

ABORTION MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to abortion.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends informed consent provisions relating to an abortion;
- ▶ amends the requirements for the abortion information module created by the Department of Health;
- ▶ 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;
- ▶ requires the Department of Health to verify physicians and facilities comply with certain informed consent provisions relating to abortion;
- ▶ 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



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **26-21-6.5**, as last amended by Laws of Utah 2018, Chapter 282

31 **26-21-33**, as enacted by Laws of Utah 2020, Chapter 251

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



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

39 Section 1. Section **26-21-6.5** is amended to read:

40 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

41 (1) A type I abortion clinic may not operate in the state without a license issued by the
42 department to operate a type I abortion clinic.

43 (2) A type II abortion clinic may not operate in the state without a license issued by the
44 department to operate a type II abortion clinic.

45 (3) The department shall make rules establishing minimum health, safety, sanitary, and
46 recordkeeping requirements for:

47 (a) a type I abortion clinic; and

48 (b) a type II abortion clinic.

49 (4) To receive and maintain a license described in this section, an abortion clinic shall:

50 (a) apply for a license on a form prescribed by the department;

51 (b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping

52 requirements established under Subsection (3) that relate to the type of abortion clinic licensed;

53 (c) comply with the recordkeeping and reporting requirements of Section **76-7-313**;

54 (d) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion;

55 (e) pay the annual licensing fee; and

56 (f) cooperate with inspections conducted by the department.

57 (5) (a) [The] Except as provided in Subsection (5)(c), the department shall, at least
58 twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is

59 complying with all statutory and licensing requirements relating to the abortion clinic. [~~At~~]

60 (b) The department shall make at least one of the inspections [~~shall be made~~] without
61 providing notice to the abortion clinic.

62 (c) Beginning January 1, 2023, the department shall, as part of one of the inspections,
63 verify the information described in Subsection 76-7-313(5).

64 (6) The department shall charge an annual license fee, set by the department in
65 accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an
66 amount that will pay for the cost of the licensing requirements described in this section and the
67 cost of inspecting abortion clinics.

68 (7) The department shall deposit the licensing fees described in this section in the
69 General Fund as a dedicated credit to be used solely to pay for the cost of the licensing
70 requirements described in this section and the cost of inspecting abortion clinics.

71 Section 2. Section 26-21-33 is amended to read:

72 **26-21-33. Treatment of aborted remains.**

73 (1) As used in this section, "aborted fetus" means a product of human conception,
74 regardless of gestational age, that has died from an abortion as that term is defined in Section
75 76-7-301.

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

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

79 (ii) interment.

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

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

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

85 (c) A health care facility may serve as an authorizing agent as defined in Section
86 58-9-102 with respect to the final disposition of an aborted fetus if:

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

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

90 (B) the pregnant woman did not exercise [~~her~~] the pregnant woman's right to control
91 the final disposition of the aborted fetus under Subsection (4)(a).

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

- 94 (i) conduct the final disposition of the aborted fetus in accordance with this section; or
- 95 (ii) ensure that the aborted fetus is preserved until final disposition.

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

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

99 (a) provide the pregnant woman with the information described in Subsection
100 [76-7-305.5\(2\)\(~~w~~\)\(y\)](#) through:

- 101 (i) a form approved by the department;
- 102 (ii) an in-person consultation with a physician; or
- 103 (iii) an in-person consultation with a mental health therapist as defined in Section
104 [58-60-102](#); and

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

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

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

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

113 (c) is responsible for the costs related to the final disposition of the aborted fetus at the
114 chosen location if the pregnant woman chooses a method or location for the final disposition of
115 the aborted fetus that is different from the method or location that is usual and customary for
116 the health care facility; and

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

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

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

127 (6) If the pregnant woman is a minor, the health care facility shall obtain parental
128 consent for the disposition of the aborted fetus unless the minor is granted a court order under
129 Subsection [~~76-7-304~~] 76-7-304.5(1)(b).

