

SECOND REGULAR SESSION

SENATE BILL NO. 793

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS MAYER, DEMPSEY, RUPP, NODLER, LEMBKE AND STOUFFER.

Read 1st time January 19, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4230S.02I

AN ACT

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

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

Section A. Section 188.027, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 188.027 and 334.245, to read as
3 follows:

188.027. 1. No abortion shall be performed [except with the prior,
2 informed and written consent freely given of the pregnant woman.] **or induced**
3 **on a woman without her voluntary and informed consent, given freely**
4 **and without coercion. Consent to an abortion is voluntary and**
5 **informed and given freely and without coercion, if and only if, at least**
6 **twenty-four hours prior to the abortion:**

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

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

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

15 a. **A description of the proposed abortion method;**

16 b. **The immediate and long-term medical risks to the woman**
17 **associated with the proposed abortion method including, but not**
18 **limited to, infection, hemorrhage, cervical tear or uterine perforation,**

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

19 harm to subsequent pregnancies or the ability to carry a subsequent
20 child to term, and possible adverse psychological effects associated
21 with the abortion; and

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

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

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

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

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

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

43 (2) The physician who is to perform or induce the abortion or a
44 qualified professional has presented the woman, in person, printed
45 materials provided by the department or an informational video
46 provided by the department, which describes the probable anatomical
47 and physiological characteristics of the unborn child at two-week
48 gestational increments from conception to full term, including color
49 photographs or images of the developing unborn child at two-week
50 gestational increments. Such descriptions shall include information
51 about brain and heart functions, the presence of external members and
52 internal organs during the applicable stages of development and
53 information on when the unborn child is viable. The printed materials
54 or informational video shall prominently display the following
55 statement: "The life of each human being begins at

56 conception. Abortion will terminate the life of a separate, unique,
57 living human being.";

58 (3) The physician who is to perform or induce the abortion or a
59 qualified professional has presented the woman, in person, printed
60 materials provided by the department or an informational video
61 provided by the department, which describes the various surgical and
62 drug-induced methods of abortion relevant to the stage of pregnancy,
63 as well as the immediate and long-term medical risks commonly
64 associated with each abortion method including, but not limited to,
65 infection, hemorrhage, cervical tear or uterine perforation, harm to
66 subsequent pregnancies or the ability to carry a subsequent child to
67 term, and the possible adverse psychological effects associated with an
68 abortion;

69 (4) The physician who is to perform or induce the abortion or a
70 qualified professional shall provide the woman with the opportunity to
71 view at least twenty-four hours prior to the abortion an active
72 ultrasound of the unborn child and hear the heartbeat of the unborn
73 child if the heartbeat is audible. The woman shall be provided with a
74 geographically indexed list maintained by the department of health
75 care providers, facilities, and clinics that perform ultrasounds,
76 including those that offer ultrasound services free of charge. Such
77 materials shall provide contact information for each provider, facility,
78 or clinic including telephone numbers and, if available, web site
79 addresses. Should the woman decide to obtain an ultrasound from a
80 provider, facility, or clinic other than the abortion facility, the woman
81 shall be offered a reasonable time to obtain the ultrasound examination
82 before the date and time set for performing or inducing an
83 abortion. The person conducting the ultrasound shall ensure that the
84 active ultrasound image is of a quality consistent with standard
85 medical practice in the community, contains the dimensions of the
86 unborn child, and accurately portrays the presence of external
87 members and internal organs, if present or viewable, of the unborn
88 child. The auscultation of fetal heart tone must also be of a quality
89 consistent with standard medical practice in the community. If the
90 woman chooses to view the ultrasound or hear the heartbeat or both at
91 the abortion facility, the viewing or hearing or both shall be provided
92 to her at the abortion facility at least twenty-four hours prior to the

93 **abortion being performed or induced;**

94 **(5) Prior to an abortion being performed or induced on an**
95 **unborn child of twenty-two weeks gestational age or older, the**
96 **physician who is to perform or induce the abortion or a qualified**
97 **professional has presented the woman, in person, printed materials**
98 **provided by the department or an informational video provided by the**
99 **department that offers information on the possibility of the abortion**
100 **causing pain to the unborn child. This information shall include, but**
101 **need not be limited to, the following:**

102 **(a) At least by twenty-two weeks of gestational age, the unborn**
103 **child possesses all the anatomical structures, including pain receptors,**
104 **spinal cord, nerve tracts, thalamus, and cortex, that are necessary in**
105 **order to feel pain;**

106 **(b) A description of the actual steps in the abortion procedure**
107 **to be performed or induced, and at which steps the abortion procedure**
108 **could be painful to the unborn child;**

109 **(c) There is evidence that by twenty-two weeks of gestational**
110 **age, unborn children seek to evade certain stimuli in a manner that in**
111 **an infant or an adult would be interpreted as a response to pain;**

