

Representative Steve R. Christiansen proposes the following substitute bill:

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;
- ▶ requires the Department of Health to report on the progress of complying with this bill; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill provides a special effective date.

27 This bill provides revisor instructions.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **26-21-33**, as enacted by Laws of Utah 2020, Chapter 251

31 **63I-2-276**, as last amended by Laws of Utah 2019, Chapter 124

32 **76-7-305**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

33 **76-7-305.5**, as last amended by Laws of Utah 2020, Chapter 251

34 **76-7-305.7**, as last amended by Laws of Utah 2018, Chapter 282

35 **76-7-313**, as last amended by Laws of Utah 2019, Chapters 124 and 208

36 **76-7-314**, as last amended by Laws of Utah 2019, Chapter 208

37 ENACTS:

38 **76-7-332**, Utah Code Annotated 1953

39 **Utah Code Sections Affected by Revisor Instructions:**

40 **76-7-332**, Utah Code Annotated 1953



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

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

44 **26-21-33. Treatment of aborted remains.**

45 (1) As used in this section, "aborted fetus" means a product of human conception,
46 regardless of gestational age, that has died from an abortion as that term is defined in Section
47 **76-7-301**.

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

50 (i) cremation as that term is defined in Section **58-9-102**; or

51 (ii) interment.

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

54 (i) the pregnant woman authorizes the health care facility, in writing, to conduct the
55 final disposition of the aborted fetus less than 72 hours after the abortion is performed; or

56 (ii) immediate disposition is required under state or federal law.

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

59 (i) the pregnant woman provides written authorization for the health care facility to act
60 as the authorizing agent; or

61 (ii) (A) more than 72 hours have passed since the abortion was performed; and

62 (B) the pregnant woman did not exercise her right to control the final disposition of the
63 aborted fetus under Subsection (4)(a).

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

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

67 (ii) ensure that the aborted fetus is preserved until final disposition.

68 (e) A health care facility shall conduct the final disposition under this section in
69 accordance with applicable state and federal law.

70 (3) Before performing an abortion, a health care facility shall:

71 (a) provide the pregnant woman with the information described in Subsection
72 76-7-305.5(2)(~~w~~)(y) through:

73 (i) a form approved by the department;

74 (ii) an in-person consultation with a physician; or

75 (iii) an in-person consultation with a mental health therapist as defined in Section
76 58-60-102; and

77 (b) if the pregnant woman makes a decision under Subsection (4)(b), document the
78 pregnant woman's decision under Subsection (4)(b) in the pregnant woman's medical record.

79 (4) A pregnant woman who has an abortion:

80 (a) except as provided in Subsection (6), has the right to control the final disposition of
81 the aborted fetus;

82 (b) if the pregnant woman has a preference for disposition of the aborted fetus, shall
83 inform the health care facility of the pregnant woman's decision for final disposition of the
84 aborted fetus;

85 (c) is responsible for the costs related to the final disposition of the aborted fetus at the
86 chosen location if the pregnant woman chooses a method or location for the final disposition of
87 the aborted fetus that is different from the method or location that is usual and customary for

88 the health care facility; and

89 (d) for a medication-induced abortion, shall be permitted to return the aborted fetus to
90 the health care facility in a sealed container for disposition by the health care facility in
91 accordance with this section.

92 (5) The form described in Subsection (3)(a)(i) shall include the following information:

93 "You have the right to decide what you would like to do with the aborted fetus. You
94 may decide for the provider to be responsible for disposition of the fetus. If you are having a
95 medication-induced abortion, you also have the right to bring the aborted fetus back to this
96 provider for disposition after the fetus is expelled. The provider may dispose of the aborted
97 fetus by burial or cremation. You can ask the provider if you want to know the specific method
98 for disposition."

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

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

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

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

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

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

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

111 Section 2. Section **63I-2-276** is amended to read:

112 **63I-2-276. Repeal dates -- Title 76.**

113 (1) If Section 76-7-302.4 is not in effect before January 1, 2029, Section 76-7-302.4 is
114 repealed January 1, 2029.

115 (2) Section 76-7-305.7 is repealed January 1, 2023.

116 (3) Section 76-7-332 is repealed on January 1, 2023.

117 Section 3. Section **76-7-305** is amended to read:

118 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**

119 -- Exceptions.

