

FIRST REGULAR SESSION

SENATE BILL NO. 329

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS BRAY, SMITH, JUSTUS, DAYS, WRIGHT-JONES AND SHOEMYER.

Read 1st time February 5, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1431S.011

AN ACT

To repeal section 170.015, RSMo, and to enact in lieu thereof eight new sections relating to increasing preventive health services in the state through the prevention first act.

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

Section A. Section 170.015, RSMo, is repealed and eight new sections
2 enacted in lieu thereof, to be known as sections 170.015, 191.648, 191.717,
3 191.718, 191.720, 192.970, 338.012, and 338.014, to read as follows:

170.015. 1. Any course materials and instruction relating to human
2 sexuality and sexually transmitted diseases shall be medically and factually
3 accurate, **be based on peer reviewed projects that have been**
4 **demonstrated to influence healthy behavior**, and shall:

5 (1) Present abstinence from sexual activity as the preferred choice of
6 behavior in relation to all sexual activity [for unmarried pupils because it is the
7 only method that is one hundred percent effective in preventing pregnancy,
8 sexually transmitted diseases and the emotional trauma associated with
9 adolescent sexual activity, and advise students that teenage sexual activity places
10 them at a higher risk of dropping out of school because of the consequences of
11 sexually transmitted diseases and unplanned pregnancy] **as the only sure way**
12 **to avoid pregnancy or sexually transmitted infection;**

13 (2) Stress that sexually transmitted [diseases] **infections** are serious,
14 possible, health hazards of sexual activity. Pupils shall be provided with the
15 latest medical information regarding exposure to human immunodeficiency virus
16 **(HIV)**, acquired immune deficiency syndrome (AIDS), human papilloma virus,
17 hepatitis and other sexually transmitted diseases;

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

18 (3) Present students with the latest medically factual information
19 [regarding both the possible side effects and health benefits of all forms of
20 contraception, including the success and failure rates for the prevention of
21 pregnancy and sexually transmitted diseases; or shall present students with
22 information on contraceptives and pregnancy in a manner consistent with the
23 provisions of the federal abstinence education law, 42 U.S.C. Section 710] **about**
24 **the health benefits and side effects of all contraceptives and barrier**
25 **methods as a means to prevent pregnancy and to reduce the risk of**
26 **contracting sexually transmitted infections, HIV/AIDS and other**
27 **diseases;**

28 (4) [Include a discussion of the possible emotional and psychological
29 consequences of preadolescent and adolescent sexual activity and the
30 consequences of adolescent pregnancy, as well as the advantages of adoption,
31 including the adoption of special needs children, and the processes involved in
32 making an adoption plan] **Provide information about the vaccine for**
33 **human papilloma virus, which may prevent cervical cancer, genital**
34 **warts, infertility, and other reproductive health problems, when**
35 **administered prior to becoming sexually active;**

36 (5) **Encourage family communication between parents and**
37 **children about sexuality;**

38 (6) **Help young people gain knowledge about the physical,**
39 **biological, and hormonal changes of adolescence and subsequent states**
40 **of human maturation and the skills to make responsible decisions about**
41 **sexuality, including how alcohol and drug use can affect that decision**
42 **making;**

43 [(5)] (7) Teach skills of conflict management, personal responsibility and
44 positive self-esteem through discussion and role-playing at appropriate grade
45 levels to emphasize that the pupil has the power to control personal
46 behavior. Pupils shall be encouraged to base their actions on reasoning,
47 self-discipline, sense of responsibility, self-control, and ethical considerations,
48 such as respect for one's self and others. Pupils shall be taught not to make
49 unwanted physical and verbal sexual advances or otherwise exploit another
50 person. Pupils shall be taught to resist unwanted sexual advances and other
51 negative peer pressure;

52 [(6)] (8) Advise pupils of the laws pertaining to their financial
53 responsibility to children born in and out of wedlock and advise pupils of the

54 provisions of chapter 566, RSMo, pertaining to statutory rape.

55 2. Policies concerning referrals and parental notification regarding
56 contraception shall be determined by local school boards or charter schools,
57 consistent with the provisions of section 167.611, RSMo.

58 3. A school district or charter school which provides human sexuality
59 instruction may separate students according to gender for instructional purposes.

60 4. The board of a school district or charter school shall determine the
61 specific content of the district's or school's instruction in human sexuality, in
62 accordance with subsections 1 to 3 of this section, and shall ensure that all
63 instruction in human sexuality is appropriate to the age of the students receiving
64 such instruction.

