

FIRST REGULAR SESSION

# SENATE BILL NO. 110

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0234S.03I

## AN ACT

To repeal sections 188.027 and 193.255, RSMo, and to enact in lieu thereof two new sections relating to abortion.

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

Section A. Sections 188.027 and 193.255, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 188.027 and 193.255, to read as follows:

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

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

(a) The name of the physician who will perform or induce the abortion;  
(b) Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion, including:

a. A description of the proposed abortion method;

b. The immediate and long-term medical risks to the woman associated with the proposed abortion method including, but not limited to, infection, hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to term, and possible adverse psychological effects associated with the abortion; and

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

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

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

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

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

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

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

38 (2) The physician who is to perform or induce the abortion or a qualified  
39 professional has presented the woman, in person, printed materials provided by  
40 the department, which describe the probable anatomical and physiological  
41 characteristics of the unborn child at two-week gestational increments from  
42 conception to full term, including color photographs or images of the developing  
43 unborn child at two-week gestational increments. Such descriptions shall include  
44 information about brain and heart functions, the presence of external members  
45 and internal organs during the applicable stages of development and information  
46 on when the unborn child is viable. The printed materials shall prominently  
47 display the following statement: "The life of each human being begins at  
48 conception. Abortion will terminate the life of a separate, unique, living human  
49 being.";

50 (3) The physician who is to perform or induce the abortion, a qualified  
51 professional, or the referring physician has presented the woman, in person,  
52 printed materials provided by the department, which describe the various  
53 surgical and drug-induced methods of abortion relevant to the stage of pregnancy,  
54 as well as the immediate and long-term medical risks commonly associated with

55 each abortion method including, but not limited to, infection, hemorrhage,  
56 cervical tear or uterine perforation, harm to subsequent pregnancies or the ability  
57 to carry a subsequent child to term, and the possible adverse psychological effects  
58 associated with an abortion;

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

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

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

90 (b) A description of the actual steps in the abortion procedure to be

91 performed or induced, and at which steps the abortion procedure could be painful  
92 to the unborn child;

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

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

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

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

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

106 (a) Identify on a geographical basis public and private agencies available  
107 to assist a woman in carrying her unborn child to term, and to assist her in  
108 caring for her dependent child or placing her child for adoption, including  
109 agencies commonly known and generally referred to as pregnancy resource  
110 centers, crisis pregnancy centers, maternity homes, and adoption agencies. Such  
111 materials shall provide a comprehensive list by geographical area of the agencies,  
112 a description of the services they offer, and the telephone numbers and addresses  
113 of the agencies; provided that such materials shall not include any programs,  
114 services, organizations, or affiliates of organizations that perform or induce, or  
115 assist in the performing or inducing of, abortions or that refer for abortions;

116 (b) Explain the Missouri alternatives to abortion services program under  
117 section 188.325, and any other programs and services available to pregnant  
118 women and mothers of newborn children offered by public or private agencies  
119 which assist a woman in carrying her unborn child to term and assist her in  
120 caring for her dependent child or placing her child for adoption, including but not  
121 limited to prenatal care; maternal health care; newborn or infant care; mental  
122 health services; professional counseling services; housing programs; utility  
123 assistance; transportation services; food, clothing, and supplies related to  
124 pregnancy; parenting skills; educational programs; job training and placement  
125 services; drug and alcohol testing and treatment; and adoption assistance;

126 (c) Identify the state website for the Missouri alternatives to abortion

127 services program under section 188.325, and any toll-free number established by  
128 the state operated in conjunction with the program;

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

136 (7) The physician who is to perform or induce the abortion or a qualified  
137 professional has presented the woman, in person, printed materials provided by  
138 the department explaining that the father of the unborn child is liable to assist  
139 in the support of the child, even in instances where he has offered to pay for the  
140 abortion. Such materials shall include information on the legal duties and  
141 support obligations of the father of a child, including, but not limited to, child  
142 support payments, and the fact that paternity may be established by the father's  
143 name on a birth certificate or statement of paternity, or by court action. Such  
144 printed materials shall also state that more information concerning paternity  
145 establishment and child support services and enforcement may be obtained by  
146 calling the family support division within the Missouri department of social  
147 services; [and]

