Abortion Procedure Requirements

- **1973** - During the first trimester of pregnancy, the state cannot regulate abortion. After the first trimester, no abortion can be performed except in a licensed hospital facility. Any abortion after viability is prohibited “[e]xcept when necessary to preserve the life of the mother, or to prevent grave permanent injury to her health.”
  - Legal Citation: Pub. L. No. 322 § 1, 1973 Ind. Acts. 1740, 1740-41.
- **1973** – The saline method may not be used after the viability of the fetus.
  - Public Law No. 322, Section 2 (codified in IC 35-1 as Sec. 2(c)(3) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1741-44 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
  - Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1741-44 (codified at Ind. Code § 35-1-58.5-2(c)(3) (1973)).
- **1978** – The ban on the saline method is lifted. This amends the language originally inserted into the Indiana Code by Public Law No. 322, Section 2 (Sec. 2(c)(3) of Chapter 58.5).
  - Public Law No. 143, Section 1 (removed Sec. 2(c)(3) from IC 35-1-58.5-2). Introduced as S. 177, approved March 9, 1978. See p. 1312 of the Laws of the State of Indiana passed at the Second Regular Session of the One Hundredth Indiana General Assembly, Volume II (1978).
1993 – An abortion can be performed during the first trimester if it is performed “for reasons based upon the professional, medical judgment of the pregnant woman’s physician” if it is performed by that physician, the woman files her consent with that physician, and, for women who are under the age of 18, the woman also files with her physician the written consent of her parent or legal guardian [the requirements and exceptions are listed in Sec. 4] Between the first trimester and viability, an abortion can be performed if the foregoing requirements are met and if the abortion is performed in either a hospital or an ambulatory outpatient surgical center. After viability an abortion can be performed if the foregoing conditions are met, if the conditions in Sec. 3 of this chapter are met, and the physician certifies in writing to the hospital that it is his or her professional judgment that the abortion is necessary “to prevent substantial permanent impairment of the life or physical health of the pregnant woman.”

1995 – A “medical emergency” is defined as one that, based on the physician’s judgment, requires an abortion in order to “avert [the pregnant woman’s] death or for which a delay would create serious risk of substantial and irreversible impairment of a major bodily function.”

1997 – A “partial birth abortion” is defined as an abortion where the fetus is partially vaginally delivered before being killed. Partial birth abortions are banned unless the physician believes that it is both necessary and the only way to save the pregnant woman’s life.

Legal Citation: Pub. L. No. 143 § 1, 1978 Ind. Acts. 1311, 1312 (codified as amended at Ind. Code § 35-1-58.5-2 (1978)).

Legal Citation: Pub. L. No. 2-1993 § 17, 1993 Ind. Acts. 244, 569-70 (codified at Ind. Code § 16-34-2-1 (1993)).


2011 – It is clarified that a medical emergency "does not include a patient’s claim or
diagnosis that the patient would engage in conduct that would result in the patient’s death
or substantial physical impairment."
  - Public Law No. 193-2011, Section 7 (adding IC 16-34-2-0.5 to the Indiana Code).
    Introduced as H. 1210, approved May 10, 2011. See p. 2478 of the Laws of the
    State of Indiana passed at the First Regular Session of One Hundred and
  - Legal Citation: Pub. L. No. 193-2011 § 7, 2011 Ind. Acts. 2476, 2478 (codified at
    Ind. Code § 16-34-2-0.5 (2011)).

2011 – All references to “viability” are changed to say “the earlier of viability of the fetus
of twenty (20) weeks of postfertilization age” or some variation of this phrase.
  - Public Law No. 193-2011, Section 8 (amending IC 16-34-2-1), 12 (amending IC
    16-34-2-3), and 15 (amending IC 16-34-2-5). Introduced as H. 1210, approved
    May 10, 2011. See p. 2478-79, 2483-84, 2486-88 of the Laws of the State of
    Indiana passed at the First Regular Session of One Hundred and Seventeenth
  - Legal Citation: Pub. L. No. 193-2011 § 8, 12, and 15, 2011 Ind. Acts. 2476, 2478-
    79, 2483-84, and 2496-88 (codified as amended at Ind. Code § 16-34-2-1, -3, and
    -5 (2011)).

2013 – The term abortion now covers abortion inducing drugs, which are defined in
Section 3 of this law as “a medicine, drug, or substance prescribed or dispensed with the
intent of terminating a clinically diagnosable pregnancy with the knowledge that the
termination will, with reasonable likelihood, cause the death of the fetus.” This also
covers off-label use of drugs with “abortion inducing properties” if they are prescribed
for the purposes of causing an abortion.
  - Public Law No. 136-2013, Section 1 (amending IC 16-18-2-1) and 3 (amending IC
    16-18-2-1.6). Introduced as S. 371, approved May 1, 2013. See p. 1002-03 of the
    Laws of the State of Indiana passed at the First Regular Session of One Hundred
  - Legal Citation: Pub. L. No. 136-2013 § 1 and 3, 2013 Ind. Acts. 1002, 1002-03
    (codified at Ind. Code § 16-18-2-1 and -1.6 (2013)).

