

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SS/Senate Bill No. 67, Page 1, Section A, Line 5,

2 by inserting after all of said line the following:

3 "188.027. 1. Except in the case of medical emergency, no
4 abortion shall be performed or induced on a woman without her
5 voluntary and informed consent, given freely and without
6 coercion. Consent to an abortion is voluntary and informed and
7 given freely and without coercion if, and only if, at least
8 seventy-two hours prior to the abortion:

9 (1) The physician who is to perform or induce the abortion
10 or a qualified professional has informed the woman orally,
11 reduced to writing, and in person, of the following:

12 (a) The name of the physician who will perform or induce
13 the abortion;

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

17 a. A description of the proposed abortion method;

18 b. The immediate and long-term medical risks to the woman
19 associated with the proposed abortion method including, but not
20 limited to, infection, hemorrhage, cervical tear or uterine
21 perforation, harm to subsequent pregnancies or the ability to

1 carry a subsequent child to term, and possible adverse
2 psychological effects associated with the abortion; and

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

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

10 (d) A statement that the physician performing or inducing
11 the abortion is available for any questions concerning the
12 abortion, together with the telephone number that the physician
13 may be later reached to answer any questions that the woman may
14 have;

15 (e) [The location of the hospital that offers obstetrical
16 or gynecological care located within thirty miles of the location
17 where the abortion is performed or induced and at which the
18 physician performing or inducing the abortion has clinical
19 privileges and where the woman may receive follow-up care by the
20 physician if complications arise;

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

23 [(g)] (f) The anatomical and physiological characteristics
24 of the unborn child at the time the abortion is to be performed
25 or induced;

26 (2) The physician who is to perform or induce the abortion
27 or a qualified professional has presented the woman, in person,
28 printed materials provided by the department, which describe the
29 probable anatomical and physiological characteristics of the

1 unborn child at two-week gestational increments from conception
2 to full term, including color photographs or images of the
3 developing unborn child at two-week gestational increments. Such
4 descriptions shall include information about brain and heart
5 functions, the presence of external members and internal organs
6 during the applicable stages of development and information on
7 when the unborn child is viable. The printed materials shall
8 prominently display the following statement: "The life of each
9 human being begins at conception. Abortion will terminate the
10 life of a separate, unique, living human being.";

11 (3) The physician who is to perform or induce the abortion
12 or a qualified professional has presented the woman, in person,
13 printed materials provided by the department, which describe the
14 various surgical and drug-induced methods of abortion relevant to
15 the stage of pregnancy, as well as the immediate and long-term
16 medical risks commonly associated with each abortion method
17 including, but not limited to, infection, hemorrhage, cervical
18 tear or uterine perforation, harm to subsequent pregnancies or
19 the ability to carry a subsequent child to term, and the possible
20 adverse psychological effects associated with an abortion;

21 (4) The physician who is to perform or induce the abortion
22 or a qualified professional shall provide the woman with the
23 opportunity to view at least seventy-two hours prior to the
24 abortion an active ultrasound of the unborn child and hear the
25 heartbeat of the unborn child if the heartbeat is audible. The
26 woman shall be provided with a geographically indexed list
27 maintained by the department of health care providers,
28 facilities, and clinics that perform ultrasounds, including those
29 that offer ultrasound services free of charge. Such materials

1 shall provide contact information for each provider, facility, or
2 clinic including telephone numbers and, if available, website
3 addresses. Should the woman decide to obtain an ultrasound from
4 a provider, facility, or clinic other than the abortion facility,
5 the woman shall be offered a reasonable time to obtain the
6 ultrasound examination before the date and time set for
7 performing or inducing an abortion. The person conducting the
8 ultrasound shall ensure that the active ultrasound image is of a
9 quality consistent with standard medical practice in the
10 community, contains the dimensions of the unborn child, and
11 accurately portrays the presence of external members and internal
12 organs, if present or viewable, of the unborn child. The
13 auscultation of fetal heart tone must also be of a quality
14 consistent with standard medical practice in the community. If
15 the woman chooses to view the ultrasound or hear the heartbeat or
16 both at the abortion facility, the viewing or hearing or both
17 shall be provided to her at the abortion facility at least
18 seventy-two hours prior to the abortion being performed or
19 induced;

