

SECOND REGULAR SESSION

SENATE BILL NO. 758

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS HOUSE, McKENNA, JOHNSON, KINDER, SCOTT, SCHNEIDER,
EHLMANN, CHILDERS, RUSSELL, KLARICH, KENNEY, FLOTRON, MUELLER, WIGGINS,
GRAVES, CURLS, YECKEL, DePASCO, ROHRBACH AND SINGLETON.

Read 1st time January 19, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2980.011

AN ACT

To repeal sections 188.015, 188.030, 188.035 and 188.075, RSMo 1994, relating to banning partial birth abortions, and to enact in lieu thereof five new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 188.015, 188.030, 188.035 and 188.075, RSMo 1994, are repealed and five new sections enacted in lieu thereof, to be known as sections 188.015, 188.030, 188.033, 188.035 and 188.075, to read as follows:

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

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

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

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

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

(5) **"Live birth", the meaning specified in section 193.015, RSMo;**

(6) **"Partial birth abortion", an abortion in which the child is intentionally:**

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

(a) Delivered a considerable part of the way out of his or her mother's womb for the purpose of killing the child; and

(b) Killed while the child is a considerable part of the way out of his or her mother's womb;

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

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

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

188.030. 1. No abortion of a viable unborn child shall be performed unless necessary to preserve the life or health of the woman. Before a physician may perform an abortion upon a pregnant woman after such time as her unborn child has become viable, such physician shall first certify in writing that the abortion is necessary to preserve the life or health of the woman and shall further certify in writing the medical indications for such abortion and the probable health consequences.

2. Any physician who performs an abortion upon a woman carrying a viable unborn child shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child. In cases where the method or technique of abortion which would most likely preserve the life and health of the unborn child would present a greater risk to the life and health of the woman than another available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

3. An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the **second** physician required by this section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child; provided that it does not pose an increased risk to the life or health of the woman.

188.033. No person shall knowingly perform a partial birth abortion unless necessary to preserve the life of the mother. Any person who violates the provisions of this section is guilty of a class A felony.

188.035. [Whoever, with intent to do so, shall take the life of a child aborted alive, shall

be] **No person shall knowingly kill a child after an abortion which resulted in the live birth of the child. Any person who violates the provisions of this section is guilty of murder [of] in the second degree.**

188.075. Any person who contrary to the provisions of sections 188.010 to 188.085 knowingly performs or aids in the performance of any abortion or knowingly fails to perform any action required by sections 188.010 to 188.085 [shall be] **is** guilty of a class A misdemeanor, **unless a different penalty is specifically provided**, and, upon conviction, shall be punished as provided by law.

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