



# SENATE MOTION

MR. PRESIDENT:

**I move** that Engrossed House Bill 1358 be amended to read as follows:

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

1 "SECTION 2. IC 16-18-2-167, AS AMENDED BY P.L.117-2015,  
 2 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2026]: Sec. 167. (a) "Health facility":

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

10 (2) for purposes of IC 16-28-15, has the meaning set forth in  
 11 IC 16-28-15-3; **and**

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

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

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

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

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

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

27 (4) Institutions operated by the federal government.

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

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

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

31 (8) Day care centers.

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

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

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

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

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

41 (14) Maternity homes.

42 (15) Offices of Christian Science practitioners."

43 Page 4, between lines 18 and 19, begin a new paragraph and insert:

44 "SECTION 12. IC 16-18-2-282, AS AMENDED BY P.L.93-2022,  
 45 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 46 JULY 1, 2026]: Sec. 282. (a) "Physician", except as provided in

1 subsections (b), (c), and (e), means a licensed physician (as defined in  
2 section 202 of this chapter).

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

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

7 (1) was the physician last in attendance (as defined in section  
8 282.2 of this chapter); or

9 (2) is licensed under IC 25-22.5.

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

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

14 **(f) "Physician", for purposes of IC 16-34-7, has the meaning set  
15 forth in IC 16-34-7-3(4)."**

16 Page 14, between lines 9 and 10, begin a new paragraph and insert:  
17 "SECTION 26. IC 16-34-1-4, AS AMENDED BY P.L.218-2021,  
18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2026]: Sec. 4. No:

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

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

35 SECTION 27. IC 16-34-2-1, AS AMENDED BY THE  
36 TECHNICAL CORRECTIONS BILL OF THE 2026 GENERAL  
37 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2026]: Sec. 1. (a) Abortion shall in all instances be a criminal  
39 act, except when performed under the following circumstances:

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

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

45 (i) the abortion is necessary when reasonable medical  
46 judgment dictates that performing the abortion is necessary

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

- 1 manufacturer, in the patient's file. As used in this subdivision, "in  
2 person" does not include the use of telehealth or telemedicine  
3 services.
- 4 (2) Except as prohibited by IC 16-34-4, during the first ten (10)  
5 weeks of postfertilization age of the fetus, if:
- 6 (A) the pregnancy is a result of rape or incest;  
7 (B) all the circumstances and provisions required for legal  
8 abortion set forth in subdivision (1)(C) through (1)(D) are  
9 present and adhered to;  
10 (C) the abortion is performed in a hospital licensed under  
11 IC 16-21 or ambulatory outpatient surgical center (as defined  
12 in IC 16-18-2-14) that has a majority ownership by a hospital  
13 licensed under IC 16-21; and  
14 (D) before the abortion, the attending physician shall certify in  
15 writing to the ambulatory outpatient surgical center or hospital  
16 in which the abortion is to be performed, after proper  
17 examination, the abortion is being performed at the woman's  
18 request because the pregnancy is the result of rape or incest.  
19 All facts and reasons supporting the certification shall be set  
20 forth by the physician in writing and attached to the certificate.
- 21 (3) Except as provided in subsection (b) or as prohibited by  
22 IC 16-34-4, at the earlier of viability of the fetus or twenty (20)  
23 weeks of postfertilization age and any time after, for reasons  
24 based upon the professional, medical judgment of the pregnant  
25 woman's physician if:
- 26 (A) based on reasonable medical judgment, performing the  
27 abortion is necessary to prevent any serious health risk to the  
28 pregnant woman or to save the pregnant woman's life;  
29 (B) all the circumstances and provisions required for legal  
30 abortion set forth in subdivision (1)(C) through (1)(D) are  
31 present and adhered to;  
32 (C) the abortion is performed in a hospital licensed under  
33 IC 16-21;  
34 (D) the abortion is performed in compliance with section 3 of  
35 this chapter; and  
36 (E) before the abortion, the attending physician shall certify in  
37 writing to the hospital in which the abortion is to be  
38 performed, that in the attending physician's reasonable medical  
39 judgment, performing the abortion is necessary to prevent any  
40 serious health risk to the pregnant woman or to save the  
41 pregnant woman's life. All facts and reasons supporting the  
42 certification shall be set forth by the physician in writing and  
43 attached to the certificate.
- 44 (b) A person may not knowingly or intentionally perform a partial  
45 birth abortion unless a physician reasonably believes that:
- 46 (1) performing the partial birth abortion is necessary to save the