2013 – Abortion inducing drugs may not be given to a pregnant woman after nine weeks
of postfertilization age unless the FDA has approved of the use of these drugs after that
age. Additionally, prior to prescribing or dispensing one of these drugs to a pregnant
woman, a physician must examine her in person (this does not include telehealth or
telemedicine services).
  - Public Law No. 136-2013, Section 5 (amending IC 16-34-2-1). Introduced as S.
    371, approved May 1, 2013. See p. 1004 of the Laws of the State of Indiana
    passed at the First Regular Session of One Hundred and Eighteenth Indiana
  - Legal Citation: Pub. L. No. 136-2013 § 5, 2013 Ind. Acts. 1002, 1004 (codified as
    amended at Ind. Code § 16-34-2-1 (2013)).
Pre-Abortion Requirements

☐ 1973 – A woman must file written consent with the physician; if she is younger than 18, then her parent or guardian must also sign this consent. The only exception is if the life or physical health of the mother is at stake.
   ○ Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1743 (codified at Ind. Code § 35-1-58.5-2(a)(2) (1973)).

☐ 1973 – There is to be a waiting period of at least 24 hours between the time the patient (and her parent or guardian, if the patient is younger than 18) signs the consent and the time the abortion procedure is conducted. The only exception is for cases where the life of the pregnant woman is at stake.
   ○ Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 2(d) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1744 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
   ○ Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1744 (codified at Ind. Code § 35-1-58.5-2(d) (1973)).

☐ 1978 – The 24 hour waiting period is changed so that it begins from the time the woman receives the consent form and the time she submits the signed from to her physician. This amends the language originally inserted into the Indiana Code by Public Law No. 322, Section 2 (Sec. 2(d) of Chapter 58.5).
   ○ Legal Citation: Pub. L. No. 143 § 1, 1978 Ind. Acts. 1311, 1312 (codified as amended at Ind. Code § 35-1-58.5-2(d) (1978)).

☐ 1993 – Prior to obtaining an abortion, a woman must file written consent with the physician; if she is younger than 18, then her parent or guardian must also sign this consent. The only exception is if the life or physical health of the mother is at stake.
   ○ Public Law No. 2-1993, Section 17 (codified in IC 16-34 as Ch. 2, Sec. 1). Introduced as S. 24, approved April 30, 1993. See p. 569 of the Laws of the State of Indiana passed at the First Regular Session of One Hundred and Eighth Indiana General Assembly, Volume I (1993).
   ○ Legal Citation: Pub. L. No. 2-1993 § 17, 1993 Ind. Acts. 244, 569 (codified at Ind. Code § 16-34-2-1 (1993)).

☐ 1995 – Changed the definition of consent. Now, except in cases involving a medical emergency, consent is only considered to be voluntary and informed if, at least 18 hours
before the procedure is performed, the woman is orally informed of and certifies in writing that she has been informed of the following facts:

- "The name of the physician performing the abortion."
- "The nature of the proposed procedure or treatment."
- "The risks and alternatives to the procedure or treatment."
- "The probably gestational age of the fetus" as well as "a picture or drawing of the fetus," "the dimensions of a fetus," and any "relevant information on the potential survival of an unborn fetus" for a fetus at the current stage of development.
- "The medical risks associated with carrying the fetus to term."
- "That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the country office of family and children."
- "That the father of the fetus is legally required to assist in the support of the child." There is an exception for cases of rape.
- "That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care."


   □ 2005 – In addition to the facts required by Public Law No. 197-1995, Section 4, for a woman to consent to an abortion she must also be orally informed that fetal ultrasound imaging and auscultation of fetal heart tone services are available that would allow her to see an image of the fetus and hear its heartbeat. She must also be orally informed about how to receive these services. Prior to the abortion, the pregnant woman can voluntarily use these services.

   o Legal Citation: Pub. L. No. 36-2005 § 1, 2005 Ind. Acts. 1419, 1419-20 (codified as amended at Ind. Code § 16-34-2-1.1 (2005)).

   □ 2011 – For a woman to consent to an abortion, she must be orally and in writing informed at least 18 hours prior to the abortion of the following facts:

   - The name of the physician performing the abortion, his or her medical license number, and an emergency phone number where either the physician or his or her designee can be reached 24/7.
   - That follow-up care by either the physician or the designee is available "on an appropriate and timely basis when clinically necessary."
   - The nature of the procedure.
The pregnant woman must then certify in writing prior to the abortion that this information was provided to her, that she was offered the fetal ultrasound imaging and auscultation of the fetal heart tone services, whether she used these services or not, and that she has been given printed copies of the materials from the State Department of Health website.
State Department of Health
Requirements

- 1973 – Every medical facility which performs abortions will be given State Department of Health forms which require the following information:
  - “The age of the woman”
  - “The place where the abortion is performed”
  - “The full name and address of the physicians performing the abortion”
  - “The name of the father if known”
  - “If after viability, the medical reason for the abortion”
  - “The medical procedure employed to administer the abortion”
  - “The mother’s obstetrical history including dates of other abortions if any”
  - “The results of pathological examinations if performed”
  - “Information as to whether the fetus was delivered alive”
  - “Records of all maternal deaths occurring within the health facility where the abortion was performed”


- Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1744-45 (codified at Ind. Code § 35-1-58.5-5(a) (1973)).

- 1973 – The forms required by Section 2 (Sec. 5(a) of Chapter 58.5) are to be filled out by the physician who conducts the abortion procedure and filed with the State Department of Health by the deadlines provided within this subsection. Failure to do so is a misdemeanor than can result in monetary fines or imprisonment.
1973 – Each medical facility which performs abortions shall receive forms from the State Department of Health which require the same information required by Public Law No. 322, Section 2 (Sec. 5(a) of Chapter 58.5), of 1973.

Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1745 (codified at Ind. Code § 35-1-58.5-5(b) (1973)).

