

FIRST REGULAR SESSION

SENATE BILL NO. 393

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS LIBLA AND EMERY.

Read 1st time February 27, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1762S.02I

AN ACT

To repeal section 188.027, RSMo, and to enact in lieu thereof one new section relating to informed consent for abortions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 188.027, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 188.027, to read as follows:

188.027. 1. Except in the case of medical emergency, no abortion shall be performed or induced on a woman without her voluntary and informed consent, given freely and without coercion. Consent to an abortion is voluntary and informed and given freely and without coercion, if and only if, at least twenty-four hours prior to the abortion:

(1) The physician who is to perform or induce the abortion or a qualified professional has informed the woman, orally, reduced to writing, and in person, of the following:

(a) The name of the physician who will perform or induce the abortion;

(b) Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion, including:

a. A description of the proposed abortion method;

b. The immediate and long-term medical risks to the woman associated with the proposed abortion method including, but not limited to, infection, hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to term, and possible adverse psychological effects associated with the abortion; and

c. The immediate and long-term medical risks to the woman, in light of

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 the anesthesia and medication that is to be administered, the unborn child's
21 gestational age, and the woman's medical history and medical condition;

22 (c) Alternatives to the abortion which shall include making the woman
23 aware that information and materials shall be provided to her detailing such
24 alternatives to the abortion;

25 (d) A statement that the physician performing or inducing the abortion
26 is available for any questions concerning the abortion, together with the
27 telephone number that the physician may be later reached to answer any
28 questions that the woman may have;

29 (e) The location of the hospital that offers obstetrical or gynecological care
30 located within thirty miles of the location where the abortion is performed or
31 induced and at which the physician performing or inducing the abortion has
32 clinical privileges and where the woman may receive follow-up care by the
33 physician if complications arise;

34 (f) The gestational age of the unborn child at the time the abortion is to
35 be performed or induced; and

36 (g) The anatomical and physiological characteristics of the unborn child
37 at the time the abortion is to be performed or induced;

38 (2) The physician who is to perform or induce the abortion or a qualified
39 professional has presented the woman, in person, printed materials provided by
40 the department, which describe the probable anatomical and physiological
41 characteristics of the unborn child at two-week gestational increments from
42 conception to full term, including color photographs or images of the developing
43 unborn child at two-week gestational increments. Such descriptions shall include
44 information about brain and heart functions, the presence of external members
45 and internal organs during the applicable stages of development and information
46 on when the unborn child is viable. The printed materials shall prominently
47 display the following statement: "The life of each human being begins at
48 conception. Abortion will terminate the life of a separate, unique, living human
49 being.";

50 (3) The physician who is to perform or induce the abortion or a qualified
51 professional has presented the woman, in person, printed materials provided by
52 the department, which describe the various surgical and drug-induced methods
53 of abortion relevant to the stage of pregnancy, as well as the immediate and
54 long-term medical risks commonly associated with each abortion method
55 including, but not limited to, infection, hemorrhage, cervical tear or uterine

56 perforation, harm to subsequent pregnancies or the ability to carry a subsequent
57 child to term, and the possible adverse psychological effects associated with an
58 abortion;

59 (4) The physician who is to perform or induce the abortion or a qualified
60 professional shall [provide the woman with the opportunity to view] **conduct**
61 **and review with the woman**, at least twenty-four hours prior to the abortion,
62 an active ultrasound of the unborn child and **allow the woman to** hear the
63 heartbeat of the unborn child if the heartbeat is audible. **When reviewing the**
64 **ultrasound with the woman, there shall be a verbal description of all**
65 **relevant features of the ultrasound with audible heartbeat if present.**
66 **If the ultrasound cannot be conducted at the abortion facility and in**
67 **order to provide the possibility of a second opinion**, the woman shall be
68 provided with a geographically indexed list maintained by the department of
69 health care providers, facilities, and clinics that perform ultrasounds, including
70 those that offer ultrasound services free of charge. Such materials shall provide
71 contact information for each provider, facility, or clinic including telephone
72 numbers and, if available, website addresses. Should the woman [decide] **need**
73 to obtain an ultrasound from a provider, facility, or clinic other than the abortion
74 facility, the woman shall be offered a reasonable time to obtain the ultrasound
75 examination before the date and time set for performing or inducing an
76 abortion. **The woman shall be required to submit verification from the**
77 **provider, facility, or clinic other than the abortion facility that**
78 **conducted an ultrasound for the woman, stating the date and time that**
79 **the ultrasound was conducted and that it was reviewed with the**
80 **woman, allowing her to view the ultrasound images and hear the**
81 **heartbeat of the unborn child if the heartbeat is audible.** The person
82 conducting the ultrasound shall ensure that the active ultrasound image is of a
83 quality consistent with standard medical practice in the community, contains the
84 dimensions of the unborn child, and accurately portrays the presence of external
85 members and internal organs, if present or viewable, of the unborn child. **Upon**
86 **request and without additional charge, a photograph or print of the**
87 **ultrasound, of a quality consistent with the current standard medical**
88 **practice shall be given to the pregnant woman.** The auscultation of fetal
89 heart tone must also be of a quality consistent with standard medical practice in
90 the community. If the woman [chooses to view] **views** the ultrasound or [hear]
91 **hears** the heartbeat or both at the abortion facility, the viewing or hearing or