- 1 mother's life; and  
 2 (2) no other medical procedure is sufficient to save the mother's  
 3 life.  
 4 (c) A person may not knowingly or intentionally perform a  
 5 dismemberment abortion unless reasonable medical judgment dictates  
 6 that performing the dismemberment abortion is necessary:  
 7 (1) to prevent any serious health risk to the mother; or  
 8 (2) to save the mother's life.  
 9 (d) Telehealth and telemedicine may not be used to provide any  
 10 abortion, including the writing or filling of a prescription for any  
 11 purpose that is intended to result in an abortion.  
 12 SECTION 28. IC 16-34-2-1.5, AS AMENDED BY THE  
 13 TECHNICAL CORRECTIONS BILL OF THE 2026 GENERAL  
 14 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2026]: Sec. 1.5. (a) The state department shall develop an  
 16 informed consent brochure and post the informed consent brochure on  
 17 the state department's ~~Internet web site:~~ **website.**  
 18 (b) The state department shall develop an informed consent  
 19 brochure that includes the following:  
 20 (1) Objective scientific information concerning the probable  
 21 anatomical and physiological characteristics of a fetus every two  
 22 (2) weeks of gestational age, including the following:  
 23 (A) Realistic pictures in color for each age of the fetus,  
 24 including the dimensions of the fetus.  
 25 (B) Whether there is any possibility of the fetus surviving  
 26 outside the womb.  
 27 (2) Objective scientific information concerning the medical risks  
 28 associated with each abortion procedure, ~~or the use of an abortion~~  
 29 ~~inducing drug,~~ including the following:  
 30 (A) The risks of infection and hemorrhaging.  
 31 (B) The potential danger:  
 32 (i) to a subsequent pregnancy; or  
 33 (ii) of infertility.  
 34 (3) Information concerning the medical risks associated with  
 35 carrying the child to term.  
 36 (4) Information that medical assistance benefits may be available  
 37 for prenatal care, childbirth, and neonatal care.  
 38 (5) Information that the biological father is liable for assistance in  
 39 support of the child, regardless of whether the biological father  
 40 has offered to pay for an abortion.  
 41 (6) Information regarding telephone 211 dialing code services for  
 42 accessing human services as described in IC 12-13-16, and the  
 43 types of services that are available through this service.  
 44 (7) Information concerning Indiana's safe haven law under  
 45 IC 31-34-2.5-1.  
 46 (8) Information that, under certain conditions, a pregnant woman

1 may relinquish a child who is, or who appears to be, not more  
2 than thirty (30) days of age:

3 (A) to an emergency medical services provider (as defined in  
4 IC 16-41-10-1); or

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

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

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

11 SECTION 29. IC 16-34-2-4.5, AS AMENDED BY  
12 P.L.179-2022(ss), SECTION 25, IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4.5. (a) A physician  
14 may not perform an abortion ~~including an abortion using an abortion~~  
15 ~~inducing drug~~; unless the physician:

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

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

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

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

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

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

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

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

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

1 located; and  
2 (2) each hospital located in a county that is contiguous to the  
3 county described in subdivision (1);  
4 where abortions are performed.  
5 (e) The state department shall confirm to a member of the public,  
6 upon request, that the admitting privileges required to be submitted  
7 under this section for a hospital or ambulatory outpatient surgical  
8 center have been received by the state department.  
9 (f) Notwithstanding IC 5-14-3-6 and IC 5-14-3-6.5, this section only  
10 allows for the redaction of information that is described in subsection  
11 (c). This section does not allow the state department to limit the  
12 disclosure of information in other public documents.  
13 SECTION 30. IC 16-34-3-2, AS AMENDED BY P.L. 179-2022(ss),  
14 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2026]: Sec. 2. (a) A pregnant woman who has an abortion  
16 under this article has the right to have the hospital or ambulatory  
17 outpatient surgical center dispose of the aborted fetus by interment in  
18 compliance with IC 23-14-54, or cremation through a licensee (as  
19 defined in IC 25-15-2-19) and in compliance with IC 23-14-31. The  
20 pregnant woman who selects to have the hospital or ambulatory  
21 outpatient surgical center dispose of the aborted fetus has the right to  
22 ask which method will be used by the hospital or ambulatory outpatient  
23 surgical center.  
24 (b) After receiving the notification and information required by  
25 IC 16-34-2-1.1(a)(2)(H) **and** IC 16-34-2-1.1(a)(2)(I), ~~and~~  
26 ~~IC 16-34-2-1.1(a)(2)(J)~~; the pregnant woman shall inform the hospital  
27 or ambulatory outpatient surgical center:  
28 (1) in writing; and  
29 (2) on a form prescribed by the state department;  
30 of the pregnant woman's decision for final disposition of the aborted  
31 fetus by cremation or interment, ~~and; in an abortion induced by an~~  
32 ~~abortion inducing drug; whether the pregnant woman will return the~~  
33 ~~aborted fetus to the hospital or ambulatory outpatient surgical center~~  
34 ~~for disposition by interment~~ in compliance with IC 23-14-54, or  
35 cremation through a licensee (as defined in IC 25-15-2-19) and in  
36 compliance with IC 23-14-31.  
37 (c) If the pregnant woman is a minor, the hospital or ambulatory  
38 outpatient surgical center shall obtain parental consent in the  
39 disposition of the aborted fetus unless the minor has received a waiver  
40 of parental consent under IC 16-34-2-4.  
41 (d) The hospital or ambulatory outpatient surgical center shall  
42 document the pregnant woman's decision concerning disposition of the  
43 aborted fetus in the pregnant woman's medical record.  
44 (e) ~~In the case of an abortion induced by an abortion inducing drug,~~  
45 ~~the pregnant woman may return the aborted fetus to the hospital or~~  
46 ~~ambulatory outpatient surgical center for disposition by interment in~~

