

Representative Kera Birkeland proposes the following substitute bill:

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 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 abortion;
- ▶ amends and adds reporting requirements for physicians and facilities relating to abortion;
- ▶ requires the Department of Health to verify physicians and facilities comply with 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;
- ▶ requires the Division of Occupational and Professional Licensing to revoke a physician's license after a certain number of violations of provisions relating to



- 26 abortion;
- 27 ▶ requires the Department of Health to take certain actions against an abortion clinic
- 28 for a violation of provisions relating to abortion;
- 29 ▶ provides that a person may bring a malpractice action against a physician for a
- 30 violation of provisions relating to abortion; and
- 31 ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill provides a special effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 **26-21-6.5**, as last amended by Laws of Utah 2018, Chapter 282
- 39 **26-21-33**, as enacted by Laws of Utah 2020, Chapter 251
- 40 **58-67-401**, as last amended by Laws of Utah 2021, Chapter 404
- 41 **58-68-401**, as last amended by Laws of Utah 2021, Chapter 404
- 42 **76-7-305**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
- 43 **76-7-305.5**, as last amended by Laws of Utah 2020, Chapter 251
- 44 **76-7-305.7**, as last amended by Laws of Utah 2018, Chapter 282
- 45 **76-7-313**, as last amended by Laws of Utah 2019, Chapters 124 and 208
- 46 **76-7-314**, as last amended by Laws of Utah 2019, Chapter 208

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

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

50 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

- 51 (1) A type I abortion clinic may not operate in the state without a license issued by the
- 52 department to operate a type I abortion clinic.
- 53 (2) A type II abortion clinic may not operate in the state without a license issued by the
- 54 department to operate a type II abortion clinic.
- 55 (3) The department shall make rules establishing minimum health, safety, sanitary, and
- 56 recordkeeping requirements for:

- 57 (a) a type I abortion clinic; and
- 58 (b) a type II abortion clinic.
- 59 (4) To receive and maintain a license described in this section, an abortion clinic shall:
- 60 (a) apply for a license on a form prescribed by the department;
- 61 (b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping
- 62 requirements established under Subsection (3) that relate to the type of abortion clinic licensed;
- 63 (c) comply with the recordkeeping and reporting requirements of Section 76-7-313;
- 64 (d) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion;
- 65 (e) pay the annual licensing fee; and
- 66 (f) cooperate with inspections conducted by the department.

67 (5) (a) ~~[The]~~ Except as provided in Subsection (5)(c), the department shall, at least
 68 twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is
 69 complying with all statutory and licensing requirements relating to the abortion clinic. ~~[At]~~

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

72 (c) Beginning January 1, 2024, the department shall, as part of one of the inspections,
 73 verify the information described in Subsection 76-7-313(5).

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

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

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

82 **26-21-33. Treatment of aborted remains.**

83 (1) As used in this section, "aborted fetus" means a product of human conception,
 84 regardless of gestational age, that has died from an abortion as that term is defined in Section
 85 76-7-301.

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

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

89 (ii) interment.

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

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

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

95 (c) A health care facility may serve as an authorizing agent as defined in Section
96 58-9-102 with respect to the final disposition of an aborted fetus if:

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

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

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

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

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

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

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

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

109 (a) provide the pregnant woman with the information described in Subsection

110 76-7-305.5(2)~~(w)~~(y) through:

111 (i) a form approved by the department;

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

113 (iii) an in-person consultation with a mental health therapist as defined in Section

114 58-60-102; and

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

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

118 (a) except as provided in Subsection (6), has the right to control the final disposition of

119 the aborted fetus;

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

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

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

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

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

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

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

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

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

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

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

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

149 Section 3. Section ~~58-67-401~~ is amended to read:

150 **58-67-401. Grounds for denial of license -- Disciplinary proceedings.**

151 (1) Subject to Subsection (2), grounds for division action are set forth in Sections
152 [58-1-401](#) [and], [58-67-503](#), and [76-7-314](#).

