intentionally acquires, receives, sells, or transfers
 37 fetal tissue commits unlawful transfer of fetal tissue, a Level 5 felony.

38 (e) A person may not alter the timing, method, or procedure used to
 39 terminate a pregnancy for the purpose of obtaining or collecting fetal

- 1 tissue. A person who violates this subsection commits the unlawful
- 2 collection of fetal tissue, a Level 5 felony."
- 3 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1258 as printed February 13, 2026.)

Senator JOHNSON T