

FIRST REGULAR SESSION

# SENATE BILL NO. 514

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

0985S.01H

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal section 188.027, RSMo, and to enact in lieu thereof one new section relating to abortion.

*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Section A. Section 188.027, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 188.027,  
3 to read as 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;  
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,

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

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) (a) The physician who is to perform or induce the  
78 abortion or a qualified professional shall [provide the  
79 woman with the opportunity to view], at least seventy-two  
80 hours prior to the abortion, **perform** an active ultrasound of  
81 the unborn child and [hear] **auscultate** the heartbeat of the  
82 unborn child **so that the woman may hear the heartbeat of the**  
83 **unborn child** if the heartbeat is audible. The woman shall

84 be provided with a geographically indexed list maintained by  
85 the department of health care providers, facilities, and  
86 clinics that perform ultrasounds, including those that offer  
87 ultrasound services free of charge. Such materials shall  
88 provide contact information for each provider, facility, or  
89 clinic, including telephone numbers and, if available,  
90 website addresses. Should the woman decide to obtain an  
91 **additional** ultrasound from [a] **another** provider, facility,  
92 or clinic [other than the abortion facility], the woman  
93 shall be offered a reasonable time to obtain the ultrasound  
94 examination before the date and time set for performing or  
95 inducing an abortion.

96       **(b) The physician who is to perform or induce the**  
97 **abortion, or a qualified professional, shall provide a**  
98 **simultaneous explanation during the ultrasound of what the**  
99 **ultrasound is depicting, which shall include the presence**  
100 **and location of the unborn child within the uterus and the**  
101 **number of unborn children depicted, and shall, if the**  
102 **ultrasound image indicates that the death of the unborn**  
103 **child has occurred, inform the woman of that fact.** The  
104 person conducting the ultrasound shall ensure that the  
105 active ultrasound image is of a quality consistent with  
106 standard medical practice in the community, contains the  
107 dimensions of the unborn child, and accurately portrays the  
108 presence of external members and internal organs, if present  
109 or viewable, of the unborn child. The auscultation of fetal  
110 heart tone must also be of a quality consistent with  
111 standard medical practice in the community[. If the woman  
112 chooses to view the ultrasound or hear the heartbeat or both  
113 at the abortion facility, the viewing or hearing or both  
114 shall be provided to her at the abortion facility at least

115 seventy-two hours prior to the abortion being performed or  
116 induced];

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

121 (a) Unborn children as early as eight weeks  
122 gestational age start to show spontaneous movements and  
123 unborn children at this stage in pregnancy show reflex  
124 responses to touch;

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

129 (c) Pain receptors on the unborn child's skin develop  
130 around his or her mouth at around seven to eight weeks  
131 gestational age, around the palms of his or her hands at ten  
132 to ten and a half weeks, on the abdominal wall at fifteen  
133 weeks, and over all of his or her body at sixteen weeks  
134 gestational age;

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

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

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

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

151           (a) Identify on a geographical basis public and  
152 private agencies available to assist a woman in carrying her  
153 unborn child to term, and to assist her in caring for her  
154 dependent child or placing her child for adoption, including  
155 agencies commonly known and generally referred to as  
156 pregnancy resource centers, crisis pregnancy centers,  
157 maternity homes, and adoption agencies. Such materials  
158 shall provide a comprehensive list by geographical area of  
159 the agencies, a description of the services they offer, and  
160 the telephone numbers and addresses of the agencies;  
161 provided that such materials shall not include any programs,  
162 services, organizations, or affiliates of organizations that  
163 perform or induce, or assist in the performing or inducing  
164 of, abortions or that refer for abortions;

165           (b) Explain the Missouri alternatives to abortion  
166 services program under section 188.325, and any other  
167 programs and services available to pregnant women and  
168 mothers of newborn children offered by public or private  
169 agencies which assist a woman in carrying her unborn child  
170 to term and assist her in caring for her dependent child or  
171 placing her child for adoption, including but not limited to  
172 prenatal care; maternal health care; newborn or infant care;  
173 mental health services; professional counseling services;  
174 housing programs; utility assistance; transportation  
175 services; food, clothing, and supplies related to pregnancy;  
176 parenting skills; educational programs; job training and

177 placement services; drug and alcohol testing and treatment;  
178 and adoption assistance;

179 (c) Identify the state website for the Missouri  
180 alternatives to abortion services program under section  
181 188.325, and any toll-free number established by the state  
182 operated in conjunction with the program;

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

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

209           (8) The physician who is to perform or induce the  
210 abortion or a qualified professional shall inform the woman  
211 that she is free to withhold or withdraw her consent to the  
212 abortion at any time without affecting her right to future  
213 care or treatment and without the loss of any state or  
214 federally funded benefits to which she might otherwise be  
215 entitled.

216           2. All information required to be provided to a woman  
217 considering abortion by subsection 1 of this section shall  
218 be presented to the woman individually, in the physical  
219 presence of the woman and in a private room, to protect her  
220 privacy, to maintain the confidentiality of her decision, to  
221 ensure that the information focuses on her individual  
222 circumstances, to ensure she has an adequate opportunity to  
223 ask questions, and to ensure that she is not a victim of  
224 coerced abortion. Should a woman be unable to read  
225 materials provided to her, they shall be read to her.  
226 Should a woman need an interpreter to understand the  
227 information presented in the written materials, an  
228 interpreter shall be provided to her. Should a woman ask  
229 questions concerning any of the information or materials,  
230 answers shall be provided in a language she can understand.

