

ABORTION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve R. Christiansen

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions relating to abortion.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies informed consent provisions relating to an abortion;
- ▶ modifies the abortion information module provided by the department;
- ▶ amends provisions relating to viewing the abortion information module;
- ▶ amends statistical reporting requirements relating to abortions;
- ▶ amends and adds reporting requirements for physicians and facilities;
- ▶ provides a civil penalty for a physician who fails to comply with informed consent

provisions relating to an abortion; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-21-33, as enacted by Laws of Utah 2020, Chapter 251



- 28 [76-7-305](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
- 29 [76-7-305.5](#), as last amended by Laws of Utah 2020, Chapter 251
- 30 [76-7-305.7](#), as last amended by Laws of Utah 2018, Chapter 282
- 31 [76-7-313](#), as last amended by Laws of Utah 2019, Chapters 124 and 208
- 32 [76-7-314](#), as last amended by Laws of Utah 2019, Chapter 208

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **26-21-33** is amended to read:

36 **26-21-33. Treatment of aborted remains.**

37 (1) As used in this section, "aborted fetus" means a product of human conception,
38 regardless of gestational age, that has died from an abortion as that term is defined in Section
39 [76-7-301](#).

40 (2) (a) A health care facility having possession of an aborted fetus shall provide for the
41 final disposition of the aborted fetus through:

- 42 (i) cremation as that term is defined in Section [58-9-102](#); or
- 43 (ii) interment.

44 (b) A health care facility may not conduct the final disposition of an aborted fetus less
45 than 72 hours after an abortion is performed unless:

- 46 (i) the pregnant woman authorizes the health care facility, in writing, to conduct the
47 final disposition of the aborted fetus less than 72 hours after the abortion is performed; or
- 48 (ii) immediate disposition is required under state or federal law.

49 (c) A health care facility may serve as an authorizing agent as defined in Section
50 [58-9-102](#) with respect to the final disposition of an aborted fetus if:

- 51 (i) the pregnant woman provides written authorization for the health care facility to act
52 as the authorizing agent; or
- 53 (ii) (A) more than 72 hours have passed since the abortion was performed; and
54 (B) the pregnant woman did not exercise her right to control the final disposition of the
55 aborted fetus under Subsection (4)(a).

56 (d) Within 120 business days after the day on which an abortion is performed, a health
57 care facility possessing an aborted fetus shall:

- 58 (i) conduct the final disposition of the aborted fetus in accordance with this section; or

- 59 (ii) ensure that the aborted fetus is preserved until final disposition.
- 60 (e) A health care facility shall conduct the final disposition under this section in
61 accordance with applicable state and federal law.
- 62 (3) Before performing an abortion, a health care facility shall:
- 63 (a) provide the pregnant woman with the information described in Subsection
64 [76-7-305.5\(2\)\(w\)\(y\)](#) through:
- 65 (i) a form approved by the department;
- 66 (ii) an in-person consultation with a physician; or
- 67 (iii) an in-person consultation with a mental health therapist as defined in Section
68 [58-60-102](#); and
- 69 (b) if the pregnant woman makes a decision under Subsection (4)(b), document the
70 pregnant woman's decision under Subsection (4)(b) in the pregnant woman's medical record.
- 71 (4) A pregnant woman who has an abortion:
- 72 (a) except as provided in Subsection (6), has the right to control the final disposition of
73 the aborted fetus;
- 74 (b) if the pregnant woman has a preference for disposition of the aborted fetus, shall
75 inform the health care facility of the pregnant woman's decision for final disposition of the
76 aborted fetus;
- 77 (c) is responsible for the costs related to the final disposition of the aborted fetus at the
78 chosen location if the pregnant woman chooses a method or location for the final disposition of
79 the aborted fetus that is different from the method or location that is usual and customary for
80 the health care facility; and
- 81 (d) for a medication-induced abortion, shall be permitted to return the aborted fetus to
82 the health care facility in a sealed container for disposition by the health care facility in
83 accordance with this section.
- 84 (5) The form described in Subsection (3)(a)(i) shall include the following information:
85 "You have the right to decide what you would like to do with the aborted fetus. You
86 may decide for the provider to be responsible for disposition of the fetus. If you are having a
87 medication-induced abortion, you also have the right to bring the aborted fetus back to this
88 provider for disposition after the fetus is expelled. The provider may dispose of the aborted
89 fetus by burial or cremation. You can ask the provider if you want to know the specific method

90 for disposition."