1 compliance with IC 23-14-54, or cremation through a licensee (as  
2 defined in IC 25-15-2-19) and in compliance with IC 23-14-31.

3 SECTION 31. IC 16-34-3-4, AS AMENDED BY P.L.179-2022(ss),  
4 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2026]: Sec. 4. (a) A hospital or ambulatory outpatient surgical  
6 center having possession of an aborted fetus shall provide for the final  
7 disposition of the aborted fetus. The burial transit permit requirements  
8 of IC 16-37-3 apply to the final disposition of an aborted fetus, which  
9 must be interred or cremated. However:

10 (1) a person is not required to designate a name for the aborted  
11 fetus on the burial transit permit and the space for a name may  
12 remain blank; and

13 (2) any information submitted under this section that may be used  
14 to identify the pregnant woman is confidential and must be  
15 redacted from any public records maintained under IC 16-37-3.

16 Aborted fetuses may be cremated by simultaneous cremation.

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

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

35 (1) The date of the abortion.

36 ~~(2) Whether the abortion was surgical or induced by an abortion~~  
37 ~~inducing drug.~~

38 ~~(3)~~ (2) The name of the funeral director licensee who will be  
39 retrieving the aborted fetus.

40 ~~(4) In the case of an abortion induced by an abortion inducing~~  
41 ~~drug:~~

42 (A) whether the pregnant woman will cremate or inter the  
43 fetus; or will return the fetus to the hospital or ambulatory  
44 outpatient surgical center for disposition; and

45 (B) if the pregnant woman returns the fetus to the hospital or  
46 ambulatory outpatient surgical center; whether the returned

- 1 fetus is included in the burial transit permit:
- 2 The hospital or ambulatory outpatient surgical center must keep a copy
- 3 of the burial transit permit and accompanying log in a permanent file.
- 4 (d) Each time the fetal remains are transported from one entity to
- 5 another for disposition, the entity receiving the fetal remains must
- 6 confirm that the number of fetal remains matches the information
- 7 contained in the burial transit permit and accompanying log. After final
- 8 disposition, a copy of the log will be sent back to the hospital or
- 9 ambulatory outpatient surgical center. The final log will be attached to
- 10 the original log described in subsection (c) and will be made available
- 11 for review by the state department at the time of inspection.
- 12 (e) A hospital or ambulatory outpatient surgical center is responsible
- 13 for demonstrating to the state department that the hospital or
- 14 ambulatory outpatient surgical center has complied with the protocol
- 15 provided in this section.
- 16 (f) A certificate of stillbirth is not required to be issued for an
- 17 aborted fetus with a gestational age of less than twenty (20) weeks of
- 18 age.
- 19 (g) IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, and
- 20 IC 29-2-19-17 concerning the authorization of disposition of human
- 21 remains apply to this section.

22 SECTION 32. IC 16-34-7 IS ADDED TO THE INDIANA CODE  
 23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2026]:

25 **Chapter 7. Abortion Inducing Drugs**

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

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

46 **(b) This chapter does not apply to the transport of an abortion**

1 inducing drug from a person in another state in continuous transit  
2 through Indiana to a person in another state.

3 Sec. 2. This chapter may not be construed to require the actual  
4 performance, inducement, or attempted performance of an  
5 abortion in order for a person to bring a civil action under this  
6 chapter.

7 Sec. 3. The following definitions apply throughout this chapter:

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

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

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

18 (4) "Physician" means an individual licensed to practice  
19 medicine in Indiana, include a medical doctor and a doctor of  
20 osteopathic medicine.