20 (5) Prior to an abortion being performed or induced on an
21 unborn child of twenty-two weeks gestational age or older, the
22 physician who is to perform or induce the abortion or a qualified
23 professional has presented the woman, in person, printed
24 materials provided by the department that offer information on
25 the possibility of the abortion causing pain to the unborn child.
26 This information shall include, but need not be limited to, the
27 following:

28 (a) At least by twenty-two weeks of gestational age, the
29 unborn child possesses all the anatomical structures, including

1 pain receptors, spinal cord, nerve tracts, thalamus, and cortex,
2 that are necessary in order to feel pain;

3 (b) A description of the actual steps in the abortion
4 procedure to be performed or induced, and at which steps the
5 abortion procedure could be painful to the unborn child;

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

10 (d) Anesthesia is given to unborn children who are
11 twenty-two weeks or more gestational age who undergo prenatal
12 surgery;

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

15 (f) Anesthesia or an analgesic is available in order to
16 minimize or alleviate the pain to the unborn child;

17 (6) The physician who is to perform or induce the abortion
18 or a qualified professional has presented the woman, in person,
19 printed materials provided by the department explaining to the
20 woman alternatives to abortion she may wish to consider. Such
21 materials shall:

22 (a) Identify on a geographical basis public and private
23 agencies available to assist a woman in carrying her unborn child
24 to term, and to assist her in caring for her dependent child or
25 placing her child for adoption, including agencies commonly known
26 and generally referred to as pregnancy resource centers, crisis
27 pregnancy centers, maternity homes, and adoption agencies. Such
28 materials shall provide a comprehensive list by geographical area
29 of the agencies, a description of the services they offer, and

1 the telephone numbers and addresses of the agencies; provided
2 that such materials shall not include any programs, services,
3 organizations, or affiliates of organizations that perform or
4 induce, or assist in the performing or inducing of, abortions or
5 that refer for abortions;

6 (b) Explain the Missouri alternatives to abortion services
7 program under section 188.325, and any other programs and
8 services available to pregnant women and mothers of newborn
9 children offered by public or private agencies which assist a
10 woman in carrying her unborn child to term and assist her in
11 caring for her dependent child or placing her child for adoption,
12 including but not limited to prenatal care; maternal health care;
13 newborn or infant care; mental health services; professional
14 counseling services; housing programs; utility assistance;
15 transportation services; food, clothing, and supplies related to
16 pregnancy; parenting skills; educational programs; job training
17 and placement services; drug and alcohol testing and treatment;
18 and adoption assistance;

19 (c) Identify the state website for the Missouri
20 alternatives to abortion services program under section 188.325,
21 and any toll-free number established by the state operated in
22 conjunction with the program;

23 (d) Prominently display the statement: "There are public
24 and private agencies willing and able to help you carry your
25 child to term, and to assist you and your child after your child
26 is born, whether you choose to keep your child or place him or
27 her for adoption. The state of Missouri encourages you to
28 contact those agencies before making a final decision about
29 abortion. State law requires that your physician or a qualified

1 professional give you the opportunity to call agencies like these
2 before you undergo an abortion.";

3 (7) The physician who is to perform or induce the abortion
4 or a qualified professional has presented the woman, in person,
5 printed materials provided by the department explaining that the
6 father of the unborn child is liable to assist in the support of
7 the child, even in instances where he has offered to pay for the
8 abortion. Such materials shall include information on the legal
9 duties and support obligations of the father of a child,
10 including, but not limited to, child support payments, and the
11 fact that paternity may be established by the father's name on a
12 birth certificate or statement of paternity, or by court action.
13 Such printed materials shall also state that more information
14 concerning paternity establishment and child support services and
15 enforcement may be obtained by calling the family support
16 division within the Missouri department of social services; and

17 (8) The physician who is to perform or induce the abortion
18 or a qualified professional shall inform the woman that she is
19 free to withhold or withdraw her consent to the abortion at any
20 time without affecting her right to future care or treatment and
21 without the loss of any state or federally funded benefits to
22 which she might otherwise be entitled.