91 (6) If the pregnant woman is a minor, the health care facility shall obtain parental
92 consent for the disposition of the aborted fetus unless the minor is granted a court order under
93 Subsection 76-7-304(1)(b).

94 (7) (a) A health care facility may not include fetal remains with other biological,
95 infectious, or pathological waste.

96 (b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is
97 not subject to the requirements of this section.

98 (c) (i) A health care facility is responsible for maintaining a record to demonstrate to
99 the department that the health care facility has complied with the provisions of this section.

100 (ii) The records described in Subsection (7)(c)(i) shall be:

101 (A) maintained for at least two years; and

102 (B) made available to the department for inspection upon request by the department.

103 Section 2. Section 76-7-305 is amended to read:

104 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**
105 **-- Exceptions.**

106 (1) As used in this section:

107 (a) "Authorized professional" means:

108 (i) a physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
109 58, Chapter 68, Utah Osteopathic Medical Practice Act;

110 (ii) a physician's assistant, licensed under Title 58, Chapter 70a, Utah Physician
111 Assistant Act;

112 (iii) a nurse practitioner, licensed under Title 58, Chapter 31b, Nurse Practice Act;

113 (iv) an advanced practice registered nurse, licensed under Title 58, Chapter 31b, Nurse
114 Practice Act;

115 (v) a registered nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

116 (vi) a genetic counselor, licensed under Title 58, Chapter 75, Genetic Counselors
117 Licensing Act; or

118 (vii) a certified nurse midwife, licensed under Title 58, Chapter 44a, Nurse Midwife
119 Practice Act.

120 (b) "Staff member" means:

121 (i) a staff member of a hospital, medical clinic, or abortion clinic; or

122 (ii) an individual under the direction of a physician.

123 ~~[(1)]~~ (2) A person may not perform an abortion, unless, before performing the abortion,
124 the physician who will perform the abortion obtains from the woman on whom the abortion is
125 to be performed a voluntary and informed written consent that is consistent with:

126 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,
127 Current Opinions; and

128 (b) the provisions of this section.

129 ~~[(2)]~~ (3) Except as provided in Subsection ~~[(8)]~~ (9), consent to an abortion is voluntary
130 and informed only if, at least 72 hours before the abortion:

131 ~~[(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse
132 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
133 physician's assistant presents the information module to the pregnant woman;]~~

134 (a) a staff member under the direction of a physician, a certified nursing assistant under
135 the direction of a physician, or an authorized professional:

136 (i) informs the pregnant woman that she is required to view the information module
137 before the abortion is performed;

138 (ii) informs the pregnant woman that the pregnant woman may view the information
139 module at anytime on the Department of Health's website and provides the pregnant woman
140 with a uniform resource locator that the pregnant woman can use to directly access the
141 information module on that website; and

142 (iii) informs the pregnant woman that she has the right to choose to view the
143 information module at any of the following locations chosen by the pregnant woman:

144 (A) the location where the pregnant woman will have the abortion;

145 (B) the location where the individual providing the information described in this
146 Subsection (3)(a) is employed;

147 (C) the location where the pregnant woman is present when the individual providing
148 the information described in this Subsection (3)(a) provides the information; or

149 (D) any other location where the woman can view the information described in this
150 Subsection (3)(a) using an electronic device;

151 (b) if the pregnant woman chooses to view the information module at a location

