

SENATE BILL NO. 450

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

1740S.04I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 188.027 and 188.052, RSMo, and to enact in lieu thereof three new sections relating to abortion, with penalty provisions.

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

Section A. Sections 188.027 and 188.052, RSMo, are
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 188.027, 188.052, and 188.059, to read as
4 follows:

188.027. 1. Except in cases of medical emergency, no
2 abortion shall be performed or induced on a woman without
3 her voluntary and informed consent, given freely and without
4 coercion. Consent to an abortion is voluntary and informed
5 and given freely and without coercion if, and only if, at
6 least seventy-two hours prior to the abortion:

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

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

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

16 a. A description of the proposed abortion method;

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

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

24 c. The immediate and long-term medical risks to the
25 woman, in light of the anesthesia and medication that is to
26 be administered, the unborn child's gestational age, and the
27 woman's medical history and medical condition;

28 (c) Alternatives to the abortion which shall include
29 making the woman aware that information and materials shall
30 be provided to her detailing such alternatives to the
31 abortion;

32 (d) A statement that the physician performing or
33 inducing the abortion is available for any questions
34 concerning the abortion, together with the telephone number
35 that the physician may be later reached to answer any
36 questions that the woman may have;

37 (e) The location of the hospital that offers
38 obstetrical or gynecological care located within thirty
39 miles of the location where the abortion is performed or
40 induced and at which the physician performing or inducing
41 the abortion has clinical privileges and where the woman may
42 receive follow-up care by the physician if complications
43 arise;

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

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

49 (2) The physician who is to perform or induce the
50 abortion or a qualified professional has presented the
51 woman, in person, printed materials provided by the
52 department, which describe the probable anatomical and
53 physiological characteristics of the unborn child at two-
54 week gestational increments from conception to full term,
55 including color photographs [or images] of the developing
56 unborn child at two-week gestational increments. Such
57 descriptions shall include information about brain and heart
58 functions, the presence of external members and internal
59 organs during the applicable stages of development and
60 information on when the unborn child is viable. The printed
61 materials shall prominently display the following
62 statement: "The life of each human being begins at
63 conception. Abortion will terminate the life of a separate,
64 unique, living human being.";

65 (3) The physician who is to perform or induce the
66 abortion, a qualified professional, or the referring
67 physician has presented the woman, in person, printed
68 materials provided by the department, which describe the
69 various surgical and drug-induced methods of abortion
70 relevant to the stage of pregnancy, as well as the immediate
71 and long-term medical risks commonly associated with each
72 abortion method including, but not limited to, infection,
73 hemorrhage, cervical tear or uterine perforation, harm to
74 subsequent pregnancies or the ability to carry a subsequent
75 child to term, and the possible adverse psychological
76 effects associated with an abortion;

77 (4) The physician who is to perform or induce the
78 abortion or a qualified professional shall provide the woman
79 with the opportunity to view at least seventy-two hours
80 prior to the abortion an active ultrasound of the unborn

81 child [and hear the heartbeat of the unborn child if the
82 heartbeat is audible]. The woman shall be provided with a
83 geographically indexed list maintained by the department of
84 health care providers, facilities, and clinics that perform
85 ultrasounds, including those that offer ultrasound services
86 free of charge. Such materials shall provide contact
87 information for each provider, facility, or clinic including
88 telephone numbers and, if available, website addresses.
89 Should the woman decide to obtain an ultrasound from a
90 provider, facility, or clinic other than the abortion
91 facility, the woman shall be offered a reasonable time to
92 obtain the ultrasound examination before the date and time
93 set for performing or inducing an abortion. The person
94 conducting the ultrasound shall ensure that the active
95 ultrasound image is of a quality consistent with standard
96 medical practice in the community, contains the dimensions
97 of the unborn child, and accurately portrays the presence of
98 external members and internal organs, if present or
99 viewable, of the unborn child. [The auscultation of fetal
100 heart tone must also be of a quality consistent with
101 standard medical practice in the community.] If the woman
102 chooses to view the ultrasound [or hear the heartbeat or
103 both] at the abortion facility, the viewing [or hearing or
104 both] shall be provided to her at the abortion facility at
105 least seventy-two hours prior to the abortion being
106 performed or induced;

107 (5) The printed materials provided by the department
108 shall include information on the possibility of an abortion
109 causing pain in the unborn child. This information shall
110 include, but need not be limited to, the following:

111 (a) Unborn children as early as eight weeks
112 gestational age start to show spontaneous movements and

113 unborn children at this stage in pregnancy show reflex
114 responses to touch;