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

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

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

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

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

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

139 Section 3. Section ~~76-7-305~~ is amended to read:

140 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**

141 **-- Exceptions.**

142 (1) As used in this section:

143 (a) "Authorized professional" means:

144 (i) a physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
145 58, Chapter 68, Utah Osteopathic Medical Practice Act;

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

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

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

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

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

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

156 (b) "Staff member" means:

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

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

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

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

164 (b) the provisions of this section.

165 ~~[(2)]~~ (3) Except as provided in Subsection ~~[(8)]~~ (9), consent to an abortion is voluntary
166 and informed only if, at least 72 hours before the abortion:

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

170 (a) a staff member under the direction of a physician or an authorized professional
171 informs the pregnant woman that the pregnant woman:

172 (i) is required to view the information module before the abortion is performed;

173 (ii) may view the information module at any time on the department's website and
174 provides the pregnant woman with a uniform resource locator that the pregnant woman can use
175 to directly access the information module on the department's website; and

176 (iii) has the right to choose to view the information module at any of the following
177 locations chosen by the pregnant woman:

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

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

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

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

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

189 ~~(b)~~ (c) the pregnant woman:

190 (i) views the entire information module ~~and~~;

191 (ii) presents evidence, in the form of the certificate described in Subsection
 192 76-7-305.5(2)(b), to the individual described in Subsection ~~(2)~~ (3)(a) that the pregnant
 193 woman viewed the entire information module; and

194 (iii) signs and dates a document, in the presence of the individual described in
 195 Subsection (3)(a), that states, "I, the undersigned, affirm, under penalty of perjury, that I have
 196 viewed the entire information module described in Utah Code Section 76-7-305.5.";

197 ~~(c)~~ (d) after receiving the ~~evidence~~ certificate and signed document described in
 198 Subsection ~~(2)(b)~~ (3)(c), the individual described in Subsection ~~(2)~~ (3)(a):

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

200 (ii) signs the document described in Subsection (3)(c)(iii), as a witness to the signature
 201 of the pregnant woman;

202 ~~(i)~~ (iii) gives the pregnant woman, upon ~~her~~ the pregnant woman's request, a copy
 203 of the ~~documentation~~ certificate and document described in Subsection ~~(2)(c)(i)~~ (3)(d)(i);
 204 and

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

208 ~~(d)~~ (e) after the pregnant woman views the entire information module, ~~the physician~~
 209 who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse
 210 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
 211 physician's assistant, in a face-to-face consultation in any location in the state, orally informs
 212 the woman of] a staff member under the direction of a physician, or an authorized professional,
 213 orally informs the pregnant woman of the following, in a face-to-face consultation where the

214 individual providing the information and the pregnant woman are in each other's physical
215 presence:

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

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

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

220 (iv) the potential side effects, risks, complications, and consequences of a
221 medication-induced abortion, if the proposed abortion procedure is a medication-induced
222 abortion;

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

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

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

228 ~~[(vii)]~~ (viii) the right to view an ultrasound of the unborn child, at no expense to the
229 pregnant woman, upon ~~[her]~~ the pregnant woman's request, and to receive written information
230 produced by the department regarding available resources or locations to obtain a free
231 ultrasound, including pregnancy resource centers and other nonprofit entities that provide
232 ultrasound services; and

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

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

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

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

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

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

245 76-7-305.5, if requested by the pregnant woman; and

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

248 ~~[(3)]~~ (4) Before performing an abortion, the physician who is to perform the abortion
249 shall:

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

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

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

259 (iii) ensure that:

260 (A) the pregnant woman has received the information described in Subsections
261 26-21-33(3) and (4); and

262 (B) if the pregnant woman has a preference for the disposition of the aborted fetus, the
263 pregnant woman has informed the health care facility of the pregnant woman's decision
264 regarding the disposition of the aborted fetus.