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

23 (1) manufacture, distribute, or possess an abortion inducing  
24 drug; or

25 (2) mail, transport, deliver, prescribe, or provide an abortion  
26 inducing drug in any manner to or from any person or  
27 location in Indiana.

28 (b) Subsection (a) does not prohibit:

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

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

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

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

46 Sec. 5. (a) Notwithstanding any other law, the prohibitions in  
47 section 4 of this chapter may be enforced only through a wrongful

1 death action brought under section 6 of this chapter or a qui tam  
2 action brought under section 9 of this chapter.

3 (b) No other direct or indirect enforcement of section 4 of this  
4 chapter may be taken or threatened by:

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

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

15 (c) This section does not preclude or limit the enforcement of  
16 any other law or regulation against conduct that is independently  
17 prohibited by the other law or regulation and that would remain  
18 prohibited by the other law or regulation in the absence of section  
19 4 of this chapter.

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

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

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

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

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

47 (e) Notwithstanding any other law, a civil action may not be

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**brought under this section:**

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

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

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

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

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

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

- (1) A defendant's ignorance or mistake of law, including a defendant's mistaken belief that the requirements or**

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provisions of this chapter are unconstitutional or were unconstitutional.

(2) A defendant's reliance on a court decision that has been 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

1 among all manufacturers of abortion inducing drugs in proportion  
2 to each manufacturer's share of the national market for abortion  
3 inducing drugs at the time the death or injury occurred.

4 (b) A manufacturer is not subject to liability under this section  
5 if it manufactures abortion inducing drugs solely for purposes that  
6 do not include performing, inducing, attempting, or assisting, or  
7 aiding or abetting an illegal abortion.

8 Sec. 9. (a) A person, other than the state of Indiana, a political  
9 subdivision of the state, or an officer or employee of the state or a  
10 political subdivision of the state, has standing to bring and may  
11 bring a qui tam action against any person who:

12 (1) violates section 4 of this chapter; or  
13 (2) intends to violate section 4 of this chapter.

14 (b) An action brought under this section must be brought in the  
15 name of the qui tam relator, who is an assignee of the state's claim  
16 for relief. Notwithstanding any other law, the transfer of the state's  
17 claim to the qui tam relator is absolute, with the state retaining no  
18 interest in the subject matter of the claim.

19 (c) A qui tam relator may not bring an action under this section  
20 if the action is preempted by 47 U.S.C. 230(c).

21 (d) A qui tam action may not be brought under this section:

22 (1) against a woman for using, obtaining, or seeking to obtain  
23 abortion inducing drugs to abort or attempt to abort her  
24 unborn child;

25 (2) against a person acting under the direction of a federal  
26 agency, contractor, or employee who is carrying out a duty  
27 under federal law if the imposition of liability would violate  
28 the doctrine of preemption or intergovernmental immunity;

29 (3) by any person who has committed a sex crime as defined  
30 in IC 35-42-4, or by another person who acts in concert or  
31 participation with such a person;

32 (4) against a transportation network company or a driver for  
33 using a transportation network company's digital network to  
34 provide a digitally prearranged ride;

35 (5) against a delivery network company or a DNC driver for  
36 using a delivery network company's digital network to  
37 provide a digitally prearranged delivery;

38 (6) against a person described in section 1 of this chapter; or  
39 (7) against a common carrier that took reasonable  
40 precautions to ensure that the common carrier would not  
41 manufacture, distribute, mail, transport, deliver, prescribe,  
42 provide, possess, or aid or abet the manufacture, distribution,  
43 mailing, transportation, delivery, prescription, provision, or  
44 possession of abortion inducing drugs for the purpose of  
45 performing, inducing, attempting, or assisting an illegal  
46 abortion, including by adopting a policy that the common  
47 carrier will not manufacture, distribute, mail, transport,

1 deliver, prescribe, provide, possess, or aid or abet the  
2 manufacture, distribution, mailing, transportation, delivery,  
3 prescription, provision, or possession of abortion inducing  
4 drugs for this purpose.

5 (e) Notwithstanding any other law, including Trial Rule 23 of  
6 the Indiana Rules of Trial Procedure, an action brought under this  
7 section may not be litigated on behalf of a claimant class or a  
8 defendant class, and a court may not certify a class in the action.

9 **Sec. 10. (a) It is an affirmative defense to an action brought**  
10 **under section 9 of this chapter that the defendant:**

11 (1) was unaware the defendant was engaged in the conduct  
12 prohibited by section 4 of this chapter; and  
13 (2) took reasonable precautions to ensure the defendant would  
14 not violate section 4 of this chapter.

15 (b) The defendant has the burden of proving an affirmative  
16 defense under this section by a preponderance of the evidence.