153 (2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or
154 licensee's license under this chapter solely because the applicant or licensee seeks or
155 participates in mental health or substance abuse treatment.

156 Section 4. Section **58-68-401** is amended to read:

157 **58-68-401. Grounds for denial of license -- Disciplinary proceedings.**

158 (1) Subject to Subsection (2), grounds for division action are set forth in Sections
159 [58-1-401](#) [and], [58-68-503](#), and [76-7-314](#).

160 (2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or
161 licensee's license under this chapter solely because the applicant or licensee seeks or
162 participates in mental health or substance abuse treatment.

163 Section 5. Section **76-7-305** is amended to read:

164 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**
165 **-- Exceptions.**

166 (1) As used in this section:

167 (a) "Authorized professional" means:

168 (i) a physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
169 58, Chapter 68, Utah Osteopathic Medical Practice Act;

170 (ii) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician
171 Assistant Act;

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

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

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

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

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

180 (b) "Staff member" means:

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

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

183 ~~[(1)]~~ (2) A person may not perform an abortion, unless, before performing the abortion,

184 the physician who will perform the abortion obtains from the pregnant woman on whom the

185 abortion is to be performed a voluntary and informed written consent that is consistent with:

186 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,

187 Current Opinions; and

188 (b) the provisions of this section.

189 ~~[(2)]~~ (3) Except as provided in Subsection ~~[(8)]~~ (9), consent to an abortion is voluntary

190 and informed only if, at least 72 hours before the abortion:

191 ~~[(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse~~

192 ~~practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or~~

193 ~~physician's assistant presents the information module to the pregnant woman;]~~

194 (a) a staff member under the direction of a physician or an authorized professional

195 informs the pregnant woman that the pregnant woman:

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

197 (ii) may view the information module at any time on the department's website and

198 provides the pregnant woman with a uniform resource locator that the pregnant woman can use

199 to directly access the information module on the department's website; and

200 (iii) has the right to choose to view the information module at any of the following

201 locations chosen by the pregnant woman:

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

203 (B) the location where the individual providing the information described in this

204 Subsection (3)(a) is employed;

205 (C) the location where the pregnant woman is present when the individual providing

206 the information described in this Subsection (3)(a) provides the information; or

207 (D) any other location where the pregnant woman can view the information described

208 in this Subsection (3)(a) using an electronic device;

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

210 described in Subsection (3)(a)(iii)(A), (B), or (C), the individual who provides the information

211 described in Subsection (3)(a) to the pregnant woman, presents, and permits the pregnant

212 woman to view, the entire information module at the location chosen by the pregnant woman;

213 ~~[(b)]~~ (c) the pregnant woman;

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

215 (ii) presents evidence, in the form of the certificate described in Subsection

216 76-7-305.5(2)(b), to the individual described in Subsection ~~[(2)]~~ (3)(a) that the pregnant

217 woman viewed the entire information module; and

218 (iii) signs and dates a document, in the presence of the individual described in

219 Subsection (3)(a), that states, "I, the undersigned, affirm, under penalty of perjury, that I have

220 viewed the entire information module described in Utah Code Section 76-7-305.5.";

221 ~~[(c)]~~ (d) after receiving the ~~[evidence]~~ certificate and signed document described in

222 Subsection ~~[(2)(b)]~~ (3)(c), the individual described in Subsection ~~[(2)]~~ (3)(a):

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

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

226 ~~[(i)]~~ (iii) gives the pregnant woman, upon ~~[her]~~ the pregnant woman's request, a copy

227 of the ~~[documentation]~~ certificate and document described in Subsection ~~[(2)(c)(i)]~~ (3)(d)(i);

228 and

229 ~~[(iii)]~~ (iv) provides a copy of the ~~[statement]~~ certificate and document described in

230 Subsection ~~[(2)(c)(i)]~~ (3)(c) to the physician who is to perform the abortion, upon request of

231 that physician or the pregnant woman;

232 ~~[(d)]~~ (e) after the pregnant woman views the entire information module, ~~[the physician~~

233 ~~who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse~~

234 ~~practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or~~

235 ~~physician's assistant, in a face-to-face consultation in any location in the state, orally informs~~