65 5. A school district or charter school shall notify the parent or legal
66 guardian of each student enrolled in the district or school of:

67 (1) The basic content of the district's or school's human sexuality
68 instruction to be provided to the student; and

69 (2) The parent's right to remove the student from any part of the district's
70 or school's human sexuality instruction.

71 6. A school district or charter school shall make all curriculum materials
72 **and names and affiliations of presenters** used in the district's or school's
73 human sexuality instruction available for public inspection pursuant to chapter
74 610, RSMo, prior to the use of such materials in actual instruction.

75 [7. No school district or charter school, or its personnel or agents, shall
76 provide abortion services, or permit a person or entity to offer, sponsor, or furnish
77 in any manner any course materials or instruction relating to human sexuality
78 or sexually transmitted diseases to its students if such person or entity is a
79 provider of abortion services.

80 8. As used in this section, the following terms mean:

81 (1) "Abortion", the same meaning as such term is defined in section
82 188.015, RSMo;

83 (2) "Abortion services":

84 (a) Performing, inducing, or assisting in the performance or inducing of
85 an abortion which is not necessary to save the life of the mother;

86 (b) Encouraging a patient to have an abortion or referring a patient for
87 an abortion, which is not necessary to save the life of the mother; or

88 (c) Developing or dispensing drugs, chemicals, or devices intended to be
89 used to induce an abortion which is not necessary to save the life of the mother.]

191.648. 1. As used in this section, "expedited partner therapy"
2 means the practice of treating the sexual partners of persons with
3 chlamydia or gonorrhea without an intervening medical evaluation or
4 professional prevention counseling.

5 2. Any licensed physician may utilize expedited partner therapy
6 for the management of the partners of persons with chlamydia or
7 gonorrhea. Notwithstanding the requirements of 20 CSR 2150-5.020(5)
8 or any other law to the contrary, a licensed physician utilizing
9 expedited partner therapy may prescribe and dispense medications for
10 the treatment of chlamydia or gonorrhea for an individual who is the
11 partner of a person with chlamydia or gonorrhea and who does not
12 have an established physician-patient relationship with such
13 physician. Any antibiotic medications prescribed and dispensed for the
14 treatment of chlamydia or gonorrhea under this section shall be in pill
15 form.

16 3. Expedited partner therapy may be utilized in any county
17 health facility if:

18 (1) The local case rate for chlamydia or gonorrhea exceeds one
19 and a half times the latest available national case rate for such sexually
20 transmitted diseases; or

21 (2) The local case rate for chlamydia or gonorrhea exceeds the
22 latest available national case rate and the most recent local annual case
23 totals for chlamydia or gonorrhea are at least twenty percent higher
24 than the case totals for the previous year.

25 4. Any licensed physician utilizing expedited partner therapy for
26 the management of partners of persons with chlamydia or gonorrhea
27 under this section shall have immunity from any civil liability that may
28 otherwise result by reason of such actions, unless such physician acts
29 negligently, recklessly, in bad faith, or with malicious purpose.

30 5. The department of health and senior services and the division
31 of professional registration within the department of insurance,
32 financial institutions and professional registration shall by rule
33 develop guidelines for the implementation of subsection 2 of this
34 section. Any rule or portion of a rule, as that term is defined in section
35 536.010, RSMo, that is created under the authority delegated in this
36 section shall become effective only if it complies with and is subject to
37 all of the provisions of chapter 536, RSMo, and, if applicable, section

38 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
39 and if any of the powers vested with the general assembly pursuant to
40 chapter 536, RSMo, to review, to delay the effective date, or to
41 disapprove and annul a rule are subsequently held unconstitutional,
42 then the grant of rulemaking authority and any rule proposed or
43 adopted after August 28, 2009, shall be invalid and void.

191.717. 1. Sections 191.717 and 191.718 may be cited as the
2 "Compassionate Assistance for Rape Emergencies (CARE) Act".

3 2. As used in sections 191.717 to 191.718, unless the context
4 clearly indicates otherwise, the following terms shall mean:

5 (1) "Emergency care to sexual assault victims", medical
6 examinations, procedures, or services provided at a hospital to a sexual
7 assault victim following an alleged rape;

8 (2) "Emergency contraception", any drug or device approved by
9 the Food and Drug Administration that prevents pregnancy after sexual
10 intercourse;

11 (3) "Health care facility", any urgent care center or facility that
12 offers treatment for patients during normal business, after-business, or
13 weekend hours and that is affiliated with a licensed hospital;

14 (4) "Medically and factually accurate and objective", verified or
15 supported by the weight of research conducted in compliance with
16 accepted scientific methods and is published in peer-reviewed journals
17 where applicable; or comprising information that leading professional
18 organizations and agencies with relevant expertise in the field, such as
19 the American College of Obstetricians and Gynecologists, recognize as
20 accurate and objective;

21 (5) "Sexual assault", as defined in section 566.040, RSMo;

22 (6) "Sexual assault victim", a female who is alleged to have been
23 raped and is presented as a patient.