152 described in Subsection (3)(a)(iii)(A), (B), or (C), the individual who provides the information
153 described in Subsection (3)(a) to the pregnant woman, presents, and permits the pregnant
154 woman to view, the entire information module at the location chosen by the pregnant woman;
155 ~~(b)~~ (c) the pregnant woman;
156 (i) views the entire information module ~~and~~;
157 (ii) presents evidence, in the form of the certificate described in Subsection
158 76-7-305.5(2)(b), to the individual described in Subsection ~~(2)~~ (3)(a) that the pregnant
159 woman viewed the entire information module; and
160 (iii) signs and dates a document, in the presence of the individual described in
161 Subsection (3)(a), that states, "I, the undersigned, affirm, under penalty of perjury, that I have
162 viewed the entire information module described in Utah Code Section 76-7-305.5.";
163 ~~(e)~~ (d) after receiving the ~~[evidence]~~ certificate and signed document described in
164 Subsection ~~(2)(b)~~ (3)(c), the individual described in Subsection ~~(2)~~ (3)(a):
165 (i) documents that the pregnant woman viewed the entire information module;
166 (ii) signs the document described in Subsection (3)(c)(iii), as a witness to the signature
167 of the pregnant woman;
168 ~~(i)~~ (iii) gives the pregnant woman, upon her request, a copy of the ~~[documentation]~~
169 certificate and document described in Subsection ~~(2)(c)(i)~~ (3)(d)(i); and
170 ~~(iii)~~ (iv) provides a copy of the ~~[statement]~~ certificate and document described in
171 Subsection ~~(2)(c)(i)~~ (3)(c) to the physician who is to perform the abortion, upon request of
172 that physician or the pregnant woman;
173 ~~(d)~~ (e) after the pregnant woman views the entire information module, ~~[the physician~~
174 who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse
175 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
176 physician's assistant, in a face-to-face consultation in any location in the state, orally informs
177 the woman of] a certified nursing assistant under the direction of a physician, or an authorized
178 professional, orally informs the woman of the following, in a face-to-face consultation where
179 the individual providing the information and the pregnant woman are in each other's physical
180 presence:
181 (i) the nature of the proposed abortion procedure;
182 (ii) specifically how the procedure described in Subsection ~~(2)(d)(i)~~ (3)(e) will affect

183 the fetus;

184 (iii) the risks and alternatives to the abortion procedure or treatment;

185 (iv) the potential side effects, risks, complications, and consequences of a

186 medication-induced abortion, if the proposed abortion procedure is a medication-induced

187 abortion;

188 [~~(iv)~~] (v) the options and consequences of aborting a medication-induced abortion, if

189 the proposed abortion procedure is a medication-induced abortion;

190 [~~(v)~~] (vi) the probable gestational age and a description of the development of the

191 unborn child at the time the abortion would be performed;

192 [~~(vi)~~] (vii) the medical risks associated with carrying her child to term;

193 [~~(vii)~~] (viii) the right to view an ultrasound of the unborn child, at no expense to the

194 pregnant woman, upon her request, and to receive written information produced by the

195 Department of Health regarding available resources or locations to obtain a free ultrasound,

196 including pregnancy resource centers and other nonprofit entities that provide those services;

197 and

198 [~~(viii)~~] (ix) when the result of a prenatal screening or diagnostic test indicates that the

199 unborn child has or may have Down syndrome, the Department of Health website containing

200 the information described in Section 26-10-14, including the information on the informational

201 support sheet; and

202 [~~(e)~~] (f) after the pregnant woman views the entire information module, a staff member

203 of the abortion clinic or hospital provides to the pregnant woman:

204 (i) on a document that the pregnant woman may take home:

205 (A) the address for the department's website described in Section 76-7-305.5; and

206 (B) a statement that the woman may request, from a staff member of the abortion clinic

207 or hospital where the woman viewed the information module, a printed copy of the material on

208 the department's website;

209 (ii) a printed copy of the material on the department's website described in Section

210 76-7-305.5, if requested by the pregnant woman; and

211 (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the

212 disposition of the aborted fetus.

213 [~~(3)~~] (4) Before performing an abortion, the physician who is to perform the abortion

214 shall:

215 (a) in a face-to-face consultation where the physician and the pregnant woman are in
216 each other's physical presence, provide the information described in Subsection [~~(2)(d)~~] (3)(e),
217 unless the attending physician or referring physician is the individual who provided the
218 information required under Subsection [~~(2)(d)~~] (3)(e); and

219 (b) (i) obtain from the pregnant woman a written certification that the information
220 required to be provided under Subsection [~~(2)~~] (3) and this Subsection [~~(3)~~] (4) was provided in
221 accordance with the requirements of Subsection [~~(2)~~] (3) and this Subsection [~~(3)~~] (4);

222 (ii) obtain a copy of the [~~statement~~] documentation described in Subsection [~~(2)(c)(i)~~]
223 (3)(d); and

224 (iii) ensure that:

225 (A) the woman has received the information described in Subsections 26-21-33(3) and
226 (4); and

227 (B) if the woman has a preference for the disposition of the aborted fetus, the woman
228 has informed the health care facility of the woman's decision regarding the disposition of the
229 aborted fetus.