112 **(d) Anesthesia is given to unborn children who are twenty-two**
113 **weeks or more gestational age who undergo prenatal surgery;**

114 **(e) Anesthesia is given to premature children who are twenty-**
115 **two weeks or more gestational age who undergo surgery;**

116 **(f) Anesthesia or an analgesic is available in order to minimize**
117 **or alleviate the pain to the unborn child;**

118 **(6) The physician who is to perform or induce the abortion or a**
119 **qualified professional has presented the woman, in person, printed**
120 **materials provided by the department explaining to the woman**
121 **alternatives to abortion she may wish to consider. Such materials shall:**

122 **(a) Identify on a geographical basis public and private agencies**
123 **available to assist a woman in carrying her unborn child to term, and**
124 **to assist her in caring for her dependent child or placing her child for**
125 **adoption, including agencies commonly known and generally referred**
126 **to as pregnancy resource centers, crisis pregnancy centers, maternity**
127 **homes, and adoption agencies. Such materials shall provide a**
128 **comprehensive list by geographical area of the agencies, a description**
129 **of the services they offer, and the telephone numbers and addresses of**

130 the agencies; provided that such materials shall not include any
131 programs, services, organizations, or affiliates of organizations that
132 perform or induce, or assist in the performing or inducing, of abortions
133 or that refer for abortions;

134 (b) Explain the Missouri alternatives to abortion services
135 program under section 188.325, and any other programs and services
136 available to pregnant women and mothers of newborn children offered
137 by public or private agencies which assist a woman in carrying her
138 unborn child to term and assist her in caring for her dependent child
139 or placing her child for adoption, including, but not limited to prenatal
140 care; maternal health care; newborn or infant care; mental health
141 services; professional counseling services; housing programs; utility
142 assistance; transportation services; food, clothing, and supplies related
143 to pregnancy; parenting skills; educational programs; job training and
144 placement services; drug and alcohol testing and treatment; and
145 adoption assistance;

146 (c) Identify the state web site for the Missouri alternatives to
147 abortion services program under section 188.325, and any toll-free
148 number established by the state operated in conjunction with the
149 program;

150 (d) Prominently display the statement: "There are public and
151 private agencies willing and able to help you carry your child to term,
152 and to assist you and your child after your child is born, whether you
153 choose to keep your child or place him or her for adoption. The state
154 of Missouri encourages you to contact those agencies before making a
155 final decision about abortion. State law requires that your physician
156 or a qualified professional give you the opportunity to call agencies
157 like these before you undergo an abortion.";

158 (e) Prominently display the statement: "No one can coerce you
159 to have an abortion. It is against the law for a husband, a boyfriend,
160 a parent, a friend, a medical care provider, or any other person to
161 coerce you in any way to have an abortion.";

162 (7) The physician who is to perform or induce the abortion or a
163 qualified professional has presented the woman, in person, printed
164 materials provided by the department or an informational video
165 provided by the department explaining that the father of the unborn
166 child is liable to assist in the support of the child, even in instances

167 where he has offered to pay for the abortion. Such materials shall
168 include information on the legal duties and support obligations of the
169 father of a child, including, but not limited to, child support payments,
170 and the fact that paternity may be established by the father's name on
171 a birth certificate or statement of paternity, or by court action. Such
172 printed materials or video shall also state that more information
173 concerning paternity establishment and child support services and
174 enforcement may be obtained by calling the family support division
175 within the Missouri department of social services;

176 (8) The physician who is to perform or induce the abortion or a
177 qualified professional shall inform the woman that it is unlawful for
178 any person to coerce a woman to seek or obtain an abortion; and

179 (9) The physician who is to perform or induce the abortion or a
180 qualified professional shall inform the woman that she is free to
181 withhold or withdraw her consent to the abortion at any time without
182 affecting her right to future care or treatment and without the loss of
183 any state or federally funded benefits to which she might otherwise be
184 entitled.

185 2. All information required to be provided to a woman
186 considering abortion by subsection 1 of this section shall be presented
187 to the woman individually, in the physical presence of the woman and
188 in a private room, to protect her privacy, to maintain the
189 confidentiality of her decision, to ensure that the information focuses
190 on her individual circumstances, to ensure she has an adequate
191 opportunity to ask questions, and to ensure that she is not a victim of
192 coerced abortion. Should a woman be unable to read materials
193 provided to her, they shall be read to her. Should a woman need an
194 interpreter to understand the information presented in written
195 materials or informational videos, an interpreter shall be provided to
196 her. Should a woman ask questions concerning any of the information
197 or materials, answers shall be provided in a language she can
198 understand.

199 3. No abortion shall be performed or induced unless and until
200 the woman upon whom the abortion is to be performed or induced
201 certifies in writing on a checklist form provided by the department that
202 she has been presented all the information required in subsection 1 of
203 this section, that she has been provided the opportunity to view an

204 active ultrasound image of the unborn child and hear the heartbeat of
205 the unborn child if it is audible, and that she further certifies that she
206 gives her voluntary and informed consent, freely and without coercion,
207 to the abortion procedure.