191.718. 1. It shall be the standard of care for any hospital and
2 any health care facility that provides emergency care to sexual assault
3 victims to:

4 (1) Provide each sexual assault victim with medically and
5 factually accurate and objective written and oral information about
6 emergency contraception;

7 (2) Orally inform each sexual assault victim of her option to be
8 provided emergency contraception at the hospital;

9 **(3) Provide the complete regimen of emergency contraception**
10 **immediately at the hospital or health care facility to each sexual**
11 **assault victim who requests it; and**

12 **(4) Follow the Department of Justice protocols on HIV/STI**
13 **screening and prophylactic treatment as referenced in 19 CSR 40-10.010**
14 **and the sexual assault forensic exam checklist promulgated by the**
15 **department of health and senior services.**

16 **2. Hospitals and health care facilities shall ensure that each**
17 **person who provides care to sexual assault victims is provided with**
18 **medically and factually accurate and objective information about**
19 **emergency contraception.**

20 **3. The department of health and senior services shall develop,**
21 **prepare, and produce informational materials relating to emergency**
22 **contraception for the prevention of pregnancy for distribution in any**
23 **hospital or health care facility in the state in quantities sufficient to**
24 **comply with the requirements of this section. The director, in**
25 **collaboration with community sexual assault programs, may also**
26 **approve informational materials from other sources.**

27 **4. The information materials shall:**

28 **(1) Be medically and factually accurate and objective;**

29 **(2) Be clearly written and readily comprehensible in a culturally**
30 **competent manner, as the department deems necessary to inform**
31 **victims of sexual assault; and**

32 **(3) Explain the nature of emergency contraception, including its**
33 **use, safety, efficacy, and availability, and that it does not cause**
34 **abortion.**

35 **5. The department of health and senior services shall respond to**
36 **complaints and shall periodically determine whether hospitals and**
37 **health care facilities are complying with the provisions of this**
38 **section. The department may use all investigative tools available to**
39 **verify compliance. If the department determines that a hospital or**
40 **health care facility is not in compliance, the department shall:**

41 **(1) Impose an administrative penalty of five thousand dollars per**
42 **woman who is denied medically and factually accurate and objective**
43 **information about emergency contraception or who is not offered or**
44 **provided emergency contraception; and**

45 **(2) Impose an administrative penalty of five thousand dollars for**

46 failure to comply with the provisions of this section and for every
47 thirty days that a hospital or health care facility is not in compliance,
48 an additional penalty of five thousand dollars shall be imposed.

49 6. The department shall promulgate rules to implement the
50 provisions of sections 191.717 to 191.718.

51 7. Any rule or portion of a rule, as that term is defined in section
52 536.010, RSMo, that is created under the authority delegated in this
53 section shall become effective only if it complies with and is subject to
54 all of the provisions of chapter 536, RSMo, and, if applicable, section
55 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
56 and if any of the powers vested with the general assembly pursuant to
57 chapter 536, RSMo, to review, to delay the effective date, or to
58 disapprove and annul a rule are subsequently held unconstitutional,
59 then the grant of rulemaking authority and any rule proposed or
60 adopted after August 28, 2009, shall be invalid and void.

 191.720. 1. This section shall be known and may be cited as the
2 "Birth Control Protection Act".

3 2. The general assembly of this state finds that:

4 (1) Citizens of this state have a protectable interest in freedom
5 from unreasonable government intrusions into their private lives;

6 (2) This interest in freedom from unreasonable government
7 intrusions into the private lives of citizens encompasses and protects
8 the right of consenting individuals to obtain and use safe and effective
9 methods of contraception without interference by governmental
10 entities;

11 (3) It is the public policy of this state that the interest in
12 freedom from unreasonable government intrusions into the private
13 lives of citizens, and specifically the right of consenting individuals to
14 obtain and use safe and effective methods of contraception without
15 interference by governmental entities, shall be safeguarded and that
16 the laws of this state shall be interpreted and construed to recognize
17 and protect these rights.