17 (c) The following are not defenses to an action brought under  
18 section 9 of this chapter:

19 (1) A defendant's ignorance or mistake of law, including a  
20 defendant's mistaken belief that the requirements or  
21 provisions of this chapter are unconstitutional or were  
22 unconstitutional.

23 (2) A defendant's reliance on a court decision that has been  
24 vacated, reversed, or overruled on appeal or by a subsequent  
25 court, even if the court decision had not been vacated,  
26 reversed, or overruled when the cause of action accrued.

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

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

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

38 (6) Nonmutual issue preclusion or nonmutual claim  
39 preclusion.

40 (7) Sovereign immunity, governmental immunity, or official  
41 immunity, other than sovereign immunity, governmental  
42 immunity, or official immunity applicable to:

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

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

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

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

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

16 (1) injunctive relief sufficient to prevent the defendant from  
17 violating section 4 of this chapter;

18 (2) an amount of not less than one hundred thousand dollars  
19 (\$100,000) for each violation of section 4 of this chapter; and

20 (3) costs and reasonable attorney's fees.

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

24 (1) a court previously ordered the defendant to pay an amount  
25 under subsection (a)(2) in another action for that particular  
26 violation; and

27 (2) the court order described by subdivision (1) has not been  
28 vacated, reversed, or overturned.

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

32 (1) in response to frivolous, malicious, or bad faith conduct;  
33 or

34 (2) as required by federal law.

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

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

40 (1) the imposition of civil liability on the defendant will violate  
41 the defendant's rights under federal law, including the  
42 Constitution of the United States;

43 (2) the defendant:

44 (A) has standing to assert the rights of a third party under  
45 the tests for third party standing established by the United  
46 States Supreme Court; and

47 (B) demonstrates that the imposition of civil liability on the

1                    defendant will violate the third party's rights under federal  
2                    law, including the Constitution of the United States;  
3                    (3) the imposition of civil liability on the defendant will violate  
4                    the defendant's rights under the Constitution of the State of  
5                    Indiana; or  
6                    (4) the imposition of civil liability on the defendant will violate  
7                    limits on extraterritorial jurisdiction imposed by the  
8                    Constitution of the United States or the Constitution of the  
9                    State of Indiana.

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

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

14                    (1) death or personal injury resulting from an abortion  
15                    described in IC 16-34-2-1(a)(1), IC 16-34-2-1(a)(2), or  
16                    IC 16-34-2-1(a)(3);  
17                    (2) the manufacture, distribution, mailing, transportation,  
18                    delivery, prescription, provision, or possession of an abortion  
19                    inducing drug for the purpose of performing, inducing,  
20                    attempting, or assisting, or aiding or abetting an abortion  
21                    described in IC 16-34-2-1(a)(1), IC 16-34-2-1(a)(2), or  
22                    IC 16-34-2-1(a)(3);  
23                    (3) speech or conduct protected by the First Amendment to  
24                    the Constitution of the United States, as made applicable to  
25                    the states through the United States Supreme Court's  
26                    interpretation of the Fourteenth Amendment to the  
27                    Constitution of the United States, or protected by Article 1,  
28                    Section 9 of the Constitution of the State of Indiana;  
29                    (4) conduct that this state is prohibited from regulating under  
30                    the Constitution of the State of Indiana or federal law,  
31                    including the Constitution of the United States;  
32                    (5) conduct taken by a pregnant woman in the course of  
33                    aborting or seeking to abort her unborn child; or  
34                    (6) conduct that a person engages in under the direction of a  
35                    federal agency, contractor, or employee to carry out a duty  
36                    under federal law, if a prohibition on that conduct would  
37                    violate the doctrine of preemption or intergovernmental  
38                    immunity.

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

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

1 (b) Notwithstanding any other law, Indiana law applies to the  
2 use of an abortion inducing drug by a resident, regardless of where  
3 the use of the drug occurs, and to an action brought under section  
4 6 or 9 of this chapter, to the maximum extent permitted by the  
5 Constitution of the State of Indiana and federal law, including the  
6 Constitution of the United States.

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

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

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

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

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

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

36 Sec. 17. (a) Notwithstanding any other law, including the  
37 Indiana Rules of Trial Procedure, an action brought under section  
38 6 or 9 of this chapter may be brought in:

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

47 (b) If an action brought under section 6 or 9 of this chapter is

1 brought in a venue described by subsection (a), the action may not  
2 be transferred to a different venue without the written consent of  
3 all parties.

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

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

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

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

19 (A) any article or thing designed, adapted, or intended for  
20 producing abortion; or

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

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

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

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

34 (3) aids or abets the violations of 18 U.S.C. 1461 or 18 U.S.C.  
35 1462 described in subdivisions (1) and (2).