2005 – The State Department of Health is to license and regulate abortion clinics: The Department is required to:

- “Establish minimum license qualifications.”
- Establish requirements for sanitation standards, staff qualifications, necessary emergency equipment, procedures to provide emergency care, quality assurance standards, and infection control.
- “Prescribe the operating policies, supervision, and maintenance of medical records.”
- “Establish procedures for the issuance, renewal, denial, and revocation of licenses,” including “the form and content of the license” and “the collection of an annual license fee.”
- “Prescribe the procedures and standards for inspections.”

The Department must establish licensing procedures and requirements for the licensure of abortion clinics by December 31, 2005. Abortion clinics must obtain and license and meet these requirements by July 1, 2006.

Legal Citation: Pub. L. No. 96-2005 § 7 and 14, 2005 Ind. Acts. 1897, 1900-01, 03 (§ 7 codified at Ind. Code § 16-21-2-2.5 (2005)).
2011 – The State Department of Health must post on its website a variety of materials concerning abortion, including objective scientific information about the fetus every two weeks of gestational age and the risks associated with the abortion procedure.

- Legal Citation: Pub. L. No. 193-2011 § 10, 2011 Ind. Acts. 2476, 2482-83 (codified at Ind. Code § 16-34-2-1.5 (2011)).

2011 – The State Department of Health forms must now also include:

- The postfertilization age of the fetus, the manner in which this was determined, and for abortions occurring “after the earlier of the time the fetus obtains viability or the time the postfertilization age of the fetus is at least twenty (20) weeks” the medical reason justifying the abortion.
- For medical procedures involving fetuses that are viable or have a postfertilization age of at least 20 weeks, whether the method used in the procedure was one that would best help the fetus to survive and the basis for determining that an abortion was necessary to prevent the death or serious impairment of the pregnant woman.

Additionally, prior to June 30 every year, the State Department of Health must create a public report containing statistics from these reports and statistics from previous years. No information that could be used to identify the pregnant women should be included in these reports.


2011 – In a separate public law, a different set of requirements for State Department of Health forms are listed from those listed in Section 14 of Public Law No. 193-2011:

- The age of the pregnant woman.
- The place where the procedure is to take place.
- The full name and address of the physicians performing the abortion.
- The name of the father if known.
- The age of the father, or approximate age if it is unknown.
- After viability the medical reason for the abortion.
- The medical procedure used for the abortion.
- The mother’s obstetrical history, including the dates of any other abortions.
- The results of any pathological examinations.
- Whether the fetus was delivered alive.
- Records of all maternal deaths at the facility where the procedure took place.
- The date of the pregnancy termination.
- The date the Department received this from.


  o Legal Citation: Pub. L. No. 74-2011 § 1, 2011 Ind. Acts. 695, 695-96 (codified at Ind. Code § 16-34-2-5 (2011)).

  □ 2013 – Abortion clinics may not be exempt from the Department of Health licensing requirements. This applies to anyone applying for a license for an abortion clinic after December 31, 2013.


  □ 2013 – Instead of providing links on its website, the State Department of Health must develop an informed consent brochure and post it on its website. This brochure must include the same information as the website had to include under Public Law No. 193-2011, Section 10, with the addition of objective scientific information on the risks of abortion inducing drugs.

    o Public Law No. 136-2013, Section 7 (amending IC 16-34-2-1.5). Introduced as S. 371, approved May 1, 2013. See p. 1008-09 of the Laws of the State of Indiana passed at the First Regular Session of One Hundred and Eighteenth Indiana General Assembly, Volume II (2013).

    o Legal Citation: Pub. L. No. 136-2013 § 7, 2013 Ind. Acts. 1002, 1008-09 (codified as amended at Ind. Code § 16-34-2-1.5 (2013)).

  □ 2014 – The State Department of Health may inspect an abortion clinic at least once per year and may also conduct a complaint inspection as needed.


    o Legal Citation: Pub. L. No. 98-2014 § 1, 2014 Ind. Acts. 1119, 1119 (codified at Ind. Code § 16-21-2-2.6 (2014)).
Physician Requirements

- **1973** – For abortions performed during the first trimester, they must be performed “for reasons based upon the professional, medical judgment of the pregnant woman’s physician.”
  - Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 2(a) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1743 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
  - [Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1743 (codified at Ind. Code § 35-1-58.5-2(a) (1973)).]

- **1973** - For abortions performed after the first trimester and before viability, they must be performed “for reasons based upon the professional, medical judgment of the pregnant woman’s physician.”
  - Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 2(b) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1743 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
  - [Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1743 (codified at Ind. Code § 35-1-58.5-2(b) (1973)).]

- **1973** – After viability, abortions can only be performed “for reasons based upon the professional, medical judgment of the pregnant woman’s physician”, provided that, prior to conducting the abortion procedure, the physician who will perform the abortion certifies in writing to the hospital where the abortion is to be performed that “the abortion is necessary to prevent a substantial permanent impairment of the life of physical health of the pregnant woman.” The physician should also state whatever facts or reasons support this conclusion in the writing to the hospital.
  - Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 2(c) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1743 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
  - [Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1743 (codified at Ind. Code § 35-1-58.5-2(c) (1973)).]

- **1973** – The physician who will perform the abortion must determine which trimester the pregnant woman is in and whether the fetus is viable. These determinations should also be included in any written reports that this law requires him or her to write.
  - [Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1744 (codified at Ind. Code § 35-1-58.5-3 (1973)).]
1973 – Any physician, employee, or staff member of a facility in which an abortion may be performed is required to assist in the abortion procedure in any way if they have any ethical, moral, or religious objections to the procedure. Assistance in the abortion procedure shall also not be made “a condition of training, employment, pay, promotion, or privileges”, and no one can be discriminated against based on their views on abortion.

- Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 8(a) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1746 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
- Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1746 (codified at Ind. Code § 35-1-58.5-8(a) (1973)).

1984 – For abortions performed after viability, a second physician must be present who “shall take control of and provide immediate care for a child born alive as a result of the abortion.” Additionally, “[d]uring the performance of the abortion, the physician performing it, and after the abortion, the [second physician], shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child.” This does not apply if doing the above would increase the risk “to the life or health of the mother.”


1993 – No physician, employee, or staff of a hospital or other facility can be required to perform or assist in the performance of an abortion if they object on ethical, moral, or religious grounds. They shall not be required to, “as a condition of training, employment, pay, promotion, or privileges”, perform or participate in an abortion. These individuals cannot be discriminated against based on their views.

- Public Law No. 2-1993, Section 17 (codified in IC 16-34 as Article 34, Ch. 1, Sec. 4-6). Introduced as S. 24, approved April 30, 1993. See p. 568-69 of the Laws of the State of Indiana passed at the First Regular Session of One Hundred and Eighth Indiana General Assembly, Volume I (1993).
- Legal Citation: Pub. L. No. 2-1993 § 17, 1993 Ind. Acts. 244, 568-69 (codified at Ind. Code § 16-34-1-4 to -6 (1993)).

1993 – Any abortions that are to be legally performed must be performed “for reasons based upon the professional, medical judgment of the pregnant woman’s physician.” For
all abortions the physician must determine what trimester the woman is in and whether the fetus is viable, as well as certifying this in any reports required by the physician. For abortions after viability, the physician must certify in writing to the hospital that the abortion is necessary to protect the life or physical health of the pregnant woman, and any facts or reasons supporting this contention must be attached to this writing. These abortions after viability must be performed in the presence of another physician who shall take control of and provide immediate care for a child born as a result of the abortion. Both physicians shall also take steps to preserve the life of the child in these cases unless it would increase the risk to the life or health of the mother.

- Public Law No. 2-1993, Section 17 (codified in IC 16-34 as Article 34, Ch. 2, Sec. 1-3). Introduced as S. 24, approved April 30, 1993. See p. 569-71 of the Laws of the State of Indiana passed at the First Regular Session of One Hundred and Eighth Indiana General Assembly, Volume I (1993).
- Legal Citation: Pub. L. No. 2-1993 § 17, 1993 Ind. Acts. 244, 569-71 (codified at Ind. Code § 16-34-2-1 to -3 (1993)).

1995 – In cases where an abortion is required to deal with a medical emergency (which is defined in this Public Law in Section 2), the physician who will perform the abortion must inform the woman of the information that supports his or her judgment that the abortion is necessary to avert either the woman’s death or a substantial and irreversible impairment of one of the woman’s major bodily functions.


2011 – In cases involving a medical emergency, the physician conducting an abortion should do so in a manner that would result in the best opportunity for the fetus to survive unless doing so “would pose a great risk of death or substantial physical impairment of the patient.”

- Legal Citation: Pub. L. No. 193-2011 § 7, 2011 Ind. Acts. 2476, 2478 (codified at Ind. Code § 16-34-2-0.5 (2011)).

2011 – The attending physician must now also determine the postfertilization age of the fetus. The physician must ask the patient any questions and conduct any exams necessary to determine this.

In order to perform an abortion, a physician must have admitting privileges at a hospital in either the county where the abortion is to be performed or a contiguous county. The physician must also have entered into an agreement with a physician who has admitting privileges in one of these hospitals concerning the management of possible complications from the abortion procedure. The physician must then inform the pregnant woman of the location of the hospital where the physician or a physician whom he or she has contracted with has admitting privileges and where the patient may receive follow-up care if complications arise from the procedure.


Legal Citation: Pub. L. No. 193-2011 § 14, 2011 Ind. Acts. 2476, 2486 (codified at Ind. Code § 16-34-2-4.5 (2011)).

At least 18 hours prior to the abortion procedure, the physician or the individual specified in this section must provide in person to the pregnant woman a color copy of the State Department of Health’s informed consent brochure. Additionally, the back of the brochure should state the name of the physician who will conduct the procedure, that physician’s license number, an emergency phone number where either that physician or the physician’s designee can be reached 24/7, and a statement stating that the physician or designee can provide follow-up care “on an appropriate and timely basis when clinically necessary.”


In addition to all of the other information a physician must provide to a pregnant woman at least 18 hours prior to an abortion, he or she must also provide an emergency telephone number for the facility in which the abortion is to be performed that is available and answered 24/7.


A physician’s admitting privileges or agreement with another physician who does have admitting privileges must now be in writing.


Funding Requirements

☐ 1979 – Neither the state nor any of the state’s political subdivisions can provide money to support the performance of an abortion unless it is “to preserve the life of the pregnant woman.”

- Legal Citation: Pub. L. No. 153 § 1, 1979 Ind. Acts. 698, 698 (codified at Ind. Code § 16-10-3-3 (1979)).

☐ 1993 – Neither the state nor any of the state’s political subdivisions can provide money to support the performance of an abortion unless it is “to preserve the life of the pregnant woman.”