230 [~~(4)~~] (5) When a serious medical emergency compels the performance of an abortion,
231 the physician shall inform the woman prior to the abortion, if possible, of the medical
232 indications supporting the physician's judgment that an abortion is necessary.

233 [~~(5)~~] (6) If an ultrasound is performed on a woman before an abortion is performed, the
234 individual who performs the ultrasound, or another qualified individual, shall:

235 (a) inform the woman that the ultrasound images will be simultaneously displayed in a
236 manner to permit her to:

237 (i) view the images, if she chooses to view the images; or

238 (ii) not view the images, if she chooses not to view the images;

239 (b) simultaneously display the ultrasound images in order to permit the woman to:

240 (i) view the images, if she chooses to view the images; or

241 (ii) not view the images, if she chooses not to view the images;

242 (c) inform the woman that, if she desires, the person performing the ultrasound, or
243 another qualified person shall provide a detailed description of the ultrasound images,
244 including:

245 (i) the dimensions of the unborn child;
246 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and
247 (iii) the presence of external body parts or internal organs, if present and viewable; and
248 (d) provide the detailed description described in Subsection [~~(5)~~] (6)(c), if the woman
249 requests it.

250 [~~(6)~~] (7) The information described in Subsections [~~(2)~~, ~~(3)~~, and ~~(5)~~] (3), (4), and (6) is
251 not required to be provided to a pregnant woman under this section if the abortion is performed
252 for a reason described in:

253 (a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician
254 concur, in writing, that the abortion is necessary to avert:

255 (i) the death of the woman on whom the abortion is performed; or
256 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
257 of the woman on whom the abortion is performed; or

258 (b) Subsection 76-7-302(3)(b)(ii).

259 [~~(7)~~] (8) In addition to the criminal penalties described in this part, a physician who
260 violates the provisions of this section:

261 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;
262 and

263 (b) shall be subject to:

264 (i) suspension or revocation of the physician's license for the practice of medicine and
265 surgery in accordance with Section 58-67-401 or 58-68-401; and

266 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

267 [~~(8)~~] (9) A physician is not guilty of violating this section for failure to furnish any of
268 the information described in Subsection [~~(2)~~ or] (3) or (4), or for failing to comply with
269 Subsection [~~(5)~~] (6), if:

270 (a) the physician can demonstrate by a preponderance of the evidence that the
271 physician reasonably believed that furnishing the information would have resulted in a severely
272 adverse effect on the physical or mental health of the pregnant woman;

273 (b) in the physician's professional judgment, the abortion was necessary to avert:

274 (i) the death of the woman on whom the abortion is performed; or

275 (ii) a serious risk of substantial and irreversible impairment of a major bodily function

276 of the woman on whom the abortion is performed;

277 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
278 76-5-402 and 76-5-402.1;

279 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and
280 Section 76-7-102; or

281 (e) at the time of the abortion, the pregnant woman was 14 years [~~of age~~] old or
282 younger.

283 [~~(9)~~] (10) A physician who complies with the provisions of this section and Section
284 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
285 informed consent under Section 78B-3-406.

286 [~~(10)~~] (11) (a) The department shall provide an ultrasound, in accordance with the
287 provisions of Subsection [~~(5)~~] (6)(b), at no expense to the pregnant woman.

288 (b) A local health department shall refer a pregnant woman who requests an ultrasound
289 described in Subsection [~~(10)~~] (11)(a) to the department.

290 [~~(11)~~] (12) A physician is not guilty of violating this section if:

291 (a) the information described in Subsection [~~(2)~~] (3) is provided less than 72 hours
292 before the physician performs the abortion; and

293 (b) in the physician's professional judgment, the abortion was necessary in a case
294 where:

295 (i) a ruptured membrane, documented by the attending or referring physician, will
296 cause a serious infection; or

297 (ii) a serious infection, documented by the attending or referring physician, will cause a
298 ruptured membrane.

