

SECOND REGULAR SESSION

SENATE BILL NO. 904

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS GROSS AND NODLER.

Pre-filed December 2, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2848S.011

AN ACT

To repeal sections 188.015, 188.052, 188.055, and 188.070, RSMo, and to enact in lieu thereof five new sections relating to certain governmental records and their confidentiality, with penalty provisions.

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

Section A. Sections 188.015, 188.052, 188.055, and 188.070, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 188.015, 188.052, 188.055, 188.070, and 191.655, to read as follows:

188.015. [Unless the language or context clearly indicates a different meaning is intended, the following words or phrases for the purposes of sections 188.010 to 188.130 shall be given the meaning ascribed to them] **As used in this chapter, the following terms mean:**

(1) "Abortion", the intentional destruction of the life of an embryo or fetus in his or her mother's womb or the intentional termination of the pregnancy of a mother with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child;

(2) "Abortion facility", a clinic, physician's office, or any other place or facility in which abortions are performed other than a hospital;

(3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

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

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

(5) "Gestational age", length of pregnancy as measured from the first day of the woman's last menstrual period;

[(5)] (6) "Physician", any person licensed to practice medicine in this state by the state board of registration of the healing arts;

[(6)] (7) "Unborn child", the offspring of human beings from the moment of conception until birth and at every stage of its biological development, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;

[(7)] (8) "Viability", that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

188.052. 1. An individual abortion report for each abortion performed or induced upon a woman shall be completed by her attending physician. **The report shall include:**

(1) **Information required by the United States Standard Report of Induced Termination of Pregnancy, published by the National Center for Health Statistics, Centers for Disease Control and Prevention, United States Department of Health and Human Services, or its successor publication or agency;**

(2) **Additional information on the type of abortion procedure used, including the specific surgical or nonsurgical method or the specific abortion-inducing drug or drugs employed, including, but not limited to: vacuum aspiration, suction curettage, sharp curettage, dilation and evacuation or "D&E", intact D&E, dilation and extraction or "D&X", intrauterine saline instillation, intrauterine prostaglandin instillation, hysterotomy, methotrexate, mifepristone, or misoprostol; and**

(3) **The reason or reasons the woman sought the abortion, including specific medical, social, economic, or other factors, including, but not limited to: particular maternal health conditions, pregnancy resulting from rape or incest, does not want others to know of her pregnancy, others object to her pregnancy, has relationship problems with the father of the child or other family members, lack of financial support from the father of the child, disruption of education or job, or desire to limit family size.**

2. An individual complication report for any post-abortion care performed upon a woman shall be completed by the physician providing such post-abortion care. This report shall include, **but not be limited to:**

- (1) The date of the abortion;
- (2) The name and address of the abortion facility or hospital where the abortion was performed;
- (3) The nature of the abortion complication diagnosed or treated.

3. All abortion reports shall be signed by the attending physician, and submitted to the [state] department [of health and senior services] within forty-five days from the date of the abortion. All complication reports shall be signed by the physician providing the post-abortion care and submitted to the department [of health and senior services] within forty-five days from the date of the post-abortion care.

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

5. The [state] department [of health and senior services] shall be responsible for collecting all abortion reports and complication reports and collating and evaluating all data gathered therefrom and shall annually publish a statistical report based on such data from abortions performed **or induced and post-abortion care provided** in the previous calendar year. **The report shall specify the gestational age, by weekly increments, at which abortions were performed or induced. The report shall not include any information that would allow the public to identify a specific:**

(1) Patient who obtained an abortion or who received post-abortion care;

(2) Physician who performed or induced an abortion or who provided post-abortion care; or

(3) Hospital or abortion facility where the abortion was performed or induced or which provided post-abortion care.

188.055. 1. Every abortion facility, hospital, and physician shall be supplied with forms by the department [of health and senior services] for use in regards to the consents and reports required by sections 188.010 to 188.085. A purpose and function of such consents and reports shall be the preservation of maternal health and life by adding to the sum of medical knowledge through the compilation of relevant maternal health and life data and to monitor all abortions performed to assure that they are done only under and in accordance with the provisions of the law.

2. All information obtained by physician, hospital, or abortion facility from a patient for the purpose of preparing reports to the department [of health and

senior services] under sections 188.010 to 188.085 or reports received by the [division of health] **department** shall be confidential and shall be used only for statistical purposes. Such records, however, may be inspected and health data acquired by local, state, or national public health officers.

188.070. Any [physician or other] person who [fails to maintain] **knowingly violates** the confidentiality of any records [or], reports [required] **or documents maintained by the abortion facility or hospital or received by the department** under sections 188.010 to 188.085 is guilty of a [misdemeanor] and, upon conviction, shall be punished as provided by law] **class D felony**.

191.655. 1. Any individual aggrieved by a violation of a state statute relating to the confidentiality of medical records relating to abortion procedures may, if a civil remedy is not otherwise provided for in the statute, bring a civil action for damages. If it is found in a civil action that:

(1) A person has negligently violated the statute, the person is liable, for each violation, for:

(a) The greater of actual damages or liquidated damages of one thousand dollars; and

(b) Court costs and reasonable attorney's fees incurred by the person bringing the action; and

(c) Such other relief, including injunctive relief, as the court may deem appropriate; or

(2) A person has willfully or intentionally or recklessly violated the statute, the person is liable, for each violation, for:

(a) The greater of actual damages or liquidated damages of five thousand dollars; and

(b) Exemplary damages; and

(c) Court costs and reasonable attorney's fees incurred by the person bringing the action; and

(d) Such other relief, including injunctive relief, as the court may deem appropriate.

2. The remedies available in this section are cumulative and in addition to any other criminal or administrative penalties otherwise provided for by law.