92 both shall be provided to her at the abortion facility at least twenty-four hours
93 prior to the abortion being performed or induced;

94 (5) Prior to an abortion being performed or induced on an unborn child of
95 twenty-two weeks gestational age or older, the physician who is to perform or
96 induce the abortion or a qualified professional has presented the woman, in
97 person, printed materials provided by the department that offer information on
98 the possibility of the abortion causing pain to the unborn child. This information
99 shall include, but need not be limited to, the following:

100 (a) At least by twenty-two weeks of gestational age, the unborn child
101 possesses all the anatomical structures, including pain receptors, spinal cord,
102 nerve tracts, thalamus, and cortex, that are necessary in order to feel pain;

103 (b) A description of the actual steps in the abortion procedure to be
104 performed or induced, and at which steps the abortion procedure could be painful
105 to the unborn child;

106 (c) There is evidence that by twenty-two weeks of gestational age, unborn
107 children seek to evade certain stimuli in a manner that in an infant or an adult
108 would be interpreted as a response to pain;

109 (d) Anesthesia is given to unborn children who are twenty-two weeks or
110 more gestational age who undergo prenatal surgery;

111 (e) Anesthesia is given to premature children who are twenty-two weeks
112 or more gestational age who undergo surgery;

113 (f) Anesthesia or an analgesic is available in order to minimize or
114 alleviate the pain to the unborn child;

115 (6) The physician who is to perform or induce the abortion or a qualified
116 professional has presented the woman, in person, printed materials provided by
117 the department explaining to the woman alternatives to abortion she may wish
118 to consider. Such materials shall:

119 (a) Identify on a geographical basis public and private agencies available
120 to assist a woman in carrying her unborn child to term, and to assist her in
121 caring for her dependent child or placing her child for adoption, including
122 agencies commonly known and generally referred to as pregnancy resource
123 centers, crisis pregnancy centers, maternity homes, and adoption agencies. Such
124 materials shall provide a comprehensive list by geographical area of the agencies,
125 a description of the services they offer, and the telephone numbers and addresses
126 of the agencies; provided that such materials shall not include any programs,
127 services, organizations, or affiliates of organizations that perform or induce, or

128 assist in the performing or inducing, of abortions or that refer for abortions;

129 (b) Explain the Missouri alternatives to abortion services program under
130 section 188.325, and any other programs and services available to pregnant
131 women and mothers of newborn children offered by public or private agencies
132 which assist a woman in carrying her unborn child to term and assist her in
133 caring for her dependent child or placing her child for adoption, including but not
134 limited to prenatal care; maternal health care; newborn or infant care; mental
135 health services; professional counseling services; housing programs; utility
136 assistance; transportation services; food, clothing, and supplies related to
137 pregnancy; parenting skills; educational programs; job training and placement
138 services; drug and alcohol testing and treatment; and adoption assistance;

139 (c) Identify the state website for the Missouri alternatives to abortion
140 services program under section 188.325, and any toll-free number established by
141 the state operated in conjunction with the program;

142 (d) Prominently display the statement: "There are public and private
143 agencies willing and able to help you carry your child to term, and to assist you
144 and your child after your child is born, whether you choose to keep your child or
145 place him or her for adoption. The state of Missouri encourages you to contact
146 those agencies before making a final decision about abortion. State law requires
147 that your physician or a qualified professional give you the opportunity to call
148 agencies like these before you undergo an abortion.";

149 (7) The physician who is to perform or induce the abortion or a qualified
150 professional has presented the woman, in person, printed materials provided by
151 the department explaining that the father of the unborn child is liable to assist
152 in the support of the child, even in instances where he has offered to pay for the
153 abortion. Such materials shall include information on the legal duties and
154 support obligations of the father of a child, including, but not limited to, child
155 support payments, and the fact that paternity may be established by the father's
156 name on a birth certificate or statement of paternity, or by court action. Such
157 printed materials shall also state that more information concerning paternity
158 establishment and child support services and enforcement may be obtained by
159 calling the family support division within the Missouri department of social
160 services; and

161 (8) The physician who is to perform or induce the abortion or a qualified
162 professional shall inform the woman that she is free to withhold or withdraw her
163 consent to the abortion at any time without affecting her right to future care or

164 treatment and without the loss of any state or federally funded benefits to which
165 she might otherwise be entitled.