299 Section 3. Section 76-7-305.5 is amended to read:

300 **76-7-305.5. Requirements for information module and website.**

301 (1) In order to ensure that a woman's consent to an abortion is truly an informed
302 consent, the department shall, in accordance with the requirements of this section, develop an
303 information module and maintain a public website.

304 (2) The information module and public website described in Subsection (1) shall:

305 (a) be designed and function in a manner that:

306 (i) permits the information module to only be viewed from the beginning to the end,

307 without skipping or fast-forwarding through any part of the information module;
308 (ii) permits an individual to pause or replay any portion of the information module;
309 (iii) has voice-over that:
310 (A) provides an audio presentation of all information presented in the information
311 module; and
312 (B) cannot be skipped or fast-forwarded; and
313 (iv) prohibits the pregnant woman from accessing, viewing, or printing the certificate
314 of completion until the pregnant woman views the entire information module;
315 (b) provides a certificate to an individual pregnant woman, after the pregnant woman
316 views the entire information module, that includes:
317 (i) a code assigned to the pregnant woman that:
318 (A) is unique to the pregnant woman;
319 (B) can be used by the department to identify the pregnant woman; and
320 (C) does not, by simply viewing the code, disclose the identity of the pregnant woman;
321 and
322 (ii) a date and time stamp indicating when the pregnant woman completed viewing the
323 entire information module;
324 ~~[(a)]~~ (c) be scientifically accurate, comprehensible, and presented in a truthful,
325 nonmisleading manner;
326 ~~[(b)]~~ (d) present adoption as a preferred and positive choice and alternative to abortion;
327 ~~[(c)]~~ (e) be produced in a manner that conveys the state's preference for childbirth over
328 abortion;
329 ~~[(d)]~~ (f) state that the state prefers childbirth over abortion;
330 ~~[(e)]~~ (g) state that it is unlawful for any person to coerce a woman to undergo an
331 abortion;
332 ~~[(f)]~~ (h) state that any physician who performs an abortion without obtaining the
333 woman's informed consent or without providing her a private medical consultation in
334 accordance with the requirements of this section, may be liable to her for damages in a civil
335 action at law;
336 ~~[(g)]~~ (i) provide a geographically indexed list of resources and public and private
337 services available to assist, financially or otherwise, a pregnant woman during pregnancy, at

338 childbirth, and while the child is dependent, including:

- 339 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;
- 340 (ii) services and supports available under Section [35A-3-308](#);
- 341 (iii) other financial aid that may be available during an adoption;
- 342 (iv) services available from public adoption agencies, private adoption agencies, and
- 343 private attorneys whose practice includes adoption; and
- 344 (v) the names, addresses, and telephone numbers of each person listed under this

345 Subsection (2)~~(g)~~(i);

346 ~~(h)~~ (j) describe the adoption-related expenses that may be paid under Section

347 [76-7-203](#);

348 ~~(i)~~ (k) describe the persons who may pay the adoption related expenses described in

349 Subsection (2)~~(h)~~(j);

350 ~~(j)~~ (l) except as provided in Subsection (4), describe the legal responsibility of the

351 father of a child to assist in child support, even if the father has agreed to pay for an abortion;

352 ~~(k)~~ (m) except as provided in Subsection (4), describe the services available through

353 the Office of Recovery Services, within the Department of Human Services, to establish and

354 collect the support described in Subsection (2)~~(j)~~(l);

355 ~~(l)~~ (n) state that private adoption is legal;

356 ~~(m)~~ (o) describe and depict, with pictures or video segments, the probable anatomical

357 and physiological characteristics of an unborn child at two-week gestational increments from

358 fertilization to full term, including:

- 359 (i) brain and heart function;
- 360 (ii) the presence and development of external members and internal organs; and
- 361 (iii) the dimensions of the fetus;

362 ~~[(n) show an ultrasound of the heartbeat of an unborn child at:]~~

363 ~~[(i) four weeks from conception;]~~

364 ~~[(ii) six to eight weeks from conception; and]~~

365 ~~[(iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;]~~

366 ~~[(o) describe abortion procedures used in current medical practice at the various stages~~

367 ~~of growth of the unborn child, including:]~~

368 (p) in addition to the pictures or video segments described in Subsection (2)(o), show a