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

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

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

44 (3) against a transportation network company or a driver for  
45 using a transportation network company's digital network to  
46 provide a digitally prearranged ride;

47 (4) against a delivery network company or a DNC driver for

1 using a delivery network company's digital network to  
2 provide a digitally prearranged delivery;

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

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

20 (1) bringing or engaging in an action authorized by this  
21 chapter, including an action brought under section 6, 9, or 18  
22 of this chapter;

23 (2) bringing or engaging in an action that alleges a violation  
24 of any federal or state abortion law;

25 (3) attempting, intending, or threatening to bring or engage in  
26 an action described by subdivision (1) or (2); or

27 (4) providing legal representation or any type of assistance to  
28 a person who brings or engages in an action described by  
29 subdivision (1) or (2).

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

33 (1) conduct described by subsection (a);

34 (2) an action brought against a person for engaging in conduct  
35 described by subsection (a);

36 (3) an action brought under a clawback provision against a  
37 resident of Indiana; and

38 (4) an action brought under subsection (f).

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

45 (1) bringing an action under any clawback provision against  
46 a claimant or prosecutor, a person in privity with the claimant  
47 or prosecutor, or a person providing legal representation or

1 any type of assistance to the claimant or prosecutor; and  
 2 (2) continuing to litigate an action under any clawback  
 3 provision that has been brought against a claimant or  
 4 prosecutor, a person in privity with the claimant or  
 5 prosecutor, or a person providing legal representation or any  
 6 type of assistance to the claimant or prosecutor.

7 (d) Notwithstanding any other law, the doctrines of res judicata  
 8 and collateral estoppel preclude a defendant against whom a  
 9 judgment is entered in an action described by subsection (a)(1) and  
 10 each person in privity with the defendant from litigating or  
 11 relitigating any claim or issue under any clawback provision  
 12 against a claimant, prosecutor, or person in privity with the  
 13 claimant or prosecutor that was raised or could have been raised  
 14 as a claim, cross-claim, counterclaim, or affirmative defense under  
 15 the Federal or Indiana Rules of Civil Procedure.

16 (e) Notwithstanding any other law, a court of Indiana may not  
 17 enforce an out-of-state judgment obtained in an action brought  
 18 under a clawback provision unless federal law or the Constitution  
 19 of the State of Indiana requires the court to enforce the judgment.

20 (f) Notwithstanding any other law, if an action is brought or  
 21 judgment is entered against a person under a clawback provision  
 22 based wholly or partly on the person's decision to engage in  
 23 conduct described by subsection (a), that person is entitled to  
 24 injunctive relief and damages from any person who brought the  
 25 action or obtained the judgment or who sought to enforce the  
 26 judgment. Notwithstanding any other law, the relief described by  
 27 this subsection must include:

28 (1) compensatory damages, including money damages in an  
 29 amount equal to the judgment damages and costs, expenses,  
 30 and reasonable attorney's fees spent in defending the action;

31 (2) costs, expenses, and reasonable attorney's fees incurred in  
 32 bringing an action under this subsection;

33 (3) additional amounts consisting of the greater of:

34 (A) twice the sum of the damages, costs, expenses, and fees  
 35 described by subdivisions (1) and (2); or

36 (B) one hundred thousand dollars (\$100,000); and

37 (4) injunctive relief that restrains each person who brought  
 38 the action under the clawback provision, each person in  
 39 privity with the person, and each person acting in concert or  
 40 participation with the person from:

41 (A) bringing further actions under any clawback provision  
 42 against the person against whom the action was brought,  
 43 each person in privity with the person, or any person  
 44 providing legal representation or any type of assistance to  
 45 the person;

46 (B) continuing to litigate any actions brought under a  
 47 clawback provision against the persons described by clause

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

1 under this section may bring a civil action to recover costs and  
2 attorney's fees against a person, including an entity, attorney, or  
3 law firm, who sought declaratory or injunctive relief described by  
4 subsection (a) not later than three (3) years after the date on which,  
5 as applicable:

- 6 (1) the dismissal or judgment described by subsection (b)  
7 becomes final on the conclusion of appellate review; or  
8 (2) the time for seeking appellate review expires.

9 (e) It is not a defense to a civil action brought under subsection  
10 (d) that:

- 11 (1) a prevailing party under this section failed to seek  
12 recovery of costs or attorney's fees in the underlying action;  
13 (2) the court in the underlying action declined to recognize or  
14 enforce this section; or  
15 (3) the court in the underlying action held that any provisions  
16 of this section are invalid, unconstitutional, or preempted by  
17 federal law, notwithstanding the doctrine of issue or claim  
18 preclusion.