120 (1) As used in this section:

121 (a) "Authorized professional" means:

122 (i) a physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
123 58, Chapter 68, Utah Osteopathic Medical Practice Act;

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

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

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

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

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

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

134 (b) "Staff member" means:

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

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

137 [(+) (2) A person may not perform an abortion, unless, before performing the abortion,
138 the physician who will perform the abortion obtains from the woman on whom the abortion is
139 to be performed a voluntary and informed written consent that is consistent with:

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

142 (b) the provisions of this section.

143 [(2)] (3) Except as provided in Subsection [(8)] (9), consent to an abortion is voluntary
144 and informed only if, at least 72 hours before the abortion:

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

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

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

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

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

158 (A) the location where the pregnant woman will have the abortion;
159 (B) the location where the individual providing the information described in this
160 Subsection (3)(a) is employed;

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

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

165 (b) if the pregnant woman chooses to view the information module at a location
166 described in Subsection (3)(a)(iii)(A), (B), or (C), the individual who provides the information
167 described in Subsection (3)(a) to the pregnant woman, presents, and permits the pregnant
168 woman to view, the entire information module at the location chosen by the pregnant woman;

169 [~~(b)~~] (c) the pregnant woman:

170 (i) views the entire information module [~~and~~];

171 (ii) presents evidence, in the form of the certificate described in Subsection
172 [76-7-305.5\(2\)\(b\)](#), to the individual described in Subsection [~~(2)~~] (3)(a) that the pregnant
173 woman viewed the entire information module; and

174 (iii) signs and dates a document, in the presence of the individual described in
175 Subsection (3)(a), that states, "I, the undersigned, certify that I have viewed the entire
176 information module described in Utah Code Section [76-7-305.5](#).";

177 [~~(c)~~] (d) after receiving the [~~evidence~~] certificate and signed document described in
178 Subsection [~~(2)(b)~~] (3)(c), the individual described in Subsection [~~(2)~~] (3)(a):

179 (i) documents that the pregnant woman viewed the entire information module;

180 (ii) signs the document described in Subsection (3)(c)(iii), as a witness to the signature

181 of the pregnant woman;

182 ~~[(ii)]~~ (iii) gives the pregnant woman, upon her request, a copy of the ~~[documentation]~~
183 certificate and document described in Subsection ~~[(2)(c)(i)]~~ (3)(d)(i); and

184 ~~[(iii)]~~ (iv) provides a copy of the ~~[statement]~~ certificate and document described in
185 Subsection ~~[(2)(c)(i)]~~ (3)(c) to the physician who is to perform the abortion, upon request of
186 that physician or the pregnant woman;

187 ~~[(d)]~~ (e) after the pregnant woman views the entire information module, ~~[the physician~~
188 ~~who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse~~
189 ~~practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or~~
190 ~~physician's assistant, in a face-to-face consultation in any location in the state, orally informs~~
191 ~~the woman of]~~ a certified nursing assistant under the direction of a physician, or an authorized
192 professional, orally informs the woman of the following, in a face-to-face consultation where
193 the individual providing the information and the pregnant woman are in each other's physical
194 presence:

195 (i) the nature of the proposed abortion procedure;

196 (ii) specifically how the procedure described in Subsection ~~[(2)(d)(i)]~~ (3)(e) will affect
197 the fetus;

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

199 (iv) the potential side effects, risks, complications, and consequences of a
200 medication-induced abortion, if the proposed abortion procedure is a medication-induced
201 abortion;

202 ~~[(iv)]~~ (v) the options and consequences of aborting a medication-induced abortion, if
203 the proposed abortion procedure is a medication-induced abortion;

204 ~~[(v)]~~ (vi) the probable gestational age and a description of the development of the
205 unborn child at the time the abortion would be performed;

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

207 ~~[(vii)]~~ (viii) the right to view an ultrasound of the unborn child, at no expense to the
208 pregnant woman, upon her request, and to receive written information produced by the
209 Department of Health regarding available resources or locations to obtain a free ultrasound,
210 including pregnancy resource centers, nonprofit entities, and other entities that provide those
211 services; and

212 [~~(viii)~~] (ix) when the result of a prenatal screening or diagnostic test indicates that the
213 unborn child has or may have Down syndrome, the Department of Health website containing
214 the information described in Section 26-10-14, including the information on the informational
215 support sheet; and

216 [~~(e)~~] (f) after the pregnant woman views the entire information module, a staff member
217 of the abortion clinic or hospital provides to the pregnant woman:

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

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

220 (B) a statement that the woman may request, from a staff member of the abortion clinic
221 or hospital where the woman viewed the information module, a printed copy of the material on
222 the department's website;

223 (ii) a printed copy of the material on the department's website described in Section
224 76-7-305.5, if requested by the pregnant woman; and

225 (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the
226 disposition of the aborted fetus.