236 ~~the woman of]~~ a staff member under the direction of a physician, or an authorized professional,

237 orally informs the pregnant woman of the following, in a face-to-face consultation where the

238 individual providing the information and the pregnant woman are in each other's physical

239 presence:

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

241 (ii) specifically how the procedure described in Subsection ~~[(2)(d)(i)]~~ (3)(e)(i) will

242 affect the fetus;

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

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

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

246 abortion;

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

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

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

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

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

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

253 pregnant woman, upon [~~her~~] the pregnant woman's request, and to receive written information

254 produced by the department regarding available resources or locations to obtain a free

255 ultrasound, including pregnancy resource centers and other nonprofit entities that provide

256 ultrasound services; and

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

258 unborn child has or may have Down syndrome, the [~~Department of Health~~] department website

259 containing the information described in Section 26-10-14, including the information on the

260 informational support sheet; and

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

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

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

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

265 (B) a statement that the pregnant woman may request, from a staff member of the

266 abortion clinic or hospital where the pregnant woman viewed the information module, a printed

267 copy of the material on the department's website;

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

269 76-7-305.5, if requested by the pregnant woman; and

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

271 disposition of the aborted fetus.

272 [~~(3)~~] (4) Before performing an abortion, the physician who is to perform the abortion

273 shall:

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

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

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

283 (iii) ensure that:

284 (A) the pregnant woman has received the information described in Subsections
285 26-21-33(3) and (4); and

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

289 [~~(4)~~] (5) When a serious medical emergency compels the performance of an abortion,
290 the physician shall inform the pregnant woman [~~prior to~~] before the abortion, if possible, of the
291 medical indications supporting the physician's judgment that an abortion is necessary.

292 [~~(5)~~] (6) If an ultrasound is performed on a pregnant woman before an abortion is
293 performed, the individual who performs the ultrasound, or another qualified individual, shall:

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

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

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

298 (b) simultaneously display the ultrasound images in order to permit the pregnant
299 woman to:

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

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

302 (c) inform the pregnant woman that, if [~~she~~] the pregnant woman desires, the person
303 performing the ultrasound, or another qualified person shall provide a detailed description of
304 the ultrasound images, including:

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

310 [~~(6)~~] (7) The information described in Subsections [~~(2)~~, ~~(3)~~, and ~~(5)~~] (3), (4), and (6) is
311 not required to be provided to a pregnant woman under this section if the abortion is performed
312 for a reason described in:

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

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

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

319 [~~(7)~~] (8) In addition to the criminal penalties described in this part, a physician who
320 violates the provisions of this section:

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

323 (b) shall be subject to:

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

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

327 [~~(8)~~] (9) A physician is not guilty of violating this section for failure to furnish any of
328 the information described in Subsection [~~(2)~~ or] (3) or (4), or for failing to comply with
329 Subsection [~~(5)~~] (6), if:

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

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

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

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

336 of the pregnant woman on whom the abortion is performed;

337 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
338 76-5-402 and 76-5-402.1;

339 (d) the pregnancy was the result of incest, as [~~defined~~] described in Subsection
340 76-5-406(2)(j) [~~and~~] or Section 76-7-102; or

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

343 [~~(9)~~] (10) A physician who complies with the provisions of this section and Section
344 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
345 informed consent under Section 78B-3-406.

346 [~~(10)~~] (11) (a) The department shall provide an ultrasound, in accordance with the
347 provisions of Subsection [~~(5)~~] (6)(b), at no expense to the pregnant woman.