- Public Law No. 2-1993, Section 17 (codified in IC 16-34 as Article 34, Ch. 1, Sec. 2). Introduced as S. 24, approved April 30, 1993. See p. 568 of the Laws of the State of Indiana passed at the First Regular Session of One Hundred and Eighth Indiana General Assembly, Volume I (1993).
- Legal Citation: Pub. L. No. 2-1993 § 17, 1993 Ind. Acts. 244, 568 (codified at Ind. Code § 16-34-1-2 (1993)).

☐ 2011 – An agency of the state may not enter into a contract with or make a grant to any entity that performs abortions or operates a facility where abortions are performed that involves state funds or federal funds administered by the state. Any appropriations to pay for such a contract or grant are canceled. This does not apply to hospitals or ambulatory surgical centers licensed under IC 16-21-2

- Legal Citation: Pub. L. No. 193-2011 § 1, 2011 Ind. Acts. 2476, 2476-77 (codified at Ind. Code § 5-22-17-5.5 (2011)).

☐ 2011 – A qualified health plan offered under Subtitle D of Title I of the Patient Protection and Affordable Care Act may not provide abortion coverage. The only exceptions are for
cases that involve rape, incest, or the death or substantial and irreversible impairment of a major bodily function of the pregnant woman.


### Facility Requirements

- **1973** – No hospital can be forced to allow abortions to be performed in its facilities. Abortions after the first trimester can only be performed “in a licensed hospital facility” as defined in the act.
  - Legal Citation: Pub. L. No. 322 § 1, 1973 Ind. Acts. 1740, 1740-1741.

- **1973** – For the purposes of PL 1973, a “hospital” can be either a hospital as defined in IC 1971, 16-10-16-6 as amended (hospitals which must be licensed by the State Department of Health), a hospital which is operated by a U.S. agency, or “an ambulatory out-patient surgical center as defined in IC 1971, 16-10-1-6(b).
  - Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1742 (codified at Ind. Code § 35-1-58.5-1(c)(1)-(2) (1973)).

- **1973** – Abortions during the first trimester can be performed in either a hospital or a licensed health facility “which offers the basic safeguards as provided by a hospital admission, and has immediate hospital back-up.” Between the first trimester and viability, abortions are to be performed in a hospital. For abortions after viability, the law simply says that “all circumstances and provisions required for legal abortion prior to viability are present and adhered to”; these abortions must presumably also be performed in a hospital.
  - Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 2(a)(1), Sec. 2(b)(2), and Sec. 2(c)(1) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1743 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
  - Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1743 (codified at Ind. Code § 35-1-58.5-2(a)-(c) (1973)).
1973 – Any abortions performed after viability must be performed “in a hospital having premature birth intensive care units available during the abortion.” Any viable fetuses must also “be given full medical treatment for the protection and maintenance of their life.”

- Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 7(a) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1745 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
- Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1745 (codified at Ind. Code § 35-1-58.5-7(a) (1973)).

1973 – Private and denominational hospitals do not have to allow abortions to be performed at their facilities.

- Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 8(b) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1746 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
- Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1746 (codified at Ind. Code § 35-1-58.5-8(b) (1973)).

1978 – Abortions during the first trimester no longer have to be performed in a hospital or licensed health facility. This amends the language originally inserted into the Indiana Code by Public Law No. 322, Section 2 (Sec. 2(a)(1) of Chapter 58.5).

- Legal Citation: Pub. L. No. 143 § 1, 1978 Ind. Acts. 1311, 1311 (codified as amended at Ind. Code § 35-1-58.5-2(a) (1978)).

1984 - The requirements for “Ambulatory outpatient surgical centers” are changed. These centers now only need “at least one (1) physician” instead of “a staff of physicians.” It is specified that a physician must be privileged to perform “surgical” procedures in at least one hospital within the center’s county. The center must have at least one, instead of two, operating rooms, and, “if anesthetics other than local infiltration anesthetics are administered”, then at least one postanesthesia recovery room. The rest of the changes appear to primarily deal with cleaning up the language of this section.

- Public Law No. 106-1984, Section 1 (amending IC 16-10-1-6(b)). Introduced as H. 1023, approved March 5, 1984. See p. 1046-47 of the Laws of the State of
Indiana passed at the Second Regular Session of the One Hundred and Third Indiana General Assembly, Volume II (1984).

- **Legal Citation:** Pub. L. No. 106-1984 § 1, 1984 Ind. Acts. 1045, 1046-47 (codified as amended at Ind. Code § 16-10-1-6(b) (1984)).

**1984** – The term “hospital” no longer refers to ambulatory outpatient surgical centers for the purposes of the abortion codes, IC 35-1-58.5.
- **Legal Citation:** Pub. L. No. 106-1984 § 3, 1984 Ind. Acts. 1045, 1050 (codified as amended at Ind. Code § 35-1-58.5-3 (1984)).

**1993** – All abortions that take place after viability must be performed “in a hospital having premature birth intensive care units” unless this would increase the risk “to the life or health of the mother.”
- **Legal Citation:** Pub. L. No. 106-1984 § 8, 1984 Ind. Acts. 1045, 1054 (codified as amended at Ind. Code § 35-1-58.5-7 (1984)).

**2005** – An “abortion clinic” is defined as “a freestanding entity that performs surgical abortion procedures.” This term does not cover hospitals, ambulatory surgical outpatient centers, or physicians’ offices where the surgical procedures performed therein are not primarily surgical abortion procedures.
- **Legal Citation:** Pub. L. No. 96-2005 § 2, 2005 Ind. Acts. 1897, 1899 (codified at Ind. Code § 16-18-2-1.5 (2005)).