265 ~~[(4)]~~ (5) When a serious medical emergency compels the performance of an abortion,
266 the physician shall inform the pregnant woman ~~[prior to]~~ before the abortion, if possible, of the
267 medical indications supporting the physician's judgment that an abortion is necessary.

268 ~~[(5)]~~ (6) If an ultrasound is performed on a pregnant woman before an abortion is
269 performed, the individual who performs the ultrasound, or another qualified individual, shall:

270 (a) inform the pregnant woman that the ultrasound images will be simultaneously
271 displayed in a manner to permit ~~[her]~~ the pregnant woman to:

272 (i) view the images, if ~~[she]~~ the pregnant woman chooses to view the images; or

273 (ii) not view the images, if ~~[she]~~ the pregnant woman chooses not to view the images;

274 (b) simultaneously display the ultrasound images in order to permit the pregnant
275 woman to:

276 (i) view the images, if [~~she~~] the pregnant woman chooses to view the images; or
277 (ii) not view the images, if [~~she~~] the pregnant woman chooses not to view the images;
278 (c) inform the pregnant woman that, if [~~she~~] the pregnant woman desires, the person
279 performing the ultrasound, or another qualified person shall provide a detailed description of
280 the ultrasound images, including:

281 (i) the dimensions of the unborn child;
282 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and
283 (iii) the presence of external body parts or internal organs, if present and viewable; and
284 (d) provide the detailed description described in Subsection [~~(5)~~] (6)(c), if the pregnant
285 woman requests it.

286 [~~(6)~~] (7) The information described in Subsections [~~(2)~~, ~~(3)~~, and ~~(5)~~] (3), (4), and (6) is
287 not required to be provided to a pregnant woman under this section if the abortion is performed
288 for a reason described in:

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

291 (i) the death of the pregnant woman on whom the abortion is performed; or
292 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
293 of the pregnant woman on whom the abortion is performed; or

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

295 [~~(7)~~] (8) In addition to the criminal penalties described in this part, a physician who
296 violates the provisions of this section:

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

299 (b) shall be subject to:

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

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

303 [~~(8)~~] (9) A physician is not guilty of violating this section for failure to furnish any of
304 the information described in Subsection [~~(2)~~ or] (3) or (4), or for failing to comply with
305 Subsection [~~(5)~~] (6), if:

306 (a) the physician can demonstrate by a preponderance of the evidence that the

307 physician reasonably believed that furnishing the information would have resulted in a severely
308 adverse effect on the physical or mental health of the pregnant woman;

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

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

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

313 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
314 76-5-402 and 76-5-402.1;

315 (d) the pregnancy was the result of incest, as [~~defined~~] described in Subsection
316 76-5-406(2)(j) [~~and~~] or Section 76-7-102; or

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

319 [~~(9)~~] (10) A physician who complies with the provisions of this section and Section
320 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
321 informed consent under Section 78B-3-406.

322 [~~(10)~~] (11) (a) The department shall provide an ultrasound, in accordance with the
323 provisions of Subsection [~~(5)~~] (6)(b), at no expense to the pregnant woman.

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

326 [~~(11)~~] (12) A physician is not guilty of violating this section if:

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

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

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

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

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

336 **76-7-305.5. Requirements for information module and public website.**

337 (1) In order to ensure that a pregnant woman's consent to an abortion is truly an

338 informed consent, the department shall, in accordance with the requirements of this section,
339 develop an information module and maintain a public website.

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

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

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

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

345 (iii) has voice-over that:

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

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

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

351 (b) provide a certificate to a pregnant woman, after the pregnant woman views the
352 entire information module, that includes:

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

354 (A) is unique to the pregnant woman;

355 (B) can be used by the department to identify the pregnant woman; and

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

357 and

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

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

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

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

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

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

368 ~~[(f)]~~ (h) state that any physician who performs an abortion without obtaining the

369 pregnant woman's informed consent or without providing [~~her~~] the pregnant woman a private
370 medical consultation in accordance with the requirements of this section, may be liable to [~~her~~]
371 the pregnant woman for damages in a civil action at law;