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

350 [~~(11)~~] (12) A physician is not guilty of violating this section if:

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

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

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

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

359 Section 6. Section 76-7-305.5 is amended to read:

360 **76-7-305.5. Requirements for information module and public website.**

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

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

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

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

367 without skipping or fast-forwarding through any part of the information module;
368 (ii) permits an individual to pause or replay any portion of the information module;
369 (iii) has voice-over that:
370 (A) provides an audio presentation of all information presented in the information
371 module; and
372 (B) cannot be skipped or fast-forwarded; and
373 (iv) prohibits the pregnant woman from accessing, viewing, or printing the certificate
374 of completion until the pregnant woman views the entire information module;
375 (b) provide a certificate to a pregnant woman, after the pregnant woman views the
376 entire information module, that includes:
377 (i) a nonsequential code assigned to the pregnant woman that:
378 (A) is unique to the pregnant woman;
379 (B) can be used by the department to identify the pregnant woman; and
380 (C) does not, by simply viewing the code, disclose the identity of the pregnant woman;
381 and
382 (ii) a date and time stamp indicating when the pregnant woman completed viewing the
383 entire information module;
384 ~~[(a)]~~ (c) be scientifically accurate, comprehensible, and presented in a truthful,
385 nonmisleading manner;
386 ~~[(b)]~~ (d) present adoption as a preferred and positive choice and alternative to abortion;
387 ~~[(e)]~~ (e) be produced in a manner that conveys the state's preference for childbirth over
388 abortion;
389 ~~[(f)]~~ (f) state that the state prefers childbirth over abortion;
390 ~~[(e)]~~ (g) state that it is unlawful for any person to coerce a woman to undergo an
391 abortion;
392 ~~[(f)]~~ (h) state that any physician who performs an abortion without obtaining the
393 pregnant woman's informed consent or without providing ~~[her]~~ the pregnant woman a private
394 medical consultation in accordance with the requirements of this section, may be liable to ~~[her]~~
395 the pregnant woman for damages in a civil action at law;
396 ~~[(g)]~~ (i) provide a geographically indexed list of resources and public and private
397 services available to assist, financially or otherwise, a pregnant woman during pregnancy, at

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

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

400 (ii) services and supports available under Section 35A-3-308;

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

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

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

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

406 ~~(h)~~ (j) describe the adoption-related expenses that may be paid under Section
407 76-7-203;

408 ~~(i)~~ (k) describe the persons who may pay the adoption related expenses described in
409 Subsection (2)~~(h)~~(j);

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

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

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

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

419 (i) brain and heart function;

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

421 (iii) the dimensions of the fetus;

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

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

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

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

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

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

429 high-resolution, three-dimensional video of an ultrasound of an unborn child, that:

430 (i) includes segments of at least 10 seconds of an ultrasound for each of the following

431 gestational ages:

432 (A) six weeks;

433 (B) eight weeks;

434 (C) ten weeks;

435 (D) twelve weeks;

436 (E) sixteen weeks; and

437 (F) twenty weeks; and

438 (ii) includes an audio of the heartbeat of the unborn child at the gestational ages

439 described in Subsections (2)(p)(i)(B) through (F);

440 (q) a detailed, step-by-step, description of each step of each type of abortion procedure

441 used in current medical practice that includes:

442 (i) medically-accurate visual images of what is happening to the unborn child at each

443 step of each type of abortion procedure;

444 (ii) a description of the gestational ages at which each type of abortion procedure is

445 normally used;

446 ~~[(i)]~~ (iii) the medical risks associated with each type of abortion procedure;

447 ~~[(ii)]~~ (iv) the risk related to subsequent childbearing that are associated with each type

448 of abortion procedure; and

449 ~~[(iii)]~~ (v) the consequences of each type of abortion procedure to the unborn child at

450 various stages of fetal development;

451 ~~[(p)]~~ (r) describe the possible detrimental psychological effects of abortion;

452 ~~[(q)]~~ (s) describe the medical risks associated with carrying a child to term;

453 ~~[(r)]~~ (t) include relevant information on the possibility of an unborn child's survival at

454 the two-week gestational increments described in Subsection (2)~~[(m)]~~(o);

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

456 (i) information regarding substantial medical evidence from studies concluding that an

457 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain

458 during an abortion procedure; and

459 (ii) the measures that will be taken in accordance with Section [76-7-308.5](#);

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

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

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

471 ~~[(w) inform a]~~ (y) provide a digital copy of the form described in Subsection
472 26-21-33(3)(a)(i) to the pregnant woman and inform the pregnant woman that ~~[she]~~ the
473 pregnant woman has the right to:

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

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

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

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

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

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

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

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

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

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

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

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

499 [76-7-302\(3\)\(b\)\(i\)](#) or (ii); and

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

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

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

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

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

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

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

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

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

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

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

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

522 **76-7-305.7. Statistical report by the Department of Health.**523 (1) As used in this section, "location type" means:524 (a) an abortion clinic;525 (b) a physician's office;526 (c) a medical clinic; or527 (d) a hospital.528 ~~[(1)]~~ (2) In accordance with Subsection ~~[(2)]~~ (3), the department shall, on an annual
529 basis, after December 31 of each year, compile and report the following information, relating to
530 the preceding calendar year, to the Health and Human Services Interim Committee:531 (a) the total number of abortions that were performed in the state;532 (b) the number of abortions, by procedure type, that were performed in the state;533 ~~[(b)]~~ (c) the reported reasons, if any, the women sought the abortions described in534 Subsection ~~[(1)]~~ (2)(a);535 ~~[(c)]~~ (d) the stage of pregnancy in which the abortions described in Subsection ~~[(1)]~~536 (2)(a) were performed, including:537 (i) the trimester; and538 (ii) estimated week of pregnancy;539 ~~[(d)]~~ (e) the races and ethnicities of the women who obtained the abortions described in540 Subsection ~~[(1)]~~ (2)(a), including:541 (i) Alaska Native;542 (ii) American Indian;543 (iii) Asian;544 (iv) Black or African American;545 (v) Hispanic or Latino;546 (vi) Native Hawaiian or Pacific Islander;547 (vii) White, not Hispanic or Latino; and548 (viii) some other race;549 (f) in relation to women who experienced complications relating to an abortion550 obtained in the state:551 (i) the total number of women who experienced complications;552 (ii) the number of women who experienced complications per complication type; and

553 (iii) for each location type:
554 (A) the number of women whose abortion complications were treated at that location
555 type;
556 (B) the number of women who were treated for an abortion complication before the
557 women left the location type after having the abortion;
558 (C) the number of women who were treated for an abortion complication after leaving
559 the location type where the women had the abortion;
560 (D) the number of complications, by complication type, that were treated at the
561 location type; and
562 (E) the number of each abortion complication type experienced per abortion procedure
563 type;
564 ~~[(e)]~~ (g) the total amount of informed consent material described in this section that
565 was distributed or accessed;
566 ~~[(f)]~~ (h) the number of women who obtained abortions in this state without receiving
567 the informed consent materials described in this section;
568 ~~[(g)]~~ (i) the number of statements signed by attending physicians under Subsection
569 76-7-313(3); and
570 ~~[(h)]~~ (j) any other information pertaining to obtaining informed consent from a
571 pregnant woman who seeks an abortion.
572 ~~[(2)]~~ (3) The report described in Subsection ~~[(1)]~~ (2) shall be prepared and presented in
573 a manner that preserves physician and patient anonymity.
574 Section 8. Section **76-7-313** is amended to read:
575 **76-7-313. Department's enforcement responsibility -- Duty to report to**
576 **department -- Department annual investigation of certificates.**
577 (1) In order for the department to maintain necessary statistical information and ensure
578 enforcement of the provisions of this part:
579 (a) any physician performing an abortion must obtain and record in writing:
580 (i) the age, marital status, and county of residence of the woman on whom the abortion
581 was performed;
582 (ii) the unique identifier code and date and time stamp provided to the woman on
583 whom the abortion was performed on the certificate described in Subsection 76-7-305.5(2)(b);

