

# Journal of the Senate

FIRST REGULAR SESSION

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SEVENTY-FIFTH DAY—WEDNESDAY, MAY 26, 1999

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The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

## RESOLUTIONS

On behalf of Senator Kenney, Senator Quick offered Senate Resolution No. 968, regarding Chad Estes Sanderson, Blue Springs, which was adopted.

On behalf of Senator Kenney, Senator Quick offered Senate Resolution No. 969, regarding Carl Simon Baker, Kansas City, which was adopted.

On behalf of Senator Kenney, Senator Quick offered Senate Resolution No. 970, regarding Brian Joseph McEntee, Independence, which was adopted.

On behalf of Senator Kenney, Senator Quick offered Senate Resolution No. 971, regarding Kyle Richard Morrison, Independence, which was adopted.

On behalf of Senator Kenney, Senator Quick offered Senate Resolution No. 972, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Nelson Elliott, Independence, which was adopted.

On behalf of Senator Kenney, Senator Quick offered Senate Resolution No. 973, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Charles Rotz, Independence, which was adopted.

On behalf of Senator Kenney, Senator Quick offered Senate Resolution No. 974, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. James McPhail, Independence, which was adopted.

On behalf of Senator Kenney, Senator Quick offered Senate Resolution No. 975, regarding Officer Colby Lalli, Blue Springs, which was

adopted.

On behalf of Senator Steelman, Senator Quick offered Senate Resolution No. 976, regarding the Rolla Optimist Club, which was adopted.

On behalf of Senator House, Senator Quick offered Senate Resolution No. 977, regarding Alice Hildebrand, Harvester, which was adopted.

On behalf of Senator Singleton, Senator Quick offered Senate Resolution No. 978, regarding Evalina "Willie" Shippee, MSN, RN, which was adopted.

On behalf of Senator Steelman, Senator Quick offered Senate Resolution No. 979, regarding Harry Ray Baker, Holts Summit, which was adopted.

On behalf of Senator Caskey, Senator Quick offered Senate Resolution No. 980, regarding Pat Matthews, Peculiar, which was adopted.

On behalf of Senator Caskey, Senator Quick offered Senate Resolution No. 981, regarding Thomas Daniel Edmunds, Ed.D., Warrensburg, which was adopted.

On behalf of Senator Scott, Senator Quick offered Senate Resolution No. 982, regarding the death of John "Dinty" Moore, St. Louis, which was adopted.

On behalf of Senator Graves, Senator Quick offered Senate Resolution No. 983, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Homer Ulmer, Hopkins, which was adopted.

On behalf of Senator Graves, Senator Quick offered Senate Resolution No. 984, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Emery Pickering, Worth, which was adopted.

On behalf of Senator Graves, Senator Quick offered Senate Resolution No. 985, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. John L. Parman, Barnard, which was adopted.

On behalf of Senator Graves, Senator Quick offered Senate Resolution No. 986, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Owen Henderson, Jamesport, which was adopted.

On behalf of Senator Graves, Senator Quick offered Senate Resolution No. 987, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Paul O'Riley, Fairfax, which was adopted.

On behalf of Senator Graves, Senator Quick offered Senate Resolution No. 988, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Donald McCollum, Milan, which was adopted.

On behalf of Senator Graves, Senator Quick offered Senate Resolution No. 989, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Francis Berg, Parnell, which was adopted.

On behalf of Senators Schneider and Goode, Senator Quick offered Senate Resolution No. 990, regarding the Old Chain of Rocks Bridge and Trailnet, Inc., which was adopted.

On behalf of Senator Kenney, Senator Quick offered Senate Resolution No. 991, regarding Ben F. Weir, Jr., Blue Springs, which was adopted.

On behalf of Senator Caskey, Senator Quick offered Senate Resolution No. 992, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Norvin Glenn Schenker, Rockville, which was adopted.

On behalf of Senator Caskey, Senator Quick offered Senate Resolution No. 993, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Russell Lee Jenkins, Harrisonville, which was adopted.

On behalf of Senator Caskey, Senator Quick offered Senate Resolution No. 994, regarding Darold Wulfekoetter, Butler, which was adopted.

On behalf of Senator Rohrbach, Senator Quick offered Senate Resolution No. 995, regarding Brian King, Jr., Jefferson City, which was adopted.

On behalf of Senator Flotron, Senator Quick

offered Senate Resolution No. 996, regarding Elaine and Gentry Taylor, Crestwood, which was adopted.

On behalf of Senator Maxwell, Senator Quick offered Senate Resolution No. 997, regarding Charlotte Nelson, Macon, which was adopted.

On behalf of Senator Maxwell, Senator Quick offered Senate Resolution No. 998, regarding Myrna Main, Macon, which was adopted.

On behalf of Senator House, Senator Quick offered Senate Resolution No. 999, regarding Joel Austin McCann, Wentzville, which was adopted.

On behalf of Senator Banks, Senator Quick offered Senate Resolution No. 1000, regarding the New Sunny Mount Missionary Baptist Church, St. Louis, which was adopted.

#### REPORTS OF STANDING COMMITTEES

Senator Quick, Vice-Chairman of the Committee on Rules, Joint Rules and Resolutions, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which were referred **CCS for HS for HCS for SS for SCS for SBs 1, 92, 111, 129 and 222; CCS No. 2 for HS for HCS for SCS for SBs 8 and 173; CCS for HS for HCS for SS for SCS for SBs 14, 60 and 69; CCS for HS for SS for SCS for SB 19; CCS No. 2 for HS for HCS for SB 20; CCS for HS for HCS for SCS for SB 61; SB 71; SB 115; HS for HCS for SS for SCS for SBs 160 and 82; CCS for HCS for SB 196; SCS for SB 211; CCS for SB 294; CCS for HS for HCS for SCS for SBs 308 and 314; CCS for HS for SB 326; SCS for SBs 328, 87, 100 and 55; CCS for HS for HCS for SS for SCS for SB 335; HS for HCS for SCS for SBs 387, 206 and 131; CCS for HS for HCS for SCS for SB 394; CCS for HS for HCS for SCS for SB 436; HS for SCS for SB 498; and HS for HCS for SB 518**, begs leave to report that it has examined the same and finds that the bills have been duly enrolled and that the printed copies furnished the Senators are correct.

#### SIGNING OF BILLS

The President Pro Tem announced that all

other business would be suspended and **CCS** for **HS** for **HCS** for **SS** for **SCS** for **SBs 1, 92, 111, 129 and 222**; **CCS No. 2** for **HS** for **HCS** for **SCS** for **SBs 8 and 173**; **CCS** for **HS** for **HCS** for **SS** for **SCS** for **SBs 14, 60 and 69**; **CCS** for **HS** for **SS** for **SCS** for **SB 19**; **CCS No. 2** for **HS** for **HCS** for **SB 20**; **CCS** for **HS** for **HCS** for **SCS** for **SB 61**; **SB 71**; **SB 115**; **HS** for **HCS** for **SS** for **SCS** for **SBs 160 and