115 (b) In the unborn child, the area around his or her
116 mouth and lips is the first part of the unborn child's body
117 to respond to touch and by fourteen weeks gestational age
118 most of the unborn child's body is responsive to touch;

119 (c) Pain receptors on the unborn child's skin develop
120 around his or her mouth at around seven to eight weeks
121 gestational age, around the palms of his or her hands at ten
122 to ten and a half weeks, on the abdominal wall at fifteen
123 weeks, and over all of his or her body at sixteen weeks
124 gestational age;

125 (d) Beginning at sixteen weeks gestational age and
126 later, it is possible for pain to be transmitted from
127 receptors to the cortex of the unborn child's brain, where
128 thinking and perceiving occur;

129 (e) When a physician performs a life-saving surgery,
130 he or she provides anesthesia to unborn children as young as
131 sixteen weeks gestational age in order to alleviate the
132 unborn child's pain; and

133 (f) A description of the actual steps in the abortion
134 procedure to be performed or induced and at which steps the
135 abortion procedure could be painful to the unborn child;

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

141 (a) Identify on a geographical basis public and
142 private agencies available to assist a woman in carrying her
143 unborn child to term, and to assist her in caring for her
144 dependent child or placing her child for adoption, including

145 agencies commonly known and generally referred to as
146 pregnancy resource centers, crisis pregnancy centers,
147 maternity homes, and adoption agencies. Such materials
148 shall provide a comprehensive list by geographical area of
149 the agencies, a description of the services they offer, and
150 the telephone numbers and addresses of the agencies;
151 provided that such materials shall not include any programs,
152 services, organizations, or affiliates of organizations that
153 perform or induce, or assist in the performing or inducing
154 of, abortions or that refer for abortions;

155 (b) Explain the Missouri alternatives to abortion
156 services program under section 188.325, and any other
157 programs and services available to pregnant women and
158 mothers of newborn children offered by public or private
159 agencies which assist a woman in carrying her unborn child
160 to term and assist her in caring for her dependent child or
161 placing her child for adoption, including but not limited to
162 prenatal care; maternal health care; newborn or infant care;
163 mental health services; professional counseling services;
164 housing programs; utility assistance; transportation
165 services; food, clothing, and supplies related to pregnancy;
166 parenting skills; educational programs; job training and
167 placement services; drug and alcohol testing and treatment;
168 and adoption assistance;

169 (c) Identify the state website for the Missouri
170 alternatives to abortion services program under section
171 188.325, and any toll-free number established by the state
172 operated in conjunction with the program;

173 (d) Prominently display the statement: "There are
174 public and private agencies willing and able to help you
175 carry your child to term, and to assist you and your child
176 after your child is born, whether you choose to keep your

177 child or place him or her for adoption. The state of
178 Missouri encourages you to contact those agencies before
179 making a final decision about abortion. State law requires
180 that your physician or a qualified professional give you the
181 opportunity to call agencies like these before you undergo
182 an abortion.";

183 (7) The physician who is to perform or induce the
184 abortion or a qualified professional has presented the
185 woman, in person, printed materials provided by the
186 department explaining that the father of the unborn child is
187 liable to assist in the support of the child, even in
188 instances where he has offered to pay for the abortion.
189 Such materials shall include information on the legal duties
190 and support obligations of the father of a child, including,
191 but not limited to, child support payments, and the fact
192 that paternity may be established by the father's name on a
193 birth certificate or statement of paternity, or by court
194 action. Such printed materials shall also state that more
195 information concerning paternity establishment and child
196 support services and enforcement may be obtained by calling
197 the family support division within the Missouri department
198 of social services; and

199 (8) The physician who is to perform or induce the
200 abortion or a qualified professional shall inform the woman
201 that she is free to withhold or withdraw her consent to the
202 abortion at any time without affecting her right to future
203 care or treatment and without the loss of any state or
204 federally funded benefits to which she might otherwise be
205 entitled.

206 2. All information required to be provided to a woman
207 considering abortion by subsection 1 of this section shall
208 be presented to the woman individually, in the physical

209 presence of the woman and in a private room, to protect her
210 privacy, to maintain the confidentiality of her decision, to
211 ensure that the information focuses on her individual
212 circumstances, to ensure she has an adequate opportunity to
213 ask questions, and to ensure that she is not a victim of
214 coerced abortion. Should a woman be unable to read
215 materials provided to her, they shall be read to her.
216 Should a woman need an interpreter to understand the
217 information presented in the written materials, an
218 interpreter shall be provided to her. Should a woman ask
219 questions concerning any of the information or materials,
220 answers shall be provided in a language she can understand.

