



## An Overview of Senate Bill 404 – Indiana’s Newest Pro-Life Victory

- Gives the **parent or guardian an opportunity to approach the court to seek an injunction** against acts from others that would aid a minor daughter in having an abortion without parental consent.
- Gives the parent or guardian a **civil remedy to sue a perpetrator who knowingly or intentionally aids or assists their minor daughter in obtaining an abortion**. “Aid or assist” means to pose as a parent and sign, drive her to a clinic, give her money for the abortion, and other types of actions.
- Permits the judge hearing a minor’s judicial bypass appeal (the procedure through which a minor can appeal to have an abortion without parental consent) **to inform her parents before the abortion** unless the judge determines it is in the minor’s best interest not to tell them. Under existing law, judges did not have the right to exercise discretion in informing parents.
- **Directs the State to adopt new rules for surgical and/or chemical abortion facilities and adds to the rules the following additional items that ISDH must include as requirements for licensees:**
  - Procedures to monitor patients after the administration of anesthesia. (We found several clinics had inspection reports that were marked down for giving all women the same amount of anesthesia regardless of body weight, etc., and no follow-up after they gave them anesthesia.)
  - Procedures to provide follow-up care for patient complications.
  - Provision of informed consent brochure in English, Spanish and a third language.
  - Provision of a hotline number that provides assistance for patients who are **coerced into abortion or victims of sex trafficking**.
  - Annual training by law enforcement officers on **identifying and assisting women who are coerced into abortion or are victims of sex trafficking**.
  - Require all forms with patient signature to be stored in the patient’s medical record (this helps the inspectors).
  - ISDH should prescribe procedures for implementing a plan of correction to address clinic violations.
  - ISDH should prescribe procedures for implementing a system for ISDH to follow if the abortion clinic fails to comply with the plan of correction and disciplinary action is needed.
  - Not later than 1/1/2019, ISDH shall adopt separate rules for clinics that perform only surgical abortions, for those that offer only abortion inducing drugs, and for both.
- If the minor is a **ward of the state in a juvenile correctional facility or a behavioral care setting, for example, the state of Indiana cannot consent to her abortion** unless it is necessary to avert the pregnant minor’s death or a substantial and irreversible impairment of a major bodily function of the

pregnant minor, as determined by a physician who certifies the determination in writing (this is the “life of the mother” exception language that is in Indiana’s overall abortion law – just repeated here to apply to a ward of the state equally). **The state would, however, have to allow her access to the judicial bypass process** because by default she has no parent or guardian who can consent.

- At the abortion location, **an adult claiming to be the parent or guardian of a minor must provide government issued proof of identification and written documentation that establishes the parental/guardian as such** (no more verbal attestation or phone calls).
- The abortion **doctor must complete an affidavit** for the minor’s chart that includes his name and signature certifying that he reviewed that proof of parental rights/guardianship and found it to be satisfactory. This affidavit must be kept in her file for 7 years.
- Current law requires an abortionist who does an abortion on a minor 14 and under to transmit the required form to both the Department of Child Services (it is child abuse under Indiana law) and the Indiana State Department of Health (overseer). **SB404 raises that age to under 16**, the age of consent (and 16 is the limit for sexual misconduct with a minor under Indiana law).
- SB 404 adds to IC 25-1-9-4 that a **practitioner is subject to sanctions if he fails to report to DCS or law enforcement suspected child abuse in accordance with IC 31-33-5 or that a patient may be the victim of human trafficking**, if the practitioner has been presented with evidence that, if presented to a practitioner of similar background and training, would cause the practitioner to believe that the patient is a victim of human trafficking.
- Affirms that the **Indiana Medical Licensing Board under IC 25-1-9 may revoke the license of a doctor** if he failed to transmit the appropriate form to the Indiana State Dept. of Health or performed an abortion on a minor with the intent to avoid the requirements of the law.
- Adds to Indiana’s **criminal statutes that IC 16-34-2-4 (abortion violation by doctor) defines a crime concerning abortion.**
- Now that the Indian State Department of Health’s abortion reporting has gone electronic and is online, **SB 404 changes the doctors’ reporting requirements from every six months to “within thirty (30) days after the date of each abortion”.**