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

375 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;
376 (ii) services and supports available under Section 35A-3-308;
377 (iii) other financial aid that may be available during an adoption;
378 (iv) services available from public adoption agencies, private adoption agencies, and
379 private attorneys whose practice includes adoption; and

380 (v) the names, addresses, and telephone numbers of each person listed under this
381 Subsection (2)[~~g~~](i);

382 [~~h~~] (i) describe the adoption-related expenses that may be paid under Section
383 76-7-203;

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

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

388 [~~k~~] (m) except as provided in Subsection (4), describe the services available through
389 the Office of Recovery Services, within the Department of Human Services, to establish and
390 collect the support described in Subsection (2)[~~j~~](l);

391 [~~l~~] (n) state that private adoption is legal;

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

395 (i) brain and heart function;
396 (ii) the presence and development of external members and internal organs; and
397 (iii) the dimensions of the fetus;

398 [~~n~~] ~~show an ultrasound of the heartbeat of an unborn child at:~~

399 [~~i~~] ~~four weeks from conception;~~

400 ~~[(ii) six to eight weeks from conception; and]~~
401 ~~[(iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;]~~
402 ~~[(o) describe abortion procedures used in current medical practice at the various stages~~
403 ~~of growth of the unborn child, including:]~~
404 (p) in addition to the pictures or video segments described in Subsection (2)(o), show a
405 high-resolution, three-dimensional video of an ultrasound of an unborn child, that:
406 (i) includes segments of at least 10 seconds of an ultrasound for each of the following
407 gestational ages:
408 (A) six weeks;
409 (B) eight weeks;
410 (C) ten weeks;
411 (D) twelve weeks;
412 (E) sixteen weeks; and
413 (F) twenty weeks; and
414 (ii) includes an audio of the heartbeat of the unborn child at the gestational ages
415 described in Subsections (2)(p)(i)(B) through (F);
416 (q) a detailed, step-by-step, description of each step of each type of abortion procedure
417 used in current medical practice that includes:
418 (i) medically-accurate visual images of what is happening to the unborn child at each
419 step of each type of abortion procedure;
420 (ii) a description of the gestational ages at which each type of abortion procedure is
421 normally used;
422 ~~[(i)]~~ (iii) the medical risks associated with each type of abortion procedure;
423 ~~[(ii)]~~ (iv) the risk related to subsequent childbearing that are associated with each type
424 of abortion procedure; and
425 ~~[(iii)]~~ (v) the consequences of each type of abortion procedure to the unborn child at
426 various stages of fetal development;
427 ~~[(p)]~~ (r) describe the possible detrimental psychological effects of abortion;
428 ~~[(q)]~~ (s) describe the medical risks associated with carrying a child to term;
429 ~~[(r)]~~ (t) include relevant information on the possibility of an unborn child's survival at
430 the two-week gestational increments described in Subsection (2)~~[(m)]~~(o);

431 [~~s~~] (u) except as provided in Subsection (5), include:

432 (i) information regarding substantial medical evidence from studies concluding that an
433 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain
434 during an abortion procedure; and

435 (ii) the measures that will be taken in accordance with Section 76-7-308.5;

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

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

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

447 [~~w~~ - inform a] (y) provide a digital copy of the form described in Subsection
448 26-21-33(3)(a)(i) to the pregnant woman and inform the pregnant woman that [~~she~~] the
449 pregnant woman has the right to:

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

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

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

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

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

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

461 (3) The information module and public website described in Subsection (1) may

462 include a toll-free 24-hour telephone number that may be called in order to obtain, orally, a list
463 and description of services, agencies, and adoption attorneys in the locality of the caller.

464 (4) The department may develop a version of the information module and public
465 website described in Subsection (1) that omits the information in Subsections (2)[~~(j)~~ and ~~(k)~~]
466 (l) and (m) for a viewer who is pregnant as the result of rape.