18 3. Notwithstanding any other provisions of law, no governmental
19 actor or entity, whether state, county, municipal, or otherwise, within
20 the state of Missouri, shall:

21 (1) Be authorized to act in any fashion so as to deprive
22 consenting individuals of the right to obtain and use safe and effective

23 **methods of contraception; or**

24 **(2) Interfere with or discriminate against, in the regulation or**
25 **provision of benefits, facilities, services, or information, the right of**
26 **consenting individuals to obtain and use safe and effective methods of**
27 **contraception.**

28 **4. Nothing in this section shall be interpreted to prevent**
29 **implementation of laws, rules, ordinances, taxes, or regulations**
30 **affecting the method and manner of sale or distribution of**
31 **contraceptives, provided such laws, rules, ordinances, taxes, or**
32 **regulations are reasonably designed to promote public health and**
33 **safety, and do not have the effect of unreasonably hindering public**
34 **access to contraceptives.**

192.970. 1. **Subject to appropriation, the department of health**
2 **and senior services shall implement a women's health services program**
3 **by July 1, 2010. Initial funding for the program shall be in the amount**
4 **of five million dollars. Such program shall have the goal of reducing**
5 **the number of unintended pregnancies in Missouri by providing**
6 **women's health services through qualified health providers, as**
7 **determined by the department.**

8 **2. For purposes of this section, women's health services shall**
9 **include, but not be limited to:**

10 **(1) Breast and cervical cancer checks;**

11 **(2) Screening and treatment for sexually transmitted diseases;**

12 **(3) HIV screening;**

13 **(4) Voluntary choice of contraception, including natural family**
14 **planning;**

15 **(5) Infertility treatment;**

16 **(6) Patient education and pre-pregnancy counseling on the**
17 **dangers of smoking, alcohol, and drug use during pregnancy;**

18 **(7) Education on sexual coercion and violence in relationships;**
19 **and**

20 **(8) Prenatal and other health care referrals.**

21 **3. Pursuant to section 23.253, RSMo, of the Missouri sunset act:**

22 **(1) The provisions of the new program authorized under this**
23 **section shall sunset automatically six years after the effective date of**
24 **this section unless reauthorized by an act of the general assembly; and**

25 **(2) If such program is reauthorized, the program authorized**

26 under this section shall sunset automatically twelve years after the
27 effective date of the reauthorization of this section; and

28 (3) This section shall terminate on September first of the
29 calendar year immediately following the calendar year in which the
30 program authorized under this section is sunset.

338.012. 1. Upon receipt of a valid and lawful prescription, a
2 licensed pharmacy shall dispense any prescribed drug or device in
3 stock without delay, consistent with the normal time frame for filling
4 any other prescription.

5 2. Nothing herein shall prohibit a licensed pharmacy from
6 refusing to dispense a prescribed drug or device in accordance with
7 standard pharmacy practice if:

8 (1) There is a valid medical concern that such drug or device will
9 cause problems due to therapeutic duplications, drug-disease
10 contraindications, drug interactions, including serious interactions
11 with prescription or over-the-counter medications, incorrect dosage or
12 duration of drug treatment, drug-allergy interactions, drug abuse, or
13 drug misuse; or

14 (2) The customer is unable to pay for the drug or device.

15 3. When a customer requests a prescribed drug or device not in
16 stock, the pharmacy shall offer the customer the following options:

17 (1) The pharmacy shall obtain the drug or device under standard
18 procedures for expedited ordering of any prescription drug or device
19 not in stock and promptly notify the customer when the pharmacy
20 receives the drug or device; or

21 (2) The pharmacy shall locate a pharmacy of the customer's
22 choice or the closest pharmacy that has the drug or device in stock and
23 transfer the customer's prescription to that pharmacy under standard
24 procedures for transferring prescriptions.

25 The pharmacy shall perform the customer's chosen option in a timely
26 fashion and return the prescription order to the customer upon request
27 at any time prior to dispensing.

28 4. Every licensed pharmacy shall ensure that it does not
29 intimidate, threaten, or harass its customers in the delivery of services.

338.014. 1. A licensed pharmacy shall fulfill all lawful requests
2 for contraception approved for over-the-counter use in a timely fashion.

3 2. Where a customer lawfully requests contraception approved

4 for over-the-counter use, and that drug is not in stock, the pharmacy
5 shall offer the customer the following options:

6 (1) The pharmacy will obtain the contraception under the
7 pharmacy's standard procedures for expedited ordering of over-the-
8 counter drugs not in stock and promptly notify the customer when the
9 pharmacy receives the contraception; or

10 (2) The pharmacy will locate a pharmacy of the customer's choice
11 or the closest pharmacy that has the contraception in stock and refer
12 the customer to that pharmacy.

13 The pharmacy shall perform the customer's chosen option in a timely
14 fashion.

15 3. Every licensed pharmacy shall ensure that it does not
16 intimidate, threaten, or harass its customers in the delivery of services.

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