

# Confusion reigns over Indiana abortion legislation

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Sen. Erin HouchinR-Salem



Sen. Mark StoopsD-Bloomington

INDIANAPOLIS — Teenage girls seeking abortions without their parents' knowledge would need a judge's approval for the procedure under a bill that's been sent to the desk of Gov. Eric Holcomb.

The bill passed 31-10 through the Indiana Senate this week following a 45-minute discussion that underscored confusion over abortion laws.

As Senate Bill 404 was debated, two senators ended up acknowledging they were unfamiliar with some current practices and legal rulings.

Another legislator, Sen. Lonnie Randolph, D-East Chicago, finally said, "I had questions ... I thought they had been answered, and now I'm more confused than before."

If signed into law, the bill would still require a physician to obtain permission from a parent or guardian before performing an abortion on a pregnant girl younger than 18.

But if the girl wants to keep the pregnancy a secret, she would have to go before a juvenile court judge who could waive parental notification if it was in the girl's best interest.

And the physician performing the abortion would have to file separate reports to the State Department of Health and the Department of Child Services. If the doctor failed to file the reports, he or she could face a Class B misdemeanor. The report must be filed for girls younger than 16; the previous legislation set the age at 14.

The provisions are part of a multi-faceted bill. Supporters say it's aimed at maintaining health and safety of pregnant teens; opponents say it's conservatives' latest attempt to restrict abortions in Indiana.

"This bill is unnecessary," said Sen. Mark Stoops, D-Bloomington. "I wish we didn't have to go through this every session and then be embarrassed about it when a court overturns whatever we've done, not to mention millions of dollars that have been spent defending the state in these unconstitutional provisions we have limiting a woman's right to choose."

Last June, a federal judge blocked an Indiana law that would have banned abortions that were sought based on a disability or genetic anomaly of a fetus. The ruling suggested that the law, supported by then-Gov. Mike Pence, put an illegal ban on a woman's constitutional rights.

Judge Tanya Walton Pratt of the U.S. District Court for Southern Indiana said limiting the reasons for an abortion was "inconsistent with the notion of a right rooted in privacy concerns and a liberty right to make independent decisions."

In July, the state was challenged over a law from the previous session that required women to have an ultrasound 18 hours before an abortion and to receive informed-consent information about pregnancy and abortion. The law was interpreted as an attack on Planned Parenthood, which then had four facilities offering ultrasounds and abortions. Three locations provided surgical abortion and one provided medical abortion.

Before the law was passed, women could get the ultrasound on the day of the abortion but were required to have an appointment 18 hours in advance to receive information on pregnancy and abortions.

On March 31, Pratt issued a preliminary injunction against enforcement of the ultrasound requirement of that legislation. She noted that the ultrasound requirement in part adds financial burden for low-income women.

Those federal rulings, however, brought about discussions that emphasized the confusion surrounding SB 404 on Wednesday.

Stoops asked one of the authors, Sen. Erin Houchin, R-Salem, about the federal rulings.

"Originally, a bill was passed by the Senate that the clinics that perform chemical abortions meet the same criteria as clinics that perform surgical abortions," he said to Houchin. "I thought that was declared unconstitutional by the court, and I'm assuming that law is null and void. Is that right?"

She responded, "I'm not familiar. Is that the recent case?"

The bill requires doctors to keep a patient's abortion record for seven years.

Later, Stoops was questioned by Sen. Liz Brown, R-Fort Wayne, about what information is kept in medical records for women who obtain abortions. Brown noted that women are typically asked by physicians if they've had a pregnancy.

Sen. Vaneta Becker expressed concern that the law would essentially add to the medical record of women that they had become pregnant before the age of 18.

The bill includes a provision that the Indiana Department of Health devise rules separately for clinics that provide surgical abortions and those providing abortions using drugs including RU-486, known as the abortion pill.

That licensing process and the public's potential access to records raised questions from Sen. Gregory Taylor, D-Indianapolis.

He asked Houchin, "Does it concern you that a licensed facility ... or someone who provides these abortions could be targeted by anti-abortion protesters?"

"It doesn't concern me," Houchin said. "They're free to protest.

"I suppose the State Department of Health would have the ability under this guideline ... to determine what kind of information is on there," she added, "but we're not specially stating that in the law."

Abortion consent for minors

### **Current law**

- One parent must provide written consent before a minor obtains an abortion.
- One parent or legally appointed guardian must accompany the girl to a pre-abortion visit to provide consent.
- A minor may obtain an abortion without parental consent by securing a court order stating she is mature enough to make her own decision or that an abortion is in her best interest.
- If a minor is emancipated (either married or working full time and self-supportive), she may obtain an abortion without parental consent.

### **Law awaiting governor's signature**

- The state or an agency of the state is prohibited from consenting to the abortion of a pregnant girl unless the life or health of the girl is endangered.
- Before performing an abortion on an un-emancipated girl, a physician must first obtain the following from a parent, legal guardian or custodian accompanying the girl: written consent; proof of identification; and evidence of the relationship between the parent, legal guardian, or custodian and girl.
- Parental notification is required subject to judicial waiver for an abortion performed on an un-emancipated pregnant minor.

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