369 high-resolution, three-dimensional video of an ultrasound of an unborn child, that:
370 (i) includes segments of at least 10 seconds of an ultrasound for each of the following
371 gestational ages:
372 (A) six weeks;
373 (B) eight weeks;
374 (C) ten weeks;
375 (D) twelve weeks;
376 (E) sixteen weeks; and
377 (F) twenty weeks; and
378 (ii) includes an audio of the heartbeat of the unborn child at the gestational ages
379 described in Subsections (2)(p)(i)(B) through (F);
380 (q) a detailed, step by step, description of each step of each type of abortion procedure
381 used in current medical practice that includes:
382 (i) medically-accurate visual images of what is happening to the unborn child at each
383 step of each type of abortion procedure;
384 (ii) a description of the gestational ages at which each type of abortion procedure is
385 normally used;
386 [(†)] (iii) the medical risks associated with each type of abortion procedure;
387 [(†)] (iv) the risk related to subsequent childbearing that are associated with each type
388 of abortion procedure; and
389 [(†)] (v) the consequences of each type of abortion procedure to the unborn child at
390 various stages of fetal development;
391 [(†)] (r) describe the possible detrimental psychological effects of abortion;
392 [(†)] (s) describe the medical risks associated with carrying a child to term;
393 [(†)] (t) include relevant information on the possibility of an unborn child's survival at
394 the two-week gestational increments described in Subsection (2)[(†)](o);
395 [(†)] (u) except as provided in Subsection (5), include:
396 (i) information regarding substantial medical evidence from studies concluding that an
397 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain
398 during an abortion procedure; and
399 (ii) the measures that will be taken in accordance with Section [76-7-308.5](#);

400 ~~[(t)]~~ (v) explain the options and consequences of aborting a medication-induced
401 abortion;

402 ~~[(t)]~~ (w) include the following statement regarding a medication-induced abortion,
403 "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You
404 may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but
405 have not yet taken the second drug and have questions regarding the health of your fetus or are
406 questioning your decision to terminate your pregnancy, you should consult a physician
407 immediately.";

408 ~~[(v)]~~ (x) inform a pregnant woman that she has the right to view an ultrasound of the
409 unborn child, at no expense to her, upon her request;

410 ~~[(w) inform]~~ (y) provide a digital copy of the form described in Subsection
411 [26-21-33\(3\)\(a\)\(i\)](#) to a pregnant woman and inform her that she has the right to:

412 (i) determine the final disposition of the remains of the aborted fetus;

413 (ii) unless the woman waives this right in writing, wait up to 72 hours after the
414 abortion procedure is performed to make a determination regarding the disposition of the
415 aborted fetus before the health care facility may dispose of the fetal remains;

416 (iii) receive information about options for disposition of the aborted fetus, including
417 the method of disposition that is usual and customary for a health care facility; and

418 (iv) for a medication-induced abortion, return the aborted fetus to the health care
419 facility for disposition; and

420 ~~[(x)]~~ (z) provide a digital copy of the form described in Subsection [26-21-33\(3\)\(a\)\(i\)](#);
421 and

422 ~~[(y)]~~ (aa) be in a typeface large enough to be clearly legible.

423 (3) The information module and website described in Subsection (1) may include a
424 toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and
425 description of services, agencies, and adoption attorneys in the locality of the caller.

426 (4) The department may develop a version of the information module and website that
427 omits the information in Subsections (2)~~[(j) and (k)]~~ (l) and (m) for a viewer who is pregnant as
428 the result of rape.

429 (5) The department may develop a version of the information module and website that
430 omits the information described in Subsection (2)~~[(s)]~~ (u) for a viewer who will have an

431 abortion performed:

432 (a) on an unborn child who is less than 20 weeks gestational age at the time of the
433 abortion; or

434 (b) on an unborn child who is at least 20 weeks gestational age at the time of the
435 abortion, if:

436 (i) the abortion is being performed for a reason described in Subsection

437 [76-7-302\(3\)\(b\)\(i\)](#) or (ii); and

438 (ii) due to a serious medical emergency, time does not permit compliance with the
439 requirement to provide the information described in Subsection (2)~~(s)~~(u).

440 (6) The department and each local health department shall make the information
441 module and the website described in Subsection (1) available at no cost to any person.

442 (7) The department shall make the website described in Subsection (1) available for
443 viewing on the department's website by clicking on a conspicuous link on the home page of the
444 website.