221 3. No abortion shall be performed or induced unless
222 and until the woman upon whom the abortion is to be
223 performed or induced certifies in writing on a checklist
224 form provided by the department that she has been presented
225 all the information required in subsection 1 of this
226 section, that she has been provided the opportunity to view
227 an active ultrasound image of the unborn child [and hear the
228 heartbeat of the unborn child if it is audible], and that
229 she further certifies that she gives her voluntary and
230 informed consent, freely and without coercion, to the
231 abortion procedure.

232 4. No physician shall perform or induce an abortion
233 unless and until the physician has obtained from the woman
234 her voluntary and informed consent given freely and without
235 coercion. If the physician has reason to believe that the
236 woman is being coerced into having an abortion, the
237 physician or qualified professional shall inform the woman
238 that services are available for her and shall provide her
239 with private access to a telephone and information about
240 such services, including but not limited to the following:

241 (1) Rape crisis centers, as defined in section 455.003;

242 (2) Shelters for victims of domestic violence, as
243 defined in section 455.200; and

244 (3) Orders of protection, pursuant to chapter 455.

245 5. The physician who is to perform or induce the
246 abortion shall, at least seventy-two hours prior to such
247 procedure, inform the woman orally and in person of:

248 (1) The immediate and long-term medical risks to the
249 woman associated with the proposed abortion method
250 including, but not limited to, infection, hemorrhage,
251 cervical tear or uterine perforation, harm to subsequent
252 pregnancies or the ability to carry a subsequent child to
253 term, and possible adverse psychological effects associated
254 with the abortion; and

255 (2) The immediate and long-term medical risks to the
256 woman, in light of the anesthesia and medication that is to
257 be administered, the unborn child's gestational age, and the
258 woman's medical history and medical conditions.

259 6. No physician shall perform or induce an abortion
260 unless and until the physician has received and signed a
261 copy of the form prescribed in subsection 3 of this
262 section. The physician shall retain a copy of the form in
263 the patient's medical record.

264 7. In the event of a medical emergency, the physician
265 who performed or induced the abortion shall clearly certify
266 in writing the nature and circumstances of the medical
267 emergency. This certification shall be signed by the
268 physician who performed or induced the abortion, and shall
269 be maintained under section 188.060.

270 8. No person or entity shall require, obtain, or
271 accept payment for an abortion from or on behalf of a
272 patient until at least seventy-two hours have passed since

273 the time that the information required by subsection 1 of
274 this section has been provided to the patient. Nothing in
275 this subsection shall prohibit a person or entity from
276 notifying the patient that payment for the abortion will be
277 required after the seventy-two-hour period has expired if
278 she voluntarily chooses to have the abortion.

279 9. The term "qualified professional" as used in this
280 section shall refer to a physician, physician assistant,
281 registered nurse, licensed practical nurse, psychologist,
282 licensed professional counselor, or licensed social worker,
283 licensed or registered under chapter 334, 335, or 337,
284 acting under the supervision of the physician performing or
285 inducing the abortion, and acting within the course and
286 scope of his or her authority provided by law. The
287 provisions of this section shall not be construed to in any
288 way expand the authority otherwise provided by law relating
289 to the licensure, registration, or scope of practice of any
290 such qualified professional.

291 10. By November 30, 2010, the department shall produce
292 the written materials and forms described in this section.
293 Any written materials produced shall be printed in a
294 typeface large enough to be clearly legible. All
295 information shall be presented in an objective, unbiased
296 manner designed to convey only accurate scientific and
297 medical information. The department shall furnish the
298 written materials and forms at no cost and in sufficient
299 quantity to any person who performs or induces abortions, or
300 to any hospital or facility that provides abortions. The
301 department shall make all information required by subsection
302 1 of this section available to the public through its
303 department website. The department shall maintain a toll-
304 free, twenty-four-hour hotline telephone number where a

305 caller can obtain information on a regional basis concerning
306 the agencies and services described in subsection 1 of this
307 section. No identifying information regarding persons who
308 use the website shall be collected or maintained. The
309 department shall monitor the website on a regular basis to
310 prevent tampering and correct any operational deficiencies.

311 11. In order to preserve the compelling interest of
312 the state to ensure that the choice to consent to an
313 abortion is voluntary and informed, and given freely and
314 without coercion, the department shall use the procedures
315 for adoption of emergency rules under section 536.025 in
316 order to promulgate all necessary rules, forms, and other
317 necessary material to implement this section by November 30,
318 2010.