148 (8) The physician who is to perform or induce the abortion or a qualified  
149 professional shall inform the woman that she is free to withhold or withdraw her  
150 consent to the abortion at any time without affecting her right to future care or  
151 treatment and without the loss of any state or federally funded benefits to which  
152 she might otherwise be entitled;

153 **(9) In the case of a surgical abortion, the physician who is to**  
154 **perform or induce the abortion or a qualified professional shall inform**  
155 **the woman that she may choose to have the remains of the unborn child**  
156 **buried or cremated at her expense. If the woman chooses to have the**  
157 **remains buried or cremated, she shall indicate, on a form provided by**  
158 **the department and prior to or at the time of the abortion procedure,**  
159 **which disposition means she has chosen and the name of the funeral**  
160 **establishment, as such term is defined in section 333.011, she has**  
161 **authorized to transfer the remains of the unborn child for final**  
162 **disposition. The form shall include a statement, signed by the woman,**

163 **authorizing the physician, qualified professional, or the pathologist**  
164 **who will perform the tissue examination and the funeral establishment**  
165 **to transfer the remains for final disposition following the tissue**  
166 **examination and to communicate any information necessary for such**  
167 **transfers. The disposition shall be in accordance with state laws and**  
168 **regulations providing for disposition of human remains. If the woman**  
169 **seeks to amend her choice of funeral establishment or disposition**  
170 **means, she shall notify, in writing, the abortion facility or hospital**  
171 **prior to the transfer of the remains to the funeral establishment. If the**  
172 **woman chooses not to have the remains of the unborn child buried or**  
173 **cremated, the remains shall be disposed of in accordance with this**  
174 **chapter and state law. A copy of the form containing the woman's**  
175 **choice of final disposition and any amendments to such form shall be**  
176 **included in the woman's medical record and shall be considered**  
177 **protected health information; and**

178 **(10) In the case of a surgical abortion, the physician who is to**  
179 **perform or induce the abortion or a qualified professional shall inform**  
180 **the woman that she has the right to obtain a death certificate for the**  
181 **unborn child under section 193.255. If the woman decides, in writing**  
182 **on a form provided by the department, to request a death certificate to**  
183 **be created for the unborn child, a copy of such form shall be made a**  
184 **part of the woman's medical record and within seventy-two hours of**  
185 **completion of the abortion procedure, the physician who performed or**  
186 **induced the abortion shall file a completed notification of death with**  
187 **the state registrar in accordance with rules promulgated by the**  
188 **department.**

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

200           3. No abortion shall be performed or induced unless and until the woman  
201 upon whom the abortion is to be performed or induced certifies in writing on a  
202 checklist form provided by the department that she has been presented all the  
203 information required in subsection 1 of this section, that she has been provided  
204 the opportunity to view an active ultrasound image of the unborn child and hear  
205 the heartbeat of the unborn child if it is audible, and that she further certifies  
206 that she 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 of  
209 twenty-two weeks gestational age or older unless and until the woman upon  
210 whom the abortion is to be performed or induced has been provided the  
211 opportunity to choose to have an anesthetic or analgesic administered to  
212 eliminate or alleviate pain to the unborn child caused by the particular method  
213 of abortion to be performed or induced. The administration of anesthesia or  
214 analgesics shall be performed in a manner consistent with standard medical  
215 practice in the community.

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

- 223           (1) Rape crisis centers, as defined in section 455.003;  
224           (2) Shelters for victims of domestic violence, as defined in section 455.200;  
225 and  
226           (3) Orders of protection, pursuant to chapter 455.