445 (8) The department shall ensure that the information module is:

446 (a) available to be viewed at all facilities where an abortion may be performed;

447 (b) interactive for the individual viewing the module, including the provision of
448 opportunities to answer questions and manually engage with the module before the module
449 transitions from one substantive section to the next;

450 (c) produced in English and may include subtitles in Spanish or another language; and

451 (d) capable of being viewed on a tablet or other portable device.

452 (9) After the department releases the initial version of the information module, for the
453 use described in Section [76-7-305](#), the department shall:

454 (a) update the information module, as required by law; and

455 (b) present an updated version of the information module to the Health and Human
456 Services Interim Committee for the committee's review and recommendation before releasing
457 the updated version for the use described in Section [76-7-305](#).

458 Section 4. Section [76-7-305.7](#) is amended to read:

459 **[76-7-305.7. Statistical report by the Department of Health.](#)**

460 (1) As used in this section, "location type" means:

461 (a) an abortion clinic;

462 (b) a physician's office;

463 (c) a medical clinic; or

464 (d) a hospital.

465 ~~[(1)]~~ (2) In accordance with Subsection ~~[(2)]~~ (3), the department shall, on an annual
466 basis, after December 31 of each year, compile and report the following information, relating to
467 the preceding calendar year, to the Health and Human Services Interim Committee:

468 (a) the total number of abortions that were performed in the state;

469 (b) the number of abortions, by procedure type, that were performed in the state;

470 ~~[(b)]~~ (c) the reported reasons, if any, the women sought the abortions described in
471 Subsection ~~[(1)]~~ (2)(a);

472 ~~[(e)]~~ (d) the stage of pregnancy in which the abortions described in Subsection ~~[(1)]~~
473 (2)(a) were performed, including:

474 (i) the trimester; and

475 (ii) estimated week of pregnancy;

476 ~~[(d)]~~ (e) the races and ethnicities of the women who obtained the abortions described in
477 Subsection ~~[(1)]~~ (2)(a), including:

478 (i) Alaska Native;

479 (ii) American Indian;

480 (iii) Asian;

481 (iv) Black or African American;

482 (v) Hispanic or Latino;

483 (vi) Native Hawaiian or Pacific Islander;

484 (vii) White, not Hispanic or Latino; and

485 (viii) some other race;

486 (f) in relation to women who experienced complications relating to an abortion
487 obtained in the state:

488 (i) the total number of women who experienced complications;

489 (ii) the number of women who experienced complications per complication type; and

490 (iii) for each location type:

491 (A) the number of women whose abortion complications were treated at that location
492 type;

493 (B) the number of women who were treated for an abortion complication before the
 494 women left the location after having the abortion;

495 (C) the number of women who were treated for an abortion complication after leaving
 496 the location where the woman had the abortion;

497 (D) the number of complications, by complication type, that were treated at the
 498 location type; and

499 (E) the number of each abortion complication type experienced per abortion procedure
 500 type;

501 ~~[(e)]~~ (g) the total amount of informed consent material described in this section that
 502 was distributed or accessed;

503 ~~[(f)]~~ (h) the number of women who obtained abortions in this state without receiving
 504 the informed consent materials described in this section;

505 ~~[(g)]~~ (i) the number of statements signed by attending physicians under Subsection
 506 76-7-313(3); and

507 ~~[(h)]~~ (j) any other information pertaining to obtaining informed consent from a woman
 508 who seeks an abortion.

509 ~~[(2)]~~ (3) The report described in Subsection ~~[(1)]~~ (2) shall be prepared and presented in
 510 a manner that preserves physician and patient anonymity.