227 [~~(3)~~] (4) Before performing an abortion, the physician who is to perform the abortion
228 shall:

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

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

236 (ii) obtain a copy of the [~~statement~~] documentation described in Subsection [~~(2)~~(~~e~~)(~~i~~)]
237 (3)(d); and

238 (iii) ensure that:

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

241 (B) if the woman has a preference for the disposition of the aborted fetus, the woman
242 has informed the health care facility of the woman's decision regarding the disposition of the

243 aborted fetus.

244 ~~[(4)]~~ (5) When a serious medical emergency compels the performance of an abortion,
245 the physician shall inform the woman prior to the abortion, if possible, of the medical
246 indications supporting the physician's judgment that an abortion is necessary.

247 ~~[(5)]~~ (6) If an ultrasound is performed on a woman before an abortion is performed, the
248 individual who performs the ultrasound, or another qualified individual, shall:

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

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

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

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

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

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

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

259 (i) the dimensions of the unborn child;

260 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and

261 (iii) the presence of external body parts or internal organs, if present and viewable; and

262 (d) provide the detailed description described in Subsection ~~[(5)]~~ (6)(c), if the woman
263 requests it.

264 ~~[(6)]~~ (7) The information described in Subsections ~~[(2), (3), and (5)]~~ (3), (4), and (6) is
265 not required to be provided to a pregnant woman under this section if the abortion is performed
266 for a reason described in:

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

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

270 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
271 of the woman on whom the abortion is performed; or

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

273 ~~[(7)]~~ (8) In addition to the criminal penalties described in this part, a physician who

274 violates the provisions of this section:

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

276 and

277 (b) shall be subject to:

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

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

281 ~~[(8)]~~ (9) A physician is not guilty of violating this section for failure to furnish any of
282 the information described in Subsection ~~[(2) or]~~ (3) or (4), or for failing to comply with
283 Subsection ~~[(5)]~~ (6), if:

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

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

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

289 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
290 of the woman on whom the abortion is performed;

291 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
292 76-5-402 and 76-5-402.1;

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

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

297 ~~[(9)]~~ (10) A physician who complies with the provisions of this section and Section
298 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
299 informed consent under Section 78B-3-406.

300 ~~[(10)]~~ (11) (a) The department shall provide an ultrasound, in accordance with the
301 provisions of Subsection ~~[(5)]~~ (6)(b), at no expense to the pregnant woman.

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

304 ~~[(11)]~~ (12) A physician is not guilty of violating this section if:

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

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

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

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

313 Section 4. Section 76-7-305.5 is amended to read:

314 **76-7-305.5. Requirements for information module and website.**

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

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

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

320 (i) permits the information module to only be viewed from the beginning to the end,
321 without skipping or fast-forwarding through any part of the information module;

322 (ii) permits an individual to pause or replay any portion of the information module;

323 (iii) has voice-over that:

324 (A) provides an audio presentation of all information presented in the information
325 module; and

326 (B) cannot be skipped or fast-forwarded; and

327 (iv) prohibits the pregnant woman from accessing, viewing, or printing the certificate
328 of completion until the pregnant woman views the entire information module;

329 (b) provides a certificate to an individual pregnant woman, after the pregnant woman
330 views the entire information module, that includes:

331 (i) a code assigned to the pregnant woman that:

332 (A) is unique to the pregnant woman;

333 (B) can be used by the department to deduplicate the data on the pregnant woman; and

334 (C) does not, by simply viewing the code, disclose the identity of the pregnant woman;

335 and

336 (ii) a date and time stamp indicating when the pregnant woman completed viewing the
337 entire information module;

338 [~~(a)~~] (c) be scientifically accurate, comprehensible, and presented in a truthful,
339 nonmisleading manner;

340 [~~(b)~~] (d) present adoption as a preferred and positive choice and alternative to abortion;