227           6. The physician who is to perform or induce the abortion shall, at least  
228 seventy-two hours prior to such procedure, inform the woman orally and in person  
229 of:

- 230           (1) The immediate and long-term medical risks to the woman associated  
231 with the proposed abortion method including, but not limited to, infection,  
232 hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies  
233 or the ability to carry a subsequent child to term, and possible adverse  
234 psychological effects associated with the abortion; and  
235           (2) The immediate and long-term medical risks to the woman, in light of

236 the anesthesia and medication that is to be administered, the unborn child's  
237 gestational age, and the woman's medical history and medical conditions.

238 7. No physician shall perform or induce an abortion unless and until the  
239 physician has received and signed a copy of the form prescribed in subsection 3  
240 of this section. The physician shall retain a copy of the form in the patient's  
241 medical record.

242 8. In the event of a medical emergency as provided by section 188.039, the  
243 physician who performed or induced the abortion shall clearly certify in writing  
244 the nature and circumstances of the medical emergency. This certification shall  
245 be signed by the physician who performed or induced the abortion, and shall be  
246 maintained under section 188.060.

247 9. No person or entity shall require, obtain, or accept payment for an  
248 abortion from or on behalf of a patient until at least seventy-two hours have  
249 passed since the time that the information required by subsection 1 of this section  
250 has been provided to the patient. Nothing in this subsection shall prohibit a  
251 person or entity from notifying the patient that payment for the abortion will be  
252 required after the seventy-two-hour period has expired if she voluntarily chooses  
253 to have the abortion.

254 10. The term "qualified professional" as used in this section shall refer to  
255 a physician, physician assistant, registered nurse, licensed practical nurse,  
256 psychologist, licensed professional counselor, or licensed social worker, licensed  
257 or registered under chapter 334, 335, or 337, acting under the supervision of the  
258 physician performing or inducing the abortion, and acting within the course and  
259 scope of his or her authority provided by law. The provisions of this section shall  
260 not be construed to in any way expand the authority otherwise provided by law  
261 relating to the licensure, registration, or scope of practice of any such qualified  
262 professional.

263 11. By November 30, 2010, the department shall produce the written  
264 materials and forms described in this section. Any written materials produced  
265 shall be printed in a typeface large enough to be clearly legible. All information  
266 shall be presented in an objective, unbiased manner designed to convey only  
267 accurate scientific and medical information. The department shall furnish the  
268 written materials and forms at no cost and in sufficient quantity to any person  
269 who performs or induces abortions, or to any hospital or facility that provides  
270 abortions. The department shall make all information required by subsection 1  
271 of this section available to the public through its department website. The

272 department shall maintain a toll-free, twenty-four-hour hotline telephone number  
273 where a caller can obtain information on a regional basis concerning the agencies  
274 and services described in subsection 1 of this section. No identifying information  
275 regarding persons who use the website shall be collected or maintained. The  
276 department shall monitor the website on a regular basis to prevent tampering  
277 and correct any operational deficiencies.

278         12. In order to preserve the compelling interest of the state to ensure that  
279 the choice to consent to an abortion is voluntary and informed, and given freely  
280 and without coercion, the department shall use the procedures for adoption of  
281 emergency rules under section 536.025 in order to promulgate all necessary rules,  
282 forms, and other necessary material to implement this section by November 30,  
283 2010.

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

193.255. 1. The state registrar and other custodians of vital records  
2 authorized by the state registrar to issue certified copies of vital records upon  
3 receipt of application shall issue a certified copy of any vital record in his custody  
4 or a part thereof to any applicant having a direct and tangible interest in the  
5 vital record. Each copy issued shall show the date of registration, and copies  
6 issued from records marked "Delayed" or "Amended" shall be similarly marked  
7 and show the effective date. The documentary evidence used to establish a  
8 delayed certificate shall be shown on all copies issued. All forms and procedures  
9 used in the issuance of certified copies of vital records in the state shall be  
10 provided or approved by the state registrar.