23 2. All information required to be provided to a woman
24 considering abortion by subsection 1 of this section shall be
25 presented to the woman individually, in the physical presence of
26 the woman and in a private room, to protect her privacy, to
27 maintain the confidentiality of her decision, to ensure that the
28 information focuses on her individual circumstances, to ensure
29 she has an adequate opportunity to ask questions, and to ensure

1 that she is not a victim of coerced abortion. Should a woman be
2 unable to read materials provided to her, they shall be read to
3 her. Should a woman need an interpreter to understand the
4 information presented in the written materials, an interpreter
5 shall be provided to her. Should a woman ask questions
6 concerning any of the information or materials, answers shall be
7 provided in a language she can understand.

8 3. No abortion shall be performed or induced unless and
9 until the woman upon whom the abortion is to be performed or
10 induced certifies in writing on a checklist form provided by the
11 department that she has been presented all the information
12 required in subsection 1 of this section, that she has been
13 provided the opportunity to view an active ultrasound image of
14 the unborn child and hear the heartbeat of the unborn child if it
15 is audible, and that she further certifies that she gives her
16 voluntary and informed consent, freely and without coercion, to
17 the abortion procedure.

18 4. No abortion shall be performed or induced on an unborn
19 child of twenty-two weeks gestational age or older unless and
20 until the woman upon whom the abortion is to be performed or
21 induced has been provided the opportunity to choose to have an
22 anesthetic or analgesic administered to eliminate or alleviate
23 pain to the unborn child caused by the particular method of
24 abortion to be performed or induced. The administration of
25 anesthesia or analgesics shall be performed in a manner
26 consistent with standard medical practice in the community.

27 5. No physician shall perform or induce an abortion unless
28 and until the physician has obtained from the woman her voluntary
29 and informed consent given freely and without coercion. If the

1 physician has reason to believe that the woman is being coerced
2 into having an abortion, the physician or qualified professional
3 shall inform the woman that services are available for her and
4 shall provide her with private access to a telephone and
5 information about such services, including but not limited to the
6 following:

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

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

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

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

15 7. In the event of a medical emergency as provided by
16 section 188.039, the physician who performed or induced the
17 abortion shall clearly certify in writing the nature and
18 circumstances of the medical emergency. This certification shall
19 be signed by the physician who performed or induced the abortion,
20 and shall be maintained under section 188.060.

21 8. No person or entity shall require, obtain, or accept
22 payment for an abortion from or on behalf of a patient until at
23 least seventy-two hours have passed since the time that the
24 information required by subsection 1 of this section has been
25 provided to the patient. Nothing in this subsection shall
26 prohibit a person or entity from notifying the patient that
27 payment for the abortion will be required after the
28 seventy-two-hour period has expired if she voluntarily chooses to
29 have the abortion.

1 9. The term "qualified professional" as used in this
2 section shall refer to a physician, physician assistant,
3 registered nurse, licensed practical nurse, psychologist,
4 licensed professional counselor, or licensed social worker,
5 licensed or registered under chapter 334, 335, or 337, acting
6 under the supervision of the physician performing or inducing the
7 abortion, and acting within the course and scope of his or her
8 authority provided by law. The provisions of this section shall
9 not be construed to in any way expand the authority otherwise
10 provided by law relating to the licensure, registration, or scope
11 of practice of any such qualified professional.