467 (5) The department may develop a version of the information module and public
468 website described in Subsection (1) that omits the information described in Subsection
469 (2)[~~(s)~~](u) for a viewer who will have an abortion performed:

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

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

474 (i) the abortion is being performed for a reason described in Subsection
475 [76-7-302\(3\)\(b\)\(i\)](#) or (ii); and

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

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

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

483 (8) The department shall ensure that the information module described in Subsection
484 (1) is:

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

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

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

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

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

- 493 (a) update the information module, as required by law; and
 494 (b) present an updated version of the information module to the Health and Human
 495 Services Interim Committee for the committee's review and recommendation before releasing
 496 the updated version for the use described in Section [76-7-305](#).

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

498 **76-7-305.7. Statistical report by the Department of Health.**

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

- 500 (a) an abortion clinic;
 501 (b) a physician's office;
 502 (c) a medical clinic; or
 503 (d) a hospital.

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

- 507 (a) the total number of abortions that were performed in the state;
 508 (b) the number of abortions, by procedure type, that were performed in the state;
 509 ~~[(b)]~~ (c) the reported reasons, if any, the women sought the abortions described in

510 Subsection ~~[(+)]~~ (2)(a);

511 ~~[(e)]~~ (d) the stage of pregnancy in which the abortions described in Subsection ~~[(+)]~~
 512 (2)(a) were performed, including:

- 513 (i) the trimester; and
 514 (ii) estimated week of pregnancy;

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

- 517 (i) Alaska Native;
 518 (ii) American Indian;
 519 (iii) Asian;
 520 (iv) Black or African American;
 521 (v) Hispanic or Latino;
 522 (vi) Native Hawaiian or Pacific Islander;
 523 (vii) White, not Hispanic or Latino; and

524 (viii) some other race;

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

526 obtained in the state:

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

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

529 (iii) for each location type:

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

531 type;

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

533 women left the location type after having the abortion;

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

535 the location type where the women had the abortion;

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

537 location type; and

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

539 type;

540 [~~e~~] (g) the total amount of informed consent material described in this section that

541 was distributed or accessed;

542 [~~f~~] (h) the number of women who obtained abortions in this state without receiving

543 the informed consent materials described in this section;

544 [~~g~~] (i) the number of statements signed by attending physicians under Subsection

545 [76-7-313\(3\)](#); and

546 [~~h~~] (j) any other information pertaining to obtaining informed consent from a

547 pregnant woman who seeks an abortion.

548 [~~2~~] (3) The report described in Subsection [~~1~~] (2) shall be prepared and presented in

549 a manner that preserves physician and patient anonymity.

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

551 **76-7-313. Department's enforcement responsibility -- Duty to report to**

552 **department -- Department annual investigation of certificates.**

553 (1) In order for the department to maintain necessary statistical information and ensure

554 enforcement of the provisions of this part:

555 (a) any physician performing an abortion must obtain and record in writing:
 556 (i) the age, marital status, and county of residence of the woman on whom the abortion
 557 was performed;
 558 (ii) the unique identifier code and date and time stamp provided to the woman on
 559 whom the abortion was performed on the certificate described in Subsection 76-7-305.5(2)(b);
 560 ~~[(ii)]~~ (iii) the number of previous abortions performed on the woman described in
 561 ~~[Subsection]~~ Subsections (1)(a)(i) and (ii);
 562 ~~[(iii)]~~ (iv) the hospital or other facility where the abortion was performed;
 563 ~~[(iv)]~~ (v) the weight in grams of the unborn child aborted, if it is possible to ascertain;
 564 ~~[(v)]~~ (vi) the pathological description of the unborn child;
 565 ~~[(vi)]~~ (vii) the given gestational age of the unborn child;
 566 ~~[(vii)]~~ (viii) the date the abortion was performed;
 567 ~~[(viii)]~~ (ix) the measurements of the unborn child, if possible to ascertain; and
 568 ~~[(ix)]~~ (x) the medical procedure used to abort the unborn child; ~~[and]~~
 569 (b) a facility that treats an abortion complication shall obtain and record in writing the
 570 information described in Subsection 76-7-305.7(2)(f)(iii); and
 571 ~~[(b)]~~ (c) the department shall make rules in accordance with Title 63G, Chapter 3, Utah
 572 Administrative Rulemaking Act[-], regulating the recording and reporting of the information
 573 described in this section.
 574 (2) Each physician who performs an abortion shall provide the following to the
 575 department within 30 days after the day on which the abortion is performed:
 576 (a) the information described in Subsection (1)(a);
 577 (b) a copy of the pathologist's report described in Section 76-7-309;
 578 (c) an affidavit:
 579 (i) indicating whether the required consent was obtained ~~[pursuant to]~~ under Sections
 580 76-7-305 and 76-7-305.5;
 581 (ii) described in Subsection (3), if applicable; and
 582 (iii) indicating whether at the time the physician performed the abortion, the physician
 583 had any knowledge that the pregnant woman sought the abortion solely because the unborn
 584 child had or may have had Down syndrome; and
 585 (d) a certificate indicating:

586 (i) whether the unborn child was or was not viable, as defined in Subsection
587 76-7-302(1), at the time of the abortion;

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

590 (iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than
591 18 weeks gestational age at the time of the abortion, the reason for the abortion.

592 (3) If the information module or the address to the website is not provided to a
593 pregnant woman, the physician who performs the abortion on the pregnant woman shall, within
594 10 days after the day on which the abortion is performed, provide to the department an affidavit
595 that:

596 (a) specifies the information that was not provided to the woman; and
597 (b) states the reason that the information was not provided to the woman.

598 (4) Each facility that treats an abortion complication shall provide the information
599 described in Subsection (1)(b) to the department within 30 days after the day on which the
600 facility treats the abortion complication.

601 (5) Beginning January 1, 2023, the department shall annually investigate all abortion
602 clinics and other facilities that provide abortions in the state to verify:

603 (a) the unique identifier code and date and time stamp from a certificate described in
604 Subsection 76-7-305.5(2)(b) is recorded in writing for each abortion performed at the abortion
605 clinic or other facility during the immediately preceding calendar year; and

606 (b) the date and time stamp for each abortion is at least 72 hours before the time at
607 which the abortion was performed.

608 [~~4~~] (6) All information supplied to the department shall be confidential and privileged
609 [~~pursuant to~~] under Title 26, Chapter 25, Confidential Information Release.

610 [~~5~~] (7) The department shall pursue all administrative and legal remedies when the
611 department determines that a physician or a facility has not complied with the provisions of this
612 part.

613 Section 7. Section 76-7-314 is amended to read:
614 **76-7-314. Violations of abortion laws -- Classifications.**
615 (1) A willful violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311,
616 or 76-7-312 is a felony of the third degree.

- 617 (2) A violation of Section [76-7-326](#) is a felony of the third degree.
- 618 (3) A violation of Section [76-7-302.5](#) or [76-7-314.5](#) is a felony of the second degree.
- 619 (4) A violation of any other provision of this part, including Subsections [76-7-305](#)~~[(2)]~~
- 620 (3)(a) through (c), and (e), is a class A misdemeanor.
- 621 (5) The Department of Health shall report a physician's violation of any provision of
- 622 this part to the Physicians Licensing Board, described in Section [58-67-201](#).
- 623 (6) Any person with knowledge of a physician's violation of any provision of this part
- 624 may report the violation to the Physicians Licensing Board, described in Section [58-67-201](#).
- 625 (7) In addition to the penalties described in this section~~[-]~~:
- 626 (a) the department may take any action described in Section [26-21-11](#) against an
- 627 abortion clinic if a violation of this chapter occurs at the abortion clinic~~[-]~~; and
- 628 (b) the department shall impose a \$50,000 fine, per occurrence, against a physician
- 629 who violates a provision of Section [76-7-305](#).