341 [~~(c)~~] (e) be produced in a manner that conveys the state's preference for childbirth over
342 abortion;

343 [~~(d)~~] (f) state that the state prefers childbirth over abortion;

344 [~~(e)~~] (g) state that it is unlawful for any person to coerce a woman to undergo an
345 abortion;

346 [~~(f)~~] (h) state that any physician who performs an abortion without obtaining the
347 woman's informed consent or without providing her a private medical consultation in
348 accordance with the requirements of this section, may be liable to her for damages in a civil
349 action at law;

350 [~~(g)~~] (i) provide a geographically indexed list of resources and public and private
351 services available to assist, financially or otherwise, a pregnant woman during pregnancy, at
352 childbirth, and while the child is dependent, including:

353 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

354 (ii) services and supports available under Section [35A-3-308](#);

355 (iii) other financial aid that may be available during an adoption;

356 (iv) services available from public adoption agencies, private adoption agencies, and
357 private attorneys whose practice includes adoption; and

358 (v) the names, addresses, and telephone numbers of each person listed under this

359 Subsection (2)[~~(g)~~](i);

360 [~~(h)~~] (j) describe the adoption-related expenses that may be paid under Section
361 [76-7-203](#);

362 [~~(i)~~] (k) describe the persons who may pay the adoption related expenses described in
363 Subsection (2)[~~(h)~~](j);

364 [~~(j)~~] (l) except as provided in Subsection (4), describe the legal responsibility of the
365 father of a child to assist in child support, even if the father has agreed to pay for an abortion;

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

367 the Office of Recovery Services, within the Department of Human Services, to establish and
368 collect the support described in Subsection (2)(~~(j)~~)(1);

369 ~~[(f)]~~ (n) state that private adoption is legal;

370 ~~[(m)]~~ (o) describe and depict, with pictures or video segments, the probable anatomical
371 and physiological characteristics of an unborn child at two-week gestational increments from
372 fertilization to full term, including:

373 (i) brain and heart function;

374 (ii) the presence and development of external members and internal organs; and

375 (iii) the dimensions of the fetus;

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

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

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

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

380 ~~[(o) describe abortion procedures used in current medical practice at the various stages
381 of growth of the unborn child, including:]~~

382 (p) in addition to the pictures or video segments described in Subsection (2)(o), show a
383 high-resolution video of an ultrasound of an unborn child, that:

384 (i) includes segments of at least 10 seconds of an ultrasound for each of the following
385 gestational ages:

386 (A) six weeks;

387 (B) eight weeks;

388 (C) ten weeks;

389 (D) twelve weeks;

390 (E) sixteen weeks; and

391 (F) twenty weeks; and

392 (ii) includes an audio of the heartbeat of the unborn child at the gestational ages
393 described in Subsections (2)(p)(i)(B) through (F);

394 (q) a detailed, step by step, description of each step of each type of abortion procedure
395 used in current medical practice that includes:

396 (i) medically-accurate visual images of what is happening to the unborn child at each
397 step of each type of abortion procedure;

398 (ii) a description of the gestational ages at which each type of abortion procedure is
399 normally used;
400 ~~[(†)]~~ (iii) the medical risks associated with each type of abortion procedure;
401 ~~[(††)]~~ (iv) the risk related to subsequent childbearing that are associated with each type
402 of abortion procedure; and
403 ~~[(†††)]~~ (v) the consequences of each type of abortion procedure to the unborn child at
404 various stages of fetal development;
405 ~~[(††)]~~ (r) describe the possible detrimental psychological effects of abortion;
406 ~~[(††)]~~ (s) describe the medical risks associated with carrying a child to term;
407 ~~[(††)]~~ (t) include relevant information on the possibility of an unborn child's survival at
408 the two-week gestational increments described in Subsection (2)~~[(††)]~~(o);
409 ~~[(††)]~~ (u) except as provided in Subsection (5), include:
410 (i) information regarding substantial medical evidence from studies concluding that an
411 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain
412 during an abortion procedure; and
413 (ii) the measures that will be taken in accordance with Section [76-7-308.5](#);
414 ~~[(††)]~~ (v) explain the options and consequences of aborting a medication-induced
415 abortion;
416 ~~[(††)]~~ (w) include the following statement regarding a medication-induced abortion,
417 "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You
418 may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but
419 have not yet taken the second drug and have questions regarding the health of your fetus or are
420 questioning your decision to terminate your pregnancy, you should consult a physician
421 immediately.";
422 ~~[(††)]~~ (x) inform a pregnant woman that she has the right to view an ultrasound of the
423 unborn child, at no expense to her, upon her request;
424 ~~[(††) - inform]~~ (y) provide a digital copy of the form described in Subsection
425 [26-21-33\(3\)\(a\)\(i\)](#) to a pregnant woman and inform her that she has the right to:
426 (i) determine the final disposition of the remains of the aborted fetus;
427 (ii) unless the woman waives this right in writing, wait up to 72 hours after the
428 abortion procedure is performed to make a determination regarding the disposition of the