166 2. All information required to be provided to a woman considering
167 abortion by subsection 1 of this section shall be presented to the woman
168 individually, in the physical presence of the woman and in a private room, to
169 protect her privacy, to maintain the confidentiality of her decision, to ensure that
170 the information focuses on her individual circumstances, to ensure she has an
171 adequate opportunity to ask questions, and to ensure that she is not a victim of
172 coerced abortion. Should a woman be unable to read materials provided to her,
173 they shall be read to her. Should a woman need an interpreter to understand the
174 information presented in the written materials, an interpreter shall be provided
175 to her. Should a woman ask questions concerning any of the information or
176 materials, answers shall be provided in a language she can understand.

177 3. No abortion shall be performed or induced unless and until the woman
178 upon whom the abortion is to be performed or induced certifies in writing on a
179 checklist form provided by the department that she has been presented all the
180 information required in subsection 1 of this section, that [she has been provided
181 the opportunity to view] an active ultrasound **has been conducted and**
182 **reviewed with her, allowing her to view an** image of the unborn child and
183 hear the heartbeat of the unborn child if it is audible, and that she further
184 certifies that she gives her voluntary and informed consent, freely and without
185 coercion, to the abortion procedure.

186 4. No abortion shall be performed or induced on an unborn child of
187 twenty-two weeks gestational age or older unless and until the woman upon
188 whom the abortion is to be performed or induced has been provided the
189 opportunity to choose to have an anesthetic or analgesic administered to
190 eliminate or alleviate pain to the unborn child caused by the particular method
191 of abortion to be performed or induced. The administration of anesthesia or
192 analgesics shall be performed in a manner consistent with standard medical
193 practice in the community.

194 5. No physician shall perform or induce an abortion unless and until the
195 physician has obtained from the woman her voluntary and informed consent given
196 freely and without coercion. If the physician has reason to believe that the
197 woman is being coerced into having an abortion, the physician or qualified
198 professional shall inform the woman that services are available for her and shall
199 provide her with private access to a telephone and information about such

200 services, including but not limited to the following:

- 201 (1) Rape crisis centers, as defined in section 455.003;
202 (2) Shelters for victims of domestic violence, as defined in section 455.200;
203 and
204 (3) Orders of protection, pursuant to chapter 455.

205 6. No physician shall perform or induce an abortion unless and until the
206 physician has received and signed a copy of the form prescribed in subsection 3
207 of this section. The physician shall retain a copy of the form in the patient's
208 medical record.

209 7. In the event of a medical emergency as provided by section 188.075, the
210 physician who performed or induced the abortion shall clearly certify in writing
211 the nature and circumstances of the medical emergency. This certification shall
212 be signed by the physician who performed or induced the abortion, and shall be
213 maintained under section 188.060.

214 8. No person or entity shall require, obtain, or accept payment for an
215 abortion from or on behalf of a patient until at least twenty-four hours have
216 passed since the time that the information required by subsection 1 has been
217 provided to the patient. Nothing in this subsection shall prohibit a person or
218 entity from notifying the patient that payment for the abortion will be required
219 after the twenty-four-hour period has expired if she voluntarily chooses to have
220 the abortion.

221 9. The term "qualified professional" as used in this section shall refer to
222 a physician, physician assistant, registered nurse, licensed practical nurse,
223 psychologist, licensed professional counselor, or licensed social worker, licensed
224 or registered under chapter 334, 335, or 337, acting under the supervision of the
225 physician performing or inducing the abortion, and acting within the course and
226 scope of his or her authority provided by law. The provisions of this section shall
227 not be construed to in any way expand the authority otherwise provided by law
228 relating to the licensure, registration, or scope of practice of any such qualified
229 professional.

230 10. By November 30, 2010, the department shall produce the written
231 materials and forms described in this section. Any written materials produced
232 shall be printed in a typeface large enough to be clearly legible. All information
233 shall be presented in an objective, unbiased manner designed to convey only
234 accurate scientific and medical information. The department shall furnish the
235 written materials and forms at no cost and in sufficient quantity to any person

236 who performs or induces abortions, or to any hospital or facility that provides
237 abortions. The department shall make all information required by subsection 1
238 of this section available to the public through its department website. The
239 department shall maintain a toll-free, twenty-four-hour hotline telephone number
240 where a caller can obtain information on a regional basis concerning the agencies
241 and services described in subsection 1 of this section. No identifying information
242 regarding persons who use the website shall be collected or maintained. The
243 department shall monitor the website on a regular basis to prevent tampering
244 and correct any operational deficiencies.

245 11. In order to preserve the compelling interest of the state to ensure that
246 the choice to consent to an abortion is voluntary and informed, and given freely
247 and without coercion, the department shall use the procedures for adoption of
248 emergency rules under section 536.025 in order to promulgate all necessary rules,
249 forms, and other necessary material to implement this section by November 30,
250 2010.

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Bill

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