511 Section 5. Section 76-7-313 is amended to read:

512 **76-7-313. Department's enforcement responsibility -- Duty to report to**
 513 **department.**

514 (1) In order for the department to maintain necessary statistical information and ensure
 515 enforcement of the provisions of this part:

516 (a) any physician performing an abortion must obtain and record in writing:

517 (i) the age, marital status, and county of residence of the woman on whom the abortion
 518 was performed;

519 (ii) the unique identifier code and date and time stamp provided to the woman on
 520 whom the abortion was performed on the certificate described in Subsection 76-7-305.5(2)(b);

521 ~~[(ii)]~~ (iii) the number of previous abortions performed on the woman described in
 522 ~~[Subsection]~~ Subsections (1)(a)(i) and (ii);

523 ~~[(iii)]~~ (iv) the hospital or other facility where the abortion was performed;

524 ~~[(iv)]~~ (v) the weight in grams of the unborn child aborted, if it is possible to ascertain;
525 ~~[(v)]~~ (vi) the pathological description of the unborn child;
526 ~~[(vi)]~~ (vii) the given gestational age of the unborn child;
527 ~~[(vii)]~~ (viii) the date the abortion was performed;
528 ~~[(viii)]~~ (ix) the measurements of the unborn child, if possible to ascertain; and
529 ~~[(ix)]~~ (x) the medical procedure used to abort the unborn child; ~~[and]~~

530 (b) a facility that treats an abortion complication shall obtain and record in writing the
531 information described in Subsection 76-7-305.7(2)(f)(iii); and

532 ~~[(b)]~~ (c) the department shall make rules in accordance with Title 63G, Chapter 3, Utah
533 Administrative Rulemaking Act[-], regulating the recording and reporting of the information
534 described in this section.

535 (2) Each physician who performs an abortion shall provide the following to the
536 department within 30 days after the day on which the abortion is performed:

537 (a) the information described in Subsection (1)~~(a)~~;

538 (b) a copy of the pathologist's report described in Section 76-7-309;

539 (c) an affidavit:

540 (i) indicating whether the required consent was obtained pursuant to Sections 76-7-305
541 and 76-7-305.5;

542 (ii) described in Subsection (3), if applicable; and

543 (iii) indicating whether at the time the physician performed the abortion, the physician
544 had any knowledge that the pregnant woman sought the abortion solely because the unborn
545 child had or may have had Down syndrome; and

546 (d) a certificate indicating:

547 (i) whether the unborn child was or was not viable, as defined in Subsection
548 76-7-302(1), at the time of the abortion;

549 (ii) whether the unborn child was older than 18 weeks gestational age at the time of the
550 abortion; and

551 (iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than
552 18 weeks gestational age at the time of the abortion, the reason for the abortion.

553 (3) If the information module or the address to the website is not provided to a
554 pregnant woman, the physician who performs the abortion on the woman shall, within 10 days

555 after the day on which the abortion is performed, provide to the department an affidavit that:

556 (a) specifies the information that was not provided to the woman; and

557 (b) states the reason that the information was not provided to the woman.

558 (4) Each facility that treats an abortion complication shall provide the information

559 described in Subsection (1)(b) to the department within 30 days after the day on which the

560 facility treats the abortion complication.

561 [~~4~~] (5) All information supplied to the department shall be confidential and privileged
562 pursuant to Title 26, Chapter 25, Confidential Information Release.

563 [~~5~~] (6) The department shall pursue all administrative and legal remedies when the
564 department determines that a physician or a facility has not complied with the provisions of this
565 part.

566 Section 6. Section **76-7-314** is amended to read:

567 **76-7-314. Violations of abortion laws -- Classifications.**

568 (1) A willful violation of Section [76-7-307](#), [76-7-308](#), [76-7-310](#), [76-7-310.5](#), [76-7-311](#),
569 or [76-7-312](#) is a felony of the third degree.

570 (2) A violation of Section [76-7-326](#) is a felony of the third degree.

571 (3) A violation of Section [76-7-302.5](#) or [76-7-314.5](#) is a felony of the second degree.

572 (4) A violation of any other provision of this part, including Subsections [76-7-305](#) [~~2~~]

573 (3)(a) through (c), and (e), is a class A misdemeanor.

574 (5) The Department of Health shall report a physician's violation of any provision of
575 this part to the Physicians Licensing Board, described in Section [58-67-201](#).

576 (6) Any person with knowledge of a physician's violation of any provision of this part
577 may report the violation to the Physicians Licensing Board, described in Section [58-67-201](#).

578 (7) In addition to the penalties described in this section[-];

579 (a) the department may take any action described in Section [26-21-11](#) against an
580 abortion clinic if a violation of this chapter occurs at the abortion clinic[-]; and

581 (b) the department shall impose a \$50,000 fine, per occurrence, against a physician
582 who violates a provision of Section [76-7-305](#).