584 ~~[(ii)]~~ (iii) the number of previous abortions performed on the woman described in
585 ~~[Subsection]~~ Subsections (1)(a)(i) and (ii);
586 ~~[(iii)]~~ (iv) the hospital or other facility where the abortion was performed;
587 ~~[(iv)]~~ (v) the weight in grams of the unborn child aborted, if it is possible to ascertain;
588 ~~[(v)]~~ (vi) the pathological description of the unborn child;
589 ~~[(vi)]~~ (vii) the given gestational age of the unborn child;
590 ~~[(vii)]~~ (viii) the date the abortion was performed;
591 ~~[(viii)]~~ (ix) the measurements of the unborn child, if possible to ascertain; and
592 ~~[(ix)]~~ (x) the medical procedure used to abort the unborn child; ~~[and]~~
593 (b) a facility that treats an abortion complication shall obtain and record in writing the
594 information described in Subsection [76-7-305.7\(2\)\(f\)\(iii\)](#); and
595 ~~[(b)]~~ (c) the department shall make rules in accordance with Title 63G, Chapter 3, Utah
596 Administrative Rulemaking Act~~[-]~~, regulating the recording and reporting of the information
597 described in this section.
598 (2) Each physician who performs an abortion shall provide the following to the
599 department within 30 days after the day on which the abortion is performed:
600 (a) the information described in Subsection (1)~~(a)~~;
601 (b) a copy of the pathologist's report described in Section [76-7-309](#);
602 (c) an affidavit:
603 (i) indicating whether the required consent was obtained ~~[pursuant to]~~ under Sections
604 [76-7-305](#) and [76-7-305.5](#);
605 (ii) described in Subsection (3), if applicable; and
606 (iii) indicating whether at the time the physician performed the abortion, the physician
607 had any knowledge that the pregnant woman sought the abortion solely because the unborn
608 child had or may have had Down syndrome; and
609 (d) a certificate indicating:
610 (i) whether the unborn child was or was not viable, as defined in Subsection
611 [76-7-302\(1\)](#), at the time of the abortion;
612 (ii) whether the unborn child was older than 18 weeks gestational age at the time of the
613 abortion; and
614 (iii) if the unborn child was viable, as defined in Subsection [76-7-302\(1\)](#), or older than

615 18 weeks gestational age at the time of the abortion, the reason for the abortion.

616 (3) If the information module or the address to the website is not provided to a
617 pregnant woman, the physician who performs the abortion on the pregnant woman shall, within
618 10 days after the day on which the abortion is performed, provide to the department an affidavit
619 that:

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

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

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

625 (5) Beginning January 1, 2024, the department shall annually investigate all abortion
626 clinics and other facilities that provide abortions in the state to verify:

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

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

632 [~~4~~] (6) All information supplied to the department shall be confidential and privileged
633 [~~pursuant to~~] under Title 26, Chapter 25, Confidential Information Release.

634 [~~5~~] (7) The department shall pursue all administrative and legal remedies when the
635 department determines that a physician or a facility has not complied with the provisions of this
636 part.

637 Section 9. Section 76-7-314 is amended to read:

638 **76-7-314. Violations of abortion laws -- Classifications.**

639 (1) A willful violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311,
640 or 76-7-312 is a felony of the third degree.

641 (2) A violation of Section 76-7-326 is a felony of the third degree.

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

643 (4) A violation of any other provision of this part, including Subsections 76-7-305[~~2~~]
644 (3)(a) through (c), and (e), is a class A misdemeanor.

645 (5) (a) The [~~Department of Health~~] department shall report a physician's violation of

646 any provision of this part to the Physicians Licensing Board, described in Section [58-67-201](#).

647 ~~[(6)]~~ (b) Any person with knowledge of a physician's violation of any provision of this
648 part may report the violation to the Physicians Licensing Board, described in Section
649 [58-67-201](#).

650 (6) (a) The Division of Occupational and Professional Licensing shall revoke the
651 license of a physician who commits three or more violations of this part.

652 (b) A person may bring a malpractice action for a physician's violation of any provision
653 of this part under Title 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act.

654 (7) In addition to the penalties described in this section, the department [may] shall
655 take any appropriate action described in Section [26-21-11](#) against an abortion clinic if a
656 violation of this chapter occurs at the abortion clinic.

657 Section 10. **Effective date.**

658 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2023.

659 (2) The amendments to Section [76-7-314](#) take effect on May 4, 2022.