**2014** – An abortion clinic must keep on hand a copy of its physician’s admitting privileges, and it must submit a copy of this to the State Department of Health as a part of its licensure for verification. The Department can, upon request, confirm to any member
of the public that it has received this copy. Any identifying information is to be removed from any copy submitted to the public.


## Requirements for Minors

- **1973** – Minors (those who are younger than 18), in addition to providing written consent to the physician who will perform the abortion, must also provide the written consent of a parent or guardian. The only exception is for cases where the life of the pregnant woman is at stake.
  - **Legal Citation:** Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1743 (codified at Ind. Code § 35-1-58.5-2(a)(2) (1973)).

- **1978** – Removed language from IC 35-1-58.5-2 the stated that minors (those under the age of 18) needed to also have the consent of a parent or guardian to get an abortion. This amends the language originally inserted into the Indiana Code by Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 2(a)(2) of Chapter 58.5).
  - **Legal Citation:** Pub. L. No. 143 § 1, 1978 Ind. Acts. 1311, 1311 (codified as amended at Ind. Code § 35-1-58.5-2(a)(2) (1978)).

- **1979** – Amended IC 31-6-8-1 to make, among other documents, petitions to juvenile courts confidential and only available pending certain conditions listed in the section. This section is relevant with regards to Public Law No. 203 of 1982, listed in the next bullet point.
  - Public Law No. 276, Section 48 (amending IC 31-6-7-17). Introduced as H. 2107, approved April 11, 1979. See p. 1423 of the Laws of the State of Indiana passed at the First Regular Session of the One Hundred and First Indiana General Assembly, Volume II (1979).
  - **Legal Citation:** Pub. L. No. 276 § 48, 1979 Ind. Acts. 1379, 1423 (codified as amended at Ind. Code § 31-6-8-1 (1979)).
1982 – This section deals with notifying parents and legal guardians of minors who seek abortions.

- Subsection (a): A physician may not perform an abortion on an unemancipated pregnant woman who is younger than 18 without giving her parents or legal guardian 24 hours actual notice. If the parents or guardian cannot be reached after a reasonable effort, then the physician must give at least 48 hours constructive notice to either one of the parents or legal guardian by certified mail to their last known address.

- Subsection (b): If the minor objects to her parents or legal guardian being notified, then she “or her next friend” can petition the juvenile court for a waiver of the notice requirement.

- Subsection (c): If the physician feels that providing notice to a parent or legal guardian “would have an adverse effect on the welfare of the pregnant minor or on her pregnancy” then he may also petition the juvenile court within 24 hours of the abortion request for a waiver of the notice requirement.

- Subsection (d): A juvenile court that receives a petition under subsections (b) and (c) must rule on the issue within 48 hours of the petition being filed. The court can waive the notice requirement if it finds “that the minor is mature enough to make the abortion decision independently or that notification would not be in the minor’s best interests.”

- Subsection (e): If the juvenile court refuses to waive the notice requirement, then it shall “assume the responsibility of taking whatever protective action is thought necessary by the court for the minor” with regards to giving the parent(s) or legal guardian notice under subsection (a).

  - Legal Citation: Pub. L. No. 203 § 1, 1982 Ind. Acts. 1516, 1516-17 (codified at Ind. Code § 35-1-48.5-2.5 (1982)).

1984 – Records involving pregnant minors or their physicians seeking a waiver of the parental consent requirement are no longer covered by IC 31-6-8-1. These records are now classified as confidential under IC 35-1-58.5-2.5 (As amended by Public Law No. 106-1984, Section 5, of 1984).

1984 – “Parental consent” is defined as the written consent of a parent or legal guardian of an unemancipated women younger than 18 for the performance of an abortion on that woman. It is also clarified that a minor pregnant woman who seeks an abortion must file the written parental consent with her physician. It is also clarified that a minor pregnant woman can seek a waiver of the parental consent requirement from the juvenile court if their parent or guardian refuses to consent to the abortion. If the pregnant minor does not have an attorney, then the court shall appoint an attorney for them. If the court rejects the petition, then the minor is “entitled to an expedited appeal.” All records pertaining to the juvenile court hearing or the appeal are confidential. The minor does not have to pay for the filing fees associated with these legal proceedings.


1993 – A physician cannot perform an abortion on an unemancipated minor (younger than 18) without the written consent of one parent or her legal guardian. If the minor objects to the consent or the parent/guardian refuses to grant it, she can petition the juvenile court for a waiver. The physician can also petition for a waiver within 24 hours of the abortion request if he or she feels that the parental consent requirement would “have an adverse effect on the welfare of the pregnant minor or on her pregnancy.” The court must then rule on these petitions within 48 hours, and can waive the requirement if it finds that the minor is mature enough to make the decision or if the abortion is in her best interests. If the minor does not have an attorney then the court can appoint one, with costs to the county. The minor or her physician can also appeal an adverse judgment. All records of these proceedings are to be kept confidential, and any filing fees are to be waived. The foregoing does not apply if the pregnancy poses “an immediate threat and grave risk to the life or health of the pregnant woman and the attending physician so certifies in writing.”

- Public Law No. 2-1993, Section 17 (codified in IC 16-34 as Article 34, Ch. 2, Sec. 4) Introduced as S. 24, approved April 30, 1993. See p. 571-72 of the Laws of the State of Indiana passed at the First Regular Session of One Hundred and Eighth Indiana General Assembly, Volume I (1993).
- Legal Citation: Pub. L. No. 2-1993 § 17, 1993 Ind. Acts. 244, 571-72 (codified at Ind. Code § 16-34-2-4 (1993)).

