

FIRST REGULAR SESSION

# SENATE BILL NO. 70

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR YECKEL.

Pre-filed December 1, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0451S.011

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## AN ACT

To repeal sections 188.080 and 197.200, RSMo, relating to protection of recipients of medical services, and to enact in lieu thereof three new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 188.080 and 197.200, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 188.041, 188.080, and 197.200, to read as follows:

**188.041. 1. Prior to performing an abortion, a physician shall inform the mother of the unborn child upon whom an abortion is to be performed of all reasonably foreseeable risks of potential harm to the mother of the unborn child that may be caused as a direct or indirect result of an abortion. The physician shall allow the mother sufficient time prior to performing the abortion to assimilate and consider the information provided by the physician and to make a decision to accept or not accept the risk of potential harm associated with the abortion.**

**2. Prior to the performance of the abortion, the mother and the physician shall both certify in writing that the physician informed the mother of all reasonably foreseeable risks of potential harm to the mother that may be caused as a direct or indirect result of the abortion, and that the woman accepts the risk of potential harm associated with the abortion.**

**3. A physician shall be civilly liable to the mother of an aborted child and any other person sustaining loss or damages caused by the failure to provide the**

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

**information in the manner provided by this section, without regard to the provisions of chapter 538, RSMo.**

188.080. Notwithstanding any other penalty provision in this chapter, any person who is not a licensed physician as defined in section 188.015 who performs or attempts to perform an abortion on another as defined in subdivision (1) of section 188.015, is guilty of a class B felony, and, upon conviction, shall be punished as provided by law. Any physician performing an abortion who does not have **[surgical] clinical privileges to provide obstetrical or gynecological care** at a hospital **located within thirty miles of the location at which the abortion is performed** which offers obstetrical or gynecological care shall be guilty of a class B felony, and, upon conviction shall be punished as provided by law.

197.200. As used in sections 197.200 to 197.240, unless the context clearly indicates otherwise, the following terms mean:

(1) "Ambulatory surgical center", any public or private establishment operated primarily for the purpose of performing surgical procedures or primarily for the purpose of performing childbirths **or any establishment operated for the purpose of performing or inducing any second or third-trimester abortions or five or more first-trimester abortions per month**, and which does not provide services or other accommodations for patients to stay more than twenty-three hours within the establishment, provided, however, that nothing in this definition shall be construed to include the offices of dentists currently licensed pursuant to chapter 332, RSMo;

(2) "Dentist", any person currently licensed to practice dentistry pursuant to chapter 332, RSMo;

(3) "Department", the department of health and senior services;

(4) "Governmental unit", any city, county or other political subdivision of this state, or any department, division, board or other agency of any political subdivision of this state;

(5) "Person", any individual, firm, partnership, corporation, company, or association and the legal successors thereof;

(6) "Physician", any person currently licensed to practice medicine pursuant to chapter 334, RSMo;

(7) "Podiatrist", any person currently licensed to practice podiatry pursuant to chapter 330, RSMo.