319 12. If the provisions in subsections 1 and 8 of this
320 section requiring a seventy-two-hour waiting period for an
321 abortion are ever temporarily or permanently restrained or
322 enjoined by judicial order, then the waiting period for an
323 abortion shall be twenty-four hours; provided, however, that
324 if such temporary or permanent restraining order or
325 injunction is stayed or dissolved, or otherwise ceases to
326 have effect, the waiting period for an abortion shall be
327 seventy-two hours.

188.052. 1. An individual abortion report for each
2 abortion performed or induced upon a woman shall be
3 completed by the physician who performed or induced the
4 abortion. Abortion reports shall include, but not be
5 limited to, a certification that the physician does not have
6 any knowledge that the woman sought the abortion solely
7 because of a prenatal diagnosis, test, or screening
8 indicating Down Syndrome or the potential of Down Syndrome
9 in the unborn child and a certification that the physician

10 does not have any knowledge that the woman sought the
11 abortion solely because of the sex or race of the unborn
12 child. **Abortion reports shall also include the time, date,
13 method, and results of the heartbeat detection test
14 performed prior to the abortion under section 188.059.**

15 2. An individual complication report for any post-
16 abortion care performed upon a woman shall be completed by
17 the physician providing such post-abortion care. This
18 report shall include:

19 (1) The date of the abortion;

20 (2) The name and address of the abortion facility or
21 hospital where the abortion was performed or induced;

22 (3) The nature of the abortion complication diagnosed
23 or treated.

24 3. All abortion reports shall be signed by the
25 attending physician who performed or induced the abortion
26 and submitted to the department within forty-five days from
27 the date of the abortion. All complication reports shall be
28 signed by the physician providing the post-abortion care and
29 submitted to the department within forty-five days from the
30 date of the post-abortion care.

31 4. A copy of the abortion report shall be made a part
32 of the medical record of the patient of the abortion
33 facility or hospital in which the abortion was performed or
34 induced.

35 5. The department shall be responsible for collecting
36 all abortion reports and complication reports and collating
37 and evaluating all data gathered therefrom and shall
38 annually publish a statistical report based on such data
39 from abortions performed or induced in the previous calendar
40 year.

188.059. 1. No abortion shall knowingly be performed
2 or induced upon a pregnant woman if the heartbeat of the
3 unborn child has been detected in accordance with the
4 provisions of this section. In cases of medical emergency,
5 the physician performing or inducing the abortion shall
6 utilize the available method or technique of abortion most
7 likely to preserve the life and health of the unborn child.
8 In such cases, the physician shall certify in writing the
9 available methods or techniques considered and the reasons
10 for choosing the method or technique employed.

11 2. A physician who intends to perform or induce an
12 abortion upon a pregnant woman shall determine whether there
13 is a detectable heartbeat of the unborn child. The method
14 of determining the presence of a heartbeat shall be
15 consistent with the physician's good faith understanding of
16 standard medical practice. The physician shall record in
17 the pregnant woman's medical record the estimated
18 gestational age of the unborn child, the method used to test
19 for the presence or absence of a heartbeat, the date and
20 time of the test, and the results of the test. The
21 physician shall give the pregnant woman the option to view
22 or hear the heartbeat of the unborn child.

23 3. If a heartbeat is detected, the physician shall, in
24 writing, inform the pregnant woman that the unborn child's
25 heartbeat has been detected and that an abortion may not be
26 performed under Missouri law. The physician shall provide
27 the woman the opportunity to hear the heartbeat of the
28 unborn child. If a heartbeat is not detected and an
29 abortion is not performed within ninety-six hours of the
30 conclusion of the heartbeat detection test, a new heartbeat
31 detection test shall be conducted by a physician who intends
32 to perform or induce an abortion on the pregnant woman.

33 4. Notwithstanding the provisions of section 188.075,
34 a physician who fails to conduct a heartbeat detection test
35 prior to the performance or inducement of an abortion upon a
36 pregnant woman shall be guilty of a class B felony, have his
37 or her license or license application rejected, revoked, or
38 suspended by the state board of registration for the healing
39 arts in accordance with the provisions of section 334.100
40 for a period of six months for each instance of failure, and
41 be assessed a fine of one million dollars.

42 5. Notwithstanding the provisions of section 188.075,
43 a physician who performs or induces an abortion upon a
44 pregnant woman after a heartbeat detection test reveals the
45 presence of a heartbeat in the unborn child shall be guilty
46 of a class B felony, have his or her license revoked, and
47 any future license application rejected, by the state board
48 of registration for the healing arts in accordance with the
49 provisions of section 334.100, and be assessed a fine of one
50 million dollars.

51 6. A pregnant woman upon whom an abortion is performed
52 or induced in violation of this section shall not be
53 prosecuted for a conspiracy to violate the provisions of
54 this section.

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