2011 – Clarifies that the juvenile court that a pregnant minor or her physician petition to for a waiver of the consent requirement must be in either the county where the woman lives or where the procedure is to be performed. Additionally, the next friend “may not be a physician or provider of abortion services, representative of the physician or provider, or other person that may receive a direct financial benefit from the performance of an abortion.”

If an abortion is performed on someone younger than fourteen, then the physician who performs the operation must send the forms required by the State Department of Health for all abortions to both the State Department of Health and the Department of Child Services within three days of the procedure.

- **Legal Citation:** Pub. L. No. 74-2011 § 1, 2011 Ind. Acts. 695, 696 (codified as amended at Ind. Code § 16-34-2-5 (2011)).

### Penalties

- **1973** – Any person who performs or helps perform an abortion that is not performed under the standards laid out in Public Law No. 322 has committed a felony and can be sentenced to 5-10 years in prison.
  - **Legal Citation:** Pub. L. No. 322 § 2, 1973 Ind. Acts. 1744 (codified at Ind. Code § 35-1-58.5-4 (1973)).

- **1973** – A physician who fails to file the forms required by Section 2 (Sec. 5(a) of Chapter 58.5) of Public Law No 322 with the State Department of Health by the deadlines listed in subsection (b) is guilty of a misdemeanor and/or can be fined up to $300 and imprisoned for up to 90 days.
  - Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as (Sec. 5(b) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1745 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
  - **Legal Citation:** Pub. L. No. 322 § 2, 1973 Ind. Acts. 1745 (codified at Ind. Code § 35-1-58.5-5(b) (1973)).

- **1973** – Anyone who conducts an experiment on a fetus (with an exception for pathological examinations) that has been aborted or who transports an aborted fetus out of the state in order to conduct an experiment is guilty of a misdemeanor and can be fined up to $1000 and/or imprisoned for up to one year.
  - Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1745 (codified at Ind. Code § 35-1-58.5-6 (1973)).

  1973 – With regards to a fetus that is born alive, any physician who fails “to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of [the fetus]” shall be subject to the “Indiana laws governing homicide, manslaughter and civil liability for wrongful death and malpractice.”

    - Public Law No. 322, Section 2 (codified in IC 1971, 35-1 as Sec. 7(b) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1745-46 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
    - Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1745-46 (codified at Ind. Code § 35-1-58.5-7(b) (1973)).

  1977 – It is a Class C Felony to knowingly or intentionally perform an abortion outside of the established guidelines. This amends the language inserted into the Indiana Code by Public Law No. 322, Section 2 (Sec. 4 of Chapter 58.5).

    - Public Law No. 335, Section 1 (amending IC 35-1-58.5-4). Introduced as S. 200, approved May 6, 177. See p. 1513 of the Laws of the State of Indiana passed at the First Regular Session of the One Hundredth Indiana General Assembly, Volume II (1977).
    - Legal Citation: Pub. L. No. 335 § 1, 1977 Ind. Acts. 1513, 1513 (codified as amended at Ind. Code § 35-1-58.5-4 (1973)).

  1977 – It is a Class B misdemeanor to fail to file the forms required by IC 35-1-58.5-5 (passed into law in Section 2 (Sec. 5(a) of Chapter 58.5) of Public Law No 322) with the State Department of Health by the deadlines listed in this section. This amends the language inserted into the Indiana Code by Public Law No. 322, Section 2 (Sec. 5(b) of Chapter 58.5).


  1977 – It is a Class A misdemeanor to conduct any experiments (excepting pathological experiments) on an aborted fetus or to transport an aborted fetus across state lines in order to conduct an experiment. This amends the language inserted into the Indiana Code by Public Law No. 322, Section 2 (Sec. 6 of Chapter 58.5).

    - Public Law No. 335, Section 3 (amending IC 35-1-58.5-6). Introduced as S. 200, approved May 6, 1977. See p. 1514 of the Laws of the State of Indiana passed at
the First Regular Session of the One Hundredth Indiana General Assembly, Volume II (1977).

- **Legal Citation:** Pub. L. No. 335 § 1, 1977 Ind. Acts. 1513, 1514 (codified as amended at Ind. Code § 35-1-58.5-6 (1973)).

**1979** – A person who “knowingly and intentionally terminates a human pregnancy with an intention other than to produce a live birth or to remove a dead fetus commits feticide, a Class C felony.” This does not apply to legal abortions performed under IC 35-1-58.5.


- **Legal Citation:** Pub. L. No. 153 § 3, 1979 Ind. Acts. 698, 698-99 (codified as amended at Ind. Code § 35-42-1-6 (1979)).

**1983** – It is a Class A misdemeanor for a physician to perform an abortion without submitting the required information to the State Department of Health. This amends the language inserted into the Indiana Code by Public Law No. 335 of 1977.


- **Legal Citation:** Pub. L. No. 318-1983 § 1, 1983 Ind. Acts. 1933, 1933 (codified as amended at Ind. Code § 35-1-58.5-4 (1983)).

**1984** – A physician who performs an abortion without written parental consent or a waiver of this consent is guilty of a Class A misdemeanor.


**1993** – It is a Class B misdemeanor to fail to comply with the State Department of Health’s filing requirements (listed in Article 34, Ch. 2, Sec. 5(a) of this Public Law). It is a Class A misdemeanor to conduct any experiments (Except pathological examinations) on an aborted fetus or to transport the fetus across state lines for the purposes of experimentation. It is a Class C Felony to perform an abortion that is not in compliance with the rest of this law. It is a Class A misdemeanor to conduct an abortion on a pregnant woman under the age of 18 without the written consent of a parent or legal guardian.