208 4. No abortion shall be performed or induced on an unborn child
209 of twenty-two weeks gestational age or older unless and until the
210 woman upon whom the abortion is to be performed or induced has been
211 provided the opportunity to choose to have an anesthetic or analgesic
212 administered to eliminate or alleviate pain to the unborn child caused
213 by the particular method of abortion to be performed or induced. The
214 administration of anesthesia or analgesics shall be performed in a
215 manner consistent with standard medical practice in the community.

216 5. No physician shall perform or induce an abortion unless and
217 until the physician has obtained from the woman her voluntary and
218 informed consent given freely and without coercion. If the physician
219 has reason to believe that the woman is being coerced into having an
220 abortion, the physician or qualified professional shall inform the
221 woman that services are available for her and shall provide her with
222 private access to a telephone and information about such services,
223 including but not limited to the following:

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

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

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

228 6. No physician shall perform or induce an abortion unless and
229 until the physician has received and signed a copy of the form
230 prescribed in subsection 3 of this section. The physician shall retain
231 a copy of the form in the patient's medical record.

232 7. In the event of a medical emergency as provided by section
233 188.075, the physician who performed or induced the abortion shall
234 clearly certify in writing the nature and circumstances of the medical
235 emergency. This certification shall be signed by the physician who
236 performed or induced the abortion, and shall be maintained under
237 section 188.060.

238 8. No person or entity shall require, obtain, or accept payment
239 for an abortion from or on behalf of a patient until at least twenty-four
240 hours has passed since the time that the information required by

241 subsection 1 has been provided to the patient. Nothing in this
242 subsection shall prohibit a person or entity from notifying the patient
243 that payment for the abortion will be required after the twenty-four-
244 hour period has expired if she voluntarily chooses to have the abortion.

245 9. The term "qualified professional" as used in this section shall
246 refer to a physician, physician assistant, registered nurse, licensed
247 practical nurse, psychologist, licensed professional counselor, or
248 licensed social worker, licensed or registered under chapter 334, 335,
249 or 337, acting under the supervision of the physician performing or
250 inducing the abortion, and acting within the course and scope of his or
251 her authority provided by law. The provisions of this section shall not
252 be construed to in any way expand the authority otherwise provided by
253 law relating to the licensure, registration, or scope of practice of any
254 such qualified professional.

255 10. Every abortion facility shall display signs that contain
256 exclusively the following words: "NOTICE: No one can coerce you to
257 have an abortion. It is against the law for a husband, a boyfriend, a
258 parent, a friend, a medical care provider, or any other person to coerce
259 you in any way to have an abortion.". The signs shall be designed and
260 located so that such signs can be easily read and ensure maximum
261 visibility to women who enter the abortion facility considering whether
262 to have an abortion; to women at the abortion facility receiving the
263 information required by this section; and to women at the time that
264 they give their consent to an abortion. The location of such signs in
265 abortion facilities shall be specified by rules promulgated by the
266 department and shall be a condition of licensure of any abortion
267 facility under chapter 197. The display of signs under this subsection
268 does not discharge the duty to conduct an individual private
269 consultation with a woman considering abortion under subsection 2 of
270 this section.

271 11. By November 30, 2010, the department shall produce the
272 written materials, signs, informational videos, and forms described in
273 this section. Any written materials produced shall be printed in a
274 typeface large enough to be clearly legible. All information shall be
275 presented in an objective, unbiased manner designed to convey only
276 accurate scientific and medical information. The department shall
277 furnish the written materials, signs, informational videos, and forms at

278 no cost and in sufficient quantity to any person who performs or
279 induces abortions, or to any hospital or facility that provides
280 abortions. The department shall make all information required by
281 subsection 1 of this section available to the public through its
282 department web site. The department shall maintain a toll-free,
283 twenty-four-hour hotline telephone number where a caller can obtain
284 information on a regional basis concerning the agencies and services
285 described in subsection 1 of this section. No identifying information
286 regarding persons who use the web site shall be collected or
287 maintained. The department shall monitor the web site on a regular
288 basis to prevent tampering and correct any operational deficiencies.

289 12. In order to preserve the compelling interest of the state to
290 ensure that the choice to consent to an abortion is voluntary and
291 informed, and given freely and without coercion, the department shall
292 use the procedures for adoption of emergency rules under section
293 536.025 in order to promulgate all necessary rules, forms, and other
294 necessary material to implement this section by November 30, 2010.

334.245. 1. Notwithstanding any other provision of law to the
2 contrary that may allow a person to provide services relating to
3 pregnancy, including prenatal, delivery, and postpartum services, no
4 person other than a licensed physician is authorized to perform or
5 induce an abortion.

6 2. Any person who violates the provisions of this section is guilty
7 of a class B felony.

✓

Copy