11         2. A certified copy of a vital record or any part thereof, issued in  
12 accordance with subsection 1 of this section, shall be considered for all purposes  
13 the same as the original and shall be prima facie evidence of the facts stated  
14 therein, provided that the evidentiary value of a certificate or record filed more  
15 than one year after the event, or a record which has been amended, shall be  
16 determined by the judicial or administrative body or official before whom the  
17 certificate is offered as evidence.

18           3. The federal agency responsible for national vital statistics may be  
19 furnished such copies or data from the system of vital statistics as it may require  
20 for national statistics, provided such federal agency share in the cost of collecting,  
21 processing, and transmitting such data, and provided further that such data shall  
22 not be used for other than statistical purposes by the federal agency unless so  
23 authorized by the state registrar.

24           4. Federal, state, local and other public or private agencies may, upon  
25 request, be furnished copies or data of any other vital statistics not obtainable  
26 under subsection 1 of this section for statistical or administrative purposes upon  
27 such terms or conditions as may be prescribed by regulation, provided that such  
28 copies or data shall not be used for purposes other than those for which they were  
29 requested unless so authorized by the state registrar.

30           5. The state registrar may, by agreement, transmit copies of records and  
31 other reports required by sections 193.005 to 193.325 to offices of vital statistics  
32 outside this state when such records or other reports relate to residents of those  
33 jurisdictions or persons born in those jurisdictions. This agreement shall require  
34 that the copies be used for statistical and administrative purposes only, and the  
35 agreement shall further provide for the retention and disposition of such  
36 copies. Copies received by the department from offices of vital statistics in other  
37 states shall be handled in the same manner as prescribed in this section.

38           6. No person shall prepare or issue any certificate which purports to be  
39 an original, certified copy, or copy of a vital record except as authorized herein  
40 or by regulations adopted hereunder.

41           7. Upon application from either parent, or if both parents are deceased,  
42 the sibling of the stillborn child, pursuant to subsection 7 of section 193.165, the  
43 state registrar or other custodians of vital records shall issue to such applicant  
44 a certificate of birth resulting in stillbirth. The certificate shall be based upon  
45 the information available from the spontaneous fetal death report filed pursuant  
46 to section 193.165. Any certificate of birth resulting in stillbirth issued shall  
47 conspicuously include, in no smaller than twelve-point type, the statement "This  
48 is not proof of a live birth.". No certificate of birth resulting in stillbirth shall be  
49 issued to any person other than a parent, or if both parents are deceased, the  
50 sibling of the stillborn child who files an application pursuant to section 193.165.  
51 The state registrar or other custodians of vital records are authorized to charge  
52 a minimal fee to such applicant to cover the actual costs of providing the  
53 certificate pursuant to this section.

54           8. Any parent, or if both parents are deceased, any sibling of the stillborn  
55 child may file an application for a certificate of birth resulting in stillbirth for a  
56 birth that resulted in stillbirth prior to August 28, 2004.

57           **9. Upon application from the mother of an unborn child whose**  
58 **death was caused by a surgical abortion under chapter 188, the state**  
59 **registrar shall issue a death certificate for the unborn child based upon**  
60 **the information available from the notification of death filed under**  
61 **section 188.027; provided, that the mother may choose to have the cause**  
62 **of death left blank. Any death certificate issued under this subsection**  
63 **shall include, in no smaller than twelve-point type, the statement "This**  
64 **certificate is for personal use only and is not proof of a live birth." No**  
65 **death certificate under this subsection shall be issued to any person**  
66 **other than the mother. Such certificates, applications for such**  
67 **certificates, and notifications of death in the possession of the registrar**  
68 **or any designee of the registrar shall be considered closed records**  
69 **under chapter 610, except as otherwise provided in this subsection. No**  
70 **records shall be transferred to the Missouri state archives, disclosed for**  
71 **any research purposes, or included in any system for national, state, or**  
72 **local vital statistics, notwithstanding the provisions of sections 193.225**  
73 **or 193.245 or any other law to the contrary. The registrar shall be**  
74 **authorized to charge a minimal fee to the mother to cover the actual**  
75 **costs of providing the certificate.**

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