- Public Law No. 2-1993, Section 17 (codified in IC 16-34 as Article 34, Ch. 2, Sec. 5(b), 6, and 7). Introduced as S. 24, approved April 30, 1993. See p. 569-70 of the Laws of the State of Indiana passed at the First Regular Session of One Hundred and Eighth Indiana General Assembly, Volume I (1993).
1995 – A person who performs an abortion without having orally informed a woman of the facts required by Section 4 of this Public Law and without receiving written certification from the pregnant woman stating that she received these facts is guilty of a Class A infraction.


1997 – A person who performs a partial birth abortion is guilty of a Class C Felony.


1997 – A woman who receives a partial birth abortion may not be prosecuted for violating the law.


1997 – “Fetal tissue” is defined as tissue from an infant or fetus that was either stillborn or aborted. Any person who “intentionally acquires, receives, sells, or transfers in exchange for an item of value” fetal tissue is guilty of a Class C felony.


1998 – It is a crime to kill a fetus that has reached viability. A person who has knowingly and intentionally killed a fetus that reached viability has committed a murder. Additionally, there are other provisions for people who kill a fetus in the heat of the moment, while committing another crime, etc. The only exceptions are for abortions that are performed in compliance with the abortion laws as they stood at the time.

1-8 of the Laws of the State of Indiana passed at the First Regular Session of One Hundred and Tenth Indiana General Assembly.

- Since this bill was originally vetoed in 1997 and passed in 1998, it was published at the beginning of Volume I of the Laws of the State of Indiana passed at the Second Regular Session of the One Hundred and Tenth Indiana General Assembly (1998).

- **2005** – Any person who operates or advertises the operation of an unlicensed abortion clinic is guilty of a Class A misdemeanor.
  - Legal Citation: Pub. L. No. 96-2005 § 7, 2005 Ind. Acts. 1897, 1900-01 (codified at Ind. Code § 16-21-2-2.5 (2005)).

- **2011** – Except in cases involving medical emergencies, a physician who fails to make the determinations about the fetus required by Section 11 of this law will be subject to disciplinary action pursuant to IC 25-1-9.

- **2011** – Failure to file the forms required by the State Department of Health by the specified deadlines is a Class B misdemeanor.
  - Legal Citation: Pub. L. No. 74-2011 § 1, 2011 Ind. Acts. 695, 695-96 (codified as amended at Ind. Code § 16-34-2-5 (2011)).

### Other

- **1973** – The Indiana General Assembly notes that it does not recognize a constitutional right to abortion, nor does it approve of abortion. It has only passed this legislation because of *Roe v. Wade.*

1973 – No experiments other than pathological experiments can be conducted on an aborted fetus, and aborted fetuses cannot be transported across state lines.
- Public Law No. 322, Section 2 (codified in IC 35-1 as Sec. 6 of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1745 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
  - Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1745 (codified at Ind. Code § 35-1-58.5-6 (1973)).

1973 – Any fetus born alive “shall be treated thereafter as a person under the law and a birth certificate shall be issued certifying the birth of said person.” If the fetus dies in this situation then a death certificate is to also be issued. If the pregnant woman (along with the husband, if the woman is married) states in writing that she (and her husband, if there is one) do not want the child if the abortion results in a live birth, then the child becomes a ward of the state.
- Public Law No. 322, Section 2 (codified in IC 35-1 as Sec. 7(b)-(c) of Chapter 58.5). Introduced as S. 334, filed April 24, 1973. See p. 1745-46 of the Laws of the State of Indiana passed at the First Regular Session of the Ninety-Eighth Indiana General Assembly, Volume II (1973).
  - Legal Citation: Pub. L. No. 322 § 2, 1973 Ind. Acts. 1740, 1745-46 (codified at Ind. Code § 35-1-58.5-7(b)-(c) (1973)).

1973 – The Indiana General Assembly passed a joint resolution calling for a constitutional convention to amend the U.S. constitution to prohibit abortion (“protect the right to live” is the official phrasing).

1979 – A provision was inserted into the Indiana Code to state that “[c]hildbirth is preferred, encouraged, and supported over abortion.”
  - Legal Citation: Pub. L. No. 153 § 2, 1979 Ind. Acts. 698, 698 (codified as amended at Ind. Code § 16-10-3-4 (1979)).

1979 – An eight person study committee was created to consider “the need for, and feasibility of, paying for those services that are needed by pregnant adolescent women and are provided to them.”

1993 – Inserted a provision into the Indiana code stating that “[c]hildbirth is preferred, encouraged, and supported over abortion.”
- Public Law No. 2-1993, Section 17 (codified in IC 16-34 as Article 34, Ch. 1, Sec. 1). Introduced as S. 24, approved April 30, 1993. See p. 568 of the Laws of the State of Indiana passed at the First Regular Session of One Hundred and Eighth Indiana General Assembly, Volume I (1993).
  - Legal Citation: Pub. L. No. 2-1993 § 17, 1993 Ind. Acts. 244, 568 (codified at Ind. Code § 16-34-1-1 (1993)).


2011 – The Indiana General Assembly found that there is “substantial medical evidence” that a fetus can feel pain at 20 weeks of postfertilization age, and that there is a compelling state interest in protecting the life of a fetus that can feel pain.
  - Legal Citation: Pub. L. No. 193-2011 § 6, 2011 Ind. Acts. 2476, 2477-78 (codified at Ind. Code § 16-34-1-9 (2011)).