19 (f) Notwithstanding any other law, a civil action brought under  
20 subsection (d) may be brought in:

- 21 (1) the county in which all or a substantial part of the events  
22 or omissions giving rise to the claim occurred;  
23 (2) the county of residence of a defendant at the time the cause  
24 of action accrued, if the defendant is an individual;  
25 (3) the county of the principal office in the state of a defendant  
26 that is not an individual; or  
27 (4) the county of residence of the claimant, if the claimant is  
28 an individual residing in Indiana.

29 (g) If a civil action is brought under subsection (d) in a venue  
30 described by subsection (f), the action may not be transferred to a  
31 different venue without the written consent of all parties.

32 (h) Notwithstanding any other law, any contractual  
33 choice-of-forum provision that purports to require a civil action  
34 under subsection (d) be litigated in another forum is void based on  
35 the state's public policy and is not enforceable in any state or  
36 federal court.

37 (i) Notwithstanding any other law, IC 34-7-7 and IC 34-13-9 do  
38 not apply to an action brought under subsection (d).

39 (j) A court may not award attorney's fees or costs under this  
40 section if the award would violate:

- 41 (1) the Constitution of the State of Indiana;  
42 (2) the Constitution of the United States; or  
43 (3) federal law.

44 Sec. 21. (a) Notwithstanding any other law, the state has  
45 sovereign immunity, a political subdivision of the state has  
46 governmental immunity, and an officer or employee of the state or  
47 a political subdivision of the state has official immunity (as well as

1 sovereign or governmental immunity, as appropriate) in an action,  
2 claim, counterclaim, or any other type of legal or equitable action  
3 that:

4 (1) challenges the validity of any provision or application of  
5 this chapter, on constitutional grounds or otherwise; or

6 (2) seeks to prevent or enjoin the state, a political subdivision  
7 of the state, or an officer, employee, or agent of the state or a  
8 political subdivision of the state from:

9 (A) enforcing any provision or application of this chapter;  
10 or

11 (B) filing, hearing, adjudicating, or docketing an action  
12 brought under section 6, 9, 18, or 20 of this chapter.

13 (b) Notwithstanding any other law, the immunities described in  
14 or conferred by this section apply in court, and in every type of  
15 adjudicative proceeding.

16 (c) Notwithstanding any other law, a provision of Indiana law  
17 may not be construed to waive or abrogate an immunity conferred  
18 by this section unless it expressly waives or abrogates immunity  
19 with specific reference to this section.

20 (d) Notwithstanding any other law, an attorney representing the  
21 state, a political subdivision of the state, or an officer or employee  
22 of the state or a political subdivision of the state may not waive an  
23 immunity conferred by this section or take an action that would  
24 result in a waiver of that immunity. A purported waiver or action  
25 described by this subsection is considered void and an ultra vires  
26 act.

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

30 (1) seeks declaratory or injunctive relief, or any type of writ,  
31 including a writ of prohibition, that would pronounce any  
32 provision or application of this article invalid or  
33 unconstitutional; or

34 (2) would restrain the state, a political subdivision of the state,  
35 an officer, employee, or agent of the state or a political  
36 subdivision of the state, or any person from:

37 (A) enforcing any provision or application of this article;  
38 or

39 (B) filing, hearing, adjudicating, or docketing an action  
40 brought under section 6, 9, 18, or 20 of this chapter.

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

45 Page 34, between lines 39 and 40, begin a new paragraph and insert:  
46 "SECTION 69. IC 34-6-2.1-84, AS AMENDED BY P.L.186-2025,  
47 SECTION 274, IS AMENDED TO READ AS FOLLOWS