12 10. By November 30, 2010, the department shall produce the
13 written materials and forms described in this section. Any
14 written materials produced shall be printed in a typeface large
15 enough to be clearly legible. All information shall be presented
16 in an objective, unbiased manner designed to convey only accurate
17 scientific and medical information. The department shall furnish
18 the written materials and forms at no cost and in sufficient
19 quantity to any person who performs or induces abortions, or to
20 any hospital or facility that provides abortions. The department
21 shall make all information required by subsection 1 of this
22 section available to the public through its department website.
23 The department shall maintain a toll-free, twenty-four-hour
24 hotline telephone number where a caller can obtain information on
25 a regional basis concerning the agencies and services described
26 in subsection 1 of this section. No identifying information
27 regarding persons who use the website shall be collected or
28 maintained. The department shall monitor the website on a
29 regular basis to prevent tampering and correct any operational

1 deficiencies.

2 11. In order to preserve the compelling interest of the
3 state to ensure that the choice to consent to an abortion is
4 voluntary and informed, and given freely and without coercion,
5 the department shall use the procedures for adoption of emergency
6 rules under section 536.025 in order to promulgate all necessary
7 rules, forms, and other necessary material to implement this
8 section by November 30, 2010.

9 12. If the provisions in subsections 1 and 8 of this
10 section requiring a seventy-two-hour waiting period for an
11 abortion are ever temporarily or permanently restrained or
12 enjoined by judicial order, then the waiting period for an
13 abortion shall be twenty-four hours; provided, however, that if
14 such temporary or permanent restraining order or injunction is
15 stayed or dissolved, or otherwise ceases to have effect, the
16 waiting period for an abortion shall be seventy-two hours.

17 188.028. 1. Except in the case of a medical emergency, no
18 person shall knowingly perform or induce an abortion upon a
19 pregnant woman under the age of eighteen years unless:

20 (1) The attending physician has secured the informed
21 written consent of the minor and one parent or guardian; or

22 (2) The minor is emancipated and the attending physician
23 has received the informed written consent of the minor; or

24 (3) The minor has been granted the right to self-consent to
25 the abortion by court order pursuant to subsection 2 of this
26 section, and the attending physician has received the informed
27 written consent of the minor; or

28 (4) The minor has been granted consent to the abortion by
29 court order, and the court has given its informed written consent

1 in accordance with subsection 2 of this section, and the minor is
2 having the abortion willingly, in compliance with subsection 3 of
3 this section.

4 2. The right of a minor to self-consent to an abortion
5 under subdivision (3) of subsection 1 of this section or court
6 consent under subdivision (4) of subsection 1 of this section may
7 be granted by a court pursuant to the following procedures:

8 (1) The minor or next friend shall make an application to
9 the juvenile court which shall assist the minor or next friend in
10 preparing the petition and notices required pursuant to this
11 section. The minor or the next friend of the minor shall
12 thereafter file a petition setting forth the initials of the
13 minor; the age of the minor; the names and addresses of each
14 parent, guardian, or, if the minor's parents are deceased and no
15 guardian has been appointed, any other person standing in loco
16 parentis of the minor; that the minor has been fully informed of
17 the risks and consequences of the abortion; that the minor is of
18 sound mind and has sufficient intellectual capacity to consent to
19 the abortion; that, if the court does not grant the minor
20 majority rights for the purpose of consent to the abortion, the
21 court should find that the abortion is in the best interest of
22 the minor and give judicial consent to the abortion; that the
23 court should appoint a guardian ad litem of the child; and if the
24 minor does not have private counsel, that the court should
25 appoint counsel. The petition shall be signed by the minor or
26 the next friend;

27 (2) A hearing on the merits of the petition, to be held on
28 the record, shall be held as soon as possible within five days of
29 the filing of the petition. If any party is unable to afford