231           3. No abortion shall be performed or induced unless  
232 and until the woman upon whom the abortion is to be  
233 performed or induced certifies in writing on a checklist  
234 form provided by the department that she has been presented  
235 all the information required in subsection 1 of this  
236 section, that she has [been provided the opportunity to  
237 view] **viewed** an active ultrasound image of the unborn child  
238 and [hear] **heard** the heartbeat of the unborn child if it is  
239 audible, **or declined to do so**, and that she further



240 certifies that she gives her voluntary and informed consent,  
241 freely and without coercion, to the abortion procedure.

242 4. No physician shall perform or induce an abortion  
243 unless and until the physician has obtained from the woman  
244 her voluntary and informed consent given freely and without  
245 coercion. If the physician has reason to believe that the  
246 woman is being coerced into having an abortion, the  
247 physician or qualified professional shall inform the woman  
248 that services are available for her and shall provide her  
249 with private access to a telephone and information about  
250 such services, including but not limited to the following:

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

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

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

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

258 (1) The immediate and long-term medical risks to the  
259 woman associated with the proposed abortion method  
260 including, but not limited to, infection, hemorrhage,  
261 cervical tear or uterine perforation, harm to subsequent  
262 pregnancies or the ability to carry a subsequent child to  
263 term, and possible adverse psychological effects associated  
264 with the abortion; and

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

269 6. No physician shall perform or induce an abortion  
270 unless and until the physician has received and signed a  
271 copy of the form prescribed in subsection 3 of this

272 section. The physician shall retain a copy of the form in  
273 the patient's medical record.

274 7. In the event of a medical emergency, the physician  
275 who performed or induced the abortion shall clearly certify  
276 in writing the nature and circumstances of the medical  
277 emergency. This certification shall be signed by the  
278 physician who performed or induced the abortion, and shall  
279 be maintained under section 188.060.

280 8. No person or entity shall require, obtain, or  
281 accept payment for an abortion from or on behalf of a  
282 patient until at least seventy-two hours have passed since  
283 the time that the information required by subsection 1 of  
284 this section has been provided to the patient. Nothing in  
285 this subsection shall prohibit a person or entity from  
286 notifying the patient that payment for the abortion will be  
287 required after the seventy-two-hour period has expired if  
288 she voluntarily chooses to have the abortion.

289 9. The term "qualified professional" as used in this  
290 section shall refer to a physician, physician assistant,  
291 registered nurse, licensed practical nurse, psychologist,  
292 licensed professional counselor, or licensed social worker,  
293 licensed or registered under chapter 334, 335, or 337,  
294 acting under the supervision of the physician performing or  
295 inducing the abortion, and acting within the course and  
296 scope of his or her authority provided by law. The  
297 provisions of this section shall not be construed to in any  
298 way expand the authority otherwise provided by law relating  
299 to the licensure, registration, or scope of practice of any  
300 such qualified professional.

301 10. By November 30, 2010, the department shall produce  
302 the written materials and forms described in this section.  
303 Any written materials produced shall be printed in a

304 typeface large enough to be clearly legible. All  
305 information shall be presented in an objective, unbiased  
306 manner designed to convey only accurate scientific and  
307 medical information. The department shall furnish the  
308 written materials and forms at no cost and in sufficient  
309 quantity to any person who performs or induces abortions, or  
310 to any hospital or facility that provides abortions. The  
311 department shall make all information required by subsection  
312 1 of this section available to the public through its  
313 department website. The department shall maintain a toll-  
314 free, twenty-four-hour hotline telephone number where a  
315 caller can obtain information on a regional basis concerning  
316 the agencies and services described in subsection 1 of this  
317 section. No identifying information regarding persons who  
318 use the website shall be collected or maintained. The  
319 department shall monitor the website on a regular basis to  
320 prevent tampering and correct any operational deficiencies.

321 11. In order to preserve the compelling interest of  
322 the state to ensure that the choice to consent to an  
323 abortion is voluntary and informed, and given freely and  
324 without coercion, the department shall use the procedures  
325 for adoption of emergency rules under section 536.025 in  
326 order to promulgate all necessary rules, forms, and other  
327 necessary material to implement this section by November 30,  
328 2010.

329 12. If the provisions in subsections 1 and 8 of this  
330 section requiring a seventy-two-hour waiting period for an  
331 abortion are ever temporarily or permanently restrained or  
332 enjoined by judicial order, then the waiting period for an  
333 abortion shall be twenty-four hours; provided, however, that  
334 if such temporary or permanent restraining order or  
335 injunction is stayed or dissolved, or otherwise ceases to

336 have effect, the waiting period for an abortion shall be  
337 seventy-two hours.

338       13. It is the intent of the general assembly that this  
339 section be severable as noted in section 1.140. In the  
340 event that any section, subsection, subdivision, paragraph,  
341 sentence, or clause of this section be declared invalid  
342 under the Constitution of the United States or the  
343 Constitution of the State of Missouri, it is the intent of  
344 the general assembly that the remaining provisions of this  
345 section remain in force and effect as far as capable of  
346 being carried into execution as intended by the general  
347 assembly.

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