- 1 [EFFECTIVE JULY 1, 2026]: Sec. 84. (a) "Health care services":
- 2 (1) except as provided in subdivision (2), for purposes of
- 3 IC 34-30-13, has the meaning set forth in IC 27-13-1-18(a); and
- 4 (2) for purposes of IC 34-30-13-1.2, means only noninvasive
- 5 examinations, treatments, and procedures and the following
- 6 invasive procedures:
- 7 (A) Routine dental services.
- 8 (B) Injections.
- 9 (C) Suturing of minor lacerations.
- 10 (D) Incisions of boils or superficial abscesses.
- 11 The term does not include performance of an abortion, including
- 12 abortion by surgical means, by use of an abortion inducing drug
- 13 **in violation of IC 16-34-7**, or by prescribing a controlled
- 14 substance or scheduled drug under IC 35-48.
- 15 (b) "Health care services", for purposes of IC 34-30-13.5, means:
- 16 (1) any services provided by an individual licensed under:
- 17 (A) IC 25-2.5;
- 18 (B) IC 25-10;
- 19 (C) IC 25-13;
- 20 (D) IC 25-14;
- 21 (E) IC 25-19;
- 22 (F) IC 25-22.5;
- 23 (G) IC 25-23;
- 24 (H) IC 25-23.5;
- 25 (I) IC 25-23.6;
- 26 (J) IC 25-24;
- 27 (K) IC 25-26;
- 28 (L) IC 25-27;
- 29 (M) IC 25-27.5;
- 30 (N) IC 25-29;
- 31 (O) IC 25-33;
- 32 (P) IC 25-34.5; or
- 33 (Q) IC 25-35.6;
- 34 (2) services provided as the result of hospitalization, to an
- 35 individual admitted to a health facility licensed under IC 16-28,
- 36 or to a person residing in a housing with services establishment
- 37 (as defined by IC 12-10-15-3);
- 38 (3) services incidental to the furnishing of services described in
- 39 ~~subdivisions~~ **subdivision** (1) or (2);
- 40 (4) any services by individuals:
- 41 (A) licensed as paramedics;
- 42 (B) certified as advanced emergency medical technicians; or
- 43 (C) certified as emergency medical technicians under
- 44 IC 16-31;
- 45 (5) any services provided by individuals certified as emergency
- 46 medical responders under IC 16-31;

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

22 SECTION 70. IC 34-7-7-1 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) This chapter  
 24 applies to an act in furtherance of a person's right of petition or free  
 25 speech under the Constitution of the United States or the Constitution  
 26 of the State of Indiana in connection with a public issue or an issue of  
 27 public interest that arises after June 30, 1998. This chapter does not  
 28 apply to an action that was filed and is pending before July 1, 1998.

29 (b) This chapter does not apply to:

- 30 (1) an enforcement action brought in the name of the state of
- 31 Indiana by the attorney general, a prosecuting attorney, or another
- 32 attorney acting as a public prosecutor; or
- 33 (2) an action brought under:
- 34 (A) IC 16-34-7-6;
- 35 (B) IC 16-34-7-9;
- 36 (C) IC 16-34-7-18; or
- 37 (D) IC 16-34-7-20.

38 SECTION 71. IC 34-13-9-0.7, AS ADDED BY P.L.4-2015,  
 39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2026]: Sec. 0.7. This chapter does not:

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

- 1 (2) establish a defense to a civil action or criminal prosecution for
- 2 refusal by a provider to offer or provide services, facilities, use of
- 3 public accommodations, goods, employment, or housing to any
- 4 member or members of the general public on the basis of race,
- 5 color, religion, ancestry, age, national origin, disability, sex,
- 6 sexual orientation, gender identity, or United States military
- 7 service; ~~or~~
- 8 **(3) limit or curtail the scope of any law of the state of Indiana**
- 9 **that regulates or restricts abortion or that withholds taxpayer**
- 10 **funds from entities that perform or promote abortions; or**
- 11 ~~(3)~~ **(4) negate any rights available under the Constitution of the**
- 12 **State of Indiana.**

13 SECTION 72. IC 34-13-9-2, AS ADDED BY P.L.3-2015,  
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2026]: Sec. 2. **(a)** A governmental entity statute, ordinance,  
 16 resolution, executive or administrative order, regulation, custom, or  
 17 usage may not be construed to be exempt from the application of this  
 18 chapter unless a state statute expressly exempts the statute, ordinance,  
 19 resolution, executive or administrative order, regulation, custom, or  
 20 usage from the application of this chapter by citation to this chapter.

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

23 SECTION 73. IC 34-30-2.1-218.5 IS ADDED TO THE INDIANA  
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 25 [EFFECTIVE JULY 1, 2026]: **Sec. 218.5. IC 16-34-7-21 (Concerning**  
 26 **abortion inducing drugs).**"

27 Page 35, between lines 12 and 13, begin a new paragraph and insert:  
 28 "SECTION 77. IC 35-46-5-1.5, AS ADDED BY P.L.213-2016,  
 29 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2026]: Sec. 1.5. (a) As used in this section, "aborted" means  
 31 the termination of human pregnancy with an intention other than to  
 32 produce a live birth or to remove a dead fetus. The term includes  
 33 abortions by surgical procedures and by abortion inducing drugs **in**  
 34 **violation of IC 16-34-7.**

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

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

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

1 (e) A person may not alter the timing, method, or procedure used to  
2 terminate a pregnancy for the purpose of obtaining or collecting fetal  
3 tissue. A person who violates this subsection commits the unlawful  
4 collection of fetal tissue, a Level 5 felony."

5 Renumber all SECTIONS consecutively.  
(Reference is to EHB 1358 as printed February 13, 2026.)

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Senator JOHNSON T