1 counsel, the court shall appoint counsel at least twenty-four
2 hours before the time of the hearing. At the hearing, the court
3 shall hear evidence relating to the emotional development,
4 maturity, intellect and understanding of the minor; the nature,
5 possible consequences, and alternatives to the abortion; and any
6 other evidence that the court may find useful in determining
7 whether the minor should be granted majority rights for the
8 purpose of consenting to the abortion or whether the abortion is
9 in the best interests of the minor;

10 (3) In the decree, the court shall for good cause:

11 (a) Grant the petition for majority rights for the purpose
12 of consenting to the abortion; or

13 (b) Find the abortion to be in the best interests of the
14 minor and give judicial consent to the abortion, setting forth
15 the grounds for so finding; or

16 (c) Deny the petition, setting forth the grounds on which
17 the petition is denied;

18 (4) If the petition is allowed, the informed consent of the
19 minor, pursuant to a court grant of majority rights, or the
20 judicial consent, shall bar an action by the parents or guardian
21 of the minor on the grounds of battery of the minor by those
22 performing or inducing the abortion. The immunity granted shall
23 only extend to the performance or inducement of the abortion in
24 accordance herewith and any necessary accompanying services which
25 are performed in a competent manner. The costs of the action
26 shall be borne by the parties;

27 (5) An appeal from an order issued under the provisions of
28 this section may be taken to the court of appeals of this state
29 by the minor or by a parent or guardian of the minor. The notice

1 of intent to appeal shall be given within twenty-four hours from
2 the date of issuance of the order. The record on appeal shall be
3 completed and the appeal shall be perfected within five days from
4 the filing of notice to appeal. Because time may be of the
5 essence regarding the performance or inducement of the abortion,
6 the supreme court of this state shall, by court rule, provide for
7 expedited appellate review of cases appealed under this section.

8 3. If a minor desires an abortion, then she shall be orally
9 informed of and, if possible, sign the written consent required
10 [by section 188.039] under this chapter in the same manner as an
11 adult person. No abortion shall be performed or induced on any
12 minor against her will, except that an abortion may be performed
13 or induced against the will of a minor pursuant to a court order
14 described in subdivision (4) of subsection 1 of this section that
15 the abortion is necessary to preserve the life of the minor.";
16 and

17 Further amend said bill, page 9, Section 188.075, line 19,
18 by inserting after all of said line the following:

19 "188.080. Any person who is not a physician who performs or
20 induces or attempts to perform or induce an abortion on another
21 is guilty of a class B felony, and, upon conviction, shall be
22 punished as provided by law. [Any physician performing or
23 inducing an abortion who does not have clinical privileges at a
24 hospital which offers obstetrical or gynecological care located
25 within thirty miles of the location at which the abortion is
26 performed or induced shall be guilty of a class A misdemeanor,
27 and, upon conviction shall be punished as provided by law.]" and

28 Further amend said bill, page 12, Section 188.160, line 25,
29 by inserting after all of said line the following:

1 "197.200. As used in sections 197.200 to 197.240, unless
2 the context clearly indicates otherwise, the following terms
3 mean:

4 (1) "Ambulatory surgical center", any public or private
5 establishment operated primarily for the purpose of performing
6 surgical procedures or primarily for the purpose of performing
7 childbirths, [or any establishment operated for the purpose of
8 performing or inducing any second or third-trimester abortions or
9 five or more first-trimester abortions per month,] and which does
10 not provide services or other accommodations for patients to stay
11 more than twenty-three hours within the establishment, provided,
12 however, that nothing in this definition shall be construed to
13 include the offices of dentists currently licensed pursuant to
14 chapter 332 or facilities that are operated primarily for the
15 purpose of providing abortions;

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

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

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

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

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

28 (7) "Podiatrist", any person currently licensed to practice
29 podiatry pursuant to chapter 330."; and

1 Further amend said bill, pages 12-14, Section 197.230, by
2 striking all of said section from the bill; and
3 Further amend the title and enacting clause accordingly.