429 aborted fetus before the health care facility may dispose of the fetal remains;

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

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

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

435 and

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

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

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

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

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

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

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

451 76-7-302(3)(b)(i) or (ii); and

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

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

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

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

- 460 (a) available to be viewed at all facilities where an abortion may be performed;
461 (b) interactive for the individual viewing the module, including the provision of
462 opportunities to answer questions and manually engage with the module before the module
463 transitions from one substantive section to the next;
464 (c) produced in English and may include subtitles in Spanish or another language; and
465 (d) capable of being viewed on a tablet or other portable device.

466 (9) After the department releases the initial version of the information module, for the
467 use described in Section 76-7-305, the department shall:

- 468 (a) update the information module, as required by law; and
469 (b) present an updated version of the information module to the Health and Human
470 Services Interim Committee for the committee's review and recommendation before releasing
471 the updated version for the use described in Section 76-7-305.

472 Section 5. Section 76-7-305.7 is amended to read:

473 **76-7-305.7. Statistical report by the Department of Health.**

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

- 475 (a) an abortion clinic;
476 (b) a physician's office;
477 (c) a medical clinic; or
478 (d) a hospital.

479 ~~[(1)]~~ (2) In accordance with Subsection ~~[(2)]~~ (3), the department shall, on an annual
480 basis, after December 31 of each year, compile and report the following information, relating to
481 the preceding calendar year, to the Health and Human Services Interim Committee:

- 482 (a) the total number of abortions that were performed in the state;
483 (b) the number of abortions, by procedure type, that were performed in the state;

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

486 ~~[(c)]~~ (d) the stage of pregnancy in which the abortions described in Subsection ~~[(1)]~~
487 (2)(a) were performed, including:

- 488 (i) the trimester; and
489 (ii) estimated week of pregnancy;
490 ~~[(d)]~~ (e) the races and ethnicities of the women who obtained the abortions described in

491 Subsection ~~(1)~~ (2)(a), including:

492 (i) Alaska Native;

493 (ii) American Indian;

494 (iii) Asian;

495 (iv) Black or African American;

496 (v) Hispanic or Latino;

497 (vi) Native Hawaiian or Pacific Islander;

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

499 (viii) some other race;

500 (f) in relation to women who experienced complications relating to an abortion

501 obtained in the state:

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

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

504 (iii) for each location type:

505 (A) the number of women whose abortion complications were treated at that location

506 type;

507 (B) the number of women who were treated for an abortion complication before the

508 women left the location after having the abortion;

509 (C) the number of women who were treated for an abortion complication after leaving

510 the location where the woman had the abortion;

511 (D) the number of complications, by complication type, that were treated at the

512 location type; and

513 (E) the number of each abortion complication type experienced per abortion procedure

514 type;

515 ~~(e)~~ (g) the total amount of informed consent material described in this section that
516 was distributed or accessed;

517 ~~(f)~~ (h) the number of women who obtained abortions in this state without receiving
518 the informed consent materials described in this section;

519 ~~(g)~~ (i) the number of statements signed by attending physicians under Subsection
520 76-7-313(3); and

521 ~~(h)~~ (j) any other information pertaining to obtaining informed consent from a woman

522 who seeks an abortion.

523 ~~[(2)]~~ (3) The report described in Subsection ~~[(1)]~~ (2) shall be prepared and presented in
524 a manner that preserves physician and patient anonymity.

525 Section 6. Section **76-7-313** is amended to read:

526 **76-7-313. Department's enforcement responsibility -- Duty to report to**
527 **department.**

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

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

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

533 (ii) the unique identifier code and date and time stamp provided to the woman on
534 whom the abortion was performed on the certificate described in Subsection [76-7-305.5\(2\)\(b\)](#);

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

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

538 ~~[(3)]~~ (v) the weight in grams of the unborn child aborted, if it is possible to ascertain;

539 ~~[(4)]~~ (vi) the pathological description of the unborn child;

540 ~~[(5)]~~ (vii) the given gestational age of the unborn child;

541 ~~[(6)]~~ (viii) the date the abortion was performed;

542 ~~[(7)]~~ (ix) the measurements of the unborn child, if possible to ascertain; and

543 ~~[(8)]~~ (x) the medical procedure used to abort the unborn child; ~~[and]~~

544 (b) a facility that treats an abortion complication shall obtain and record in writing the
545 information described in Subsection [76-7-305.7\(2\)\(f\)\(iii\)](#); and

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

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

551 (a) the information described in Subsection (1)(a);

552 (b) a copy of the pathologist's report described in Section [76-7-309](#);

553 (c) an affidavit:

554 (i) indicating whether the required consent was obtained pursuant to Sections 76-7-305

555 and 76-7-305.5;

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

557 (iii) indicating whether at the time the physician performed the abortion, the physician

558 had any knowledge that the pregnant woman sought the abortion solely because the unborn

559 child had or may have had Down syndrome; and

560 (d) a certificate indicating:

561 (i) whether the unborn child was or was not viable, as defined in Subsection

562 76-7-302(1), at the time of the abortion;

563 (ii) whether the unborn child was older than 18 weeks gestational age at the time of the

564 abortion; and

565 (iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than

566 18 weeks gestational age at the time of the abortion, the reason for the abortion.

567 (3) If the information module or the address to the website is not provided to a

568 pregnant woman, the physician who performs the abortion on the woman shall, within 10 days

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

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

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

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

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

574 facility treats the abortion complication.

575 [~~4~~] (5) All information supplied to the department shall be confidential and privileged

576 pursuant to Title 26, Chapter 25, Confidential Information Release.

577 [~~5~~] (6) The department shall pursue all administrative and legal remedies when the

578 department determines that a physician or a facility has not complied with the provisions of this

579 part.

580 Section 7. Section 76-7-314 is amended to read:

581 **76-7-314. Violations of abortion laws -- Classifications.**

582 (1) A willful violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311,

583 or 76-7-312 is a felony of the third degree.

- 584 (2) A violation of Section [76-7-326](#) is a felony of the third degree.
- 585 (3) A violation of Section [76-7-302.5](#) or [76-7-314.5](#) is a felony of the second degree.
- 586 (4) A violation of any other provision of this part, including Subsections [76-7-305](#)~~[(2)]~~
- 587 (3)(a) through (c), and (e), is a class A misdemeanor.
- 588 (5) The Department of Health shall report a physician's violation of any provision of
- 589 this part to the Physicians Licensing Board, described in Section [58-67-201](#).
- 590 (6) Any person with knowledge of a physician's violation of any provision of this part
- 591 may report the violation to the Physicians Licensing Board, described in Section [58-67-201](#).
- 592 (7) In addition to the penalties described in this section~~[-]~~:
- 593 (a) the department may take any action described in Section [26-21-11](#) against an
- 594 abortion clinic if a violation of this chapter occurs at the abortion clinic~~[-]~~; and
- 595 (b) the department shall impose a \$50,000 fine, per occurrence, against a physician
- 596 who violates a provision of Section [76-7-305](#).

597 Section 8. Section [76-7-332](#) is enacted to read:

598 **[76-7-332](#). Reporting on implementation progress.**

599 The department shall, during the following months, provide a written report to the

600 Legislative Management Committee on the progress made towards complying with the

601 provisions of this bill:

- 602 (1) August 2021;
- 603 (2) November 2021;
- 604 (3) February 2022;
- 605 (4) May 2022; and
- 606 (5) July 2022.

607 Section 9. **Effective date.**

- 608 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2022.
- 609 (2) Section [76-7-332](#) in this bill takes effect on May 5, 2021.

610 Section 10. **Revisor instructions.**

611 The Legislature intends that the Office of Legislative Research and General Counsel, in

612 preparing the Utah Code database for publication, on May 5, 2021, in Section [76-7-332](#) replace

613 the language "this bill" with the bill's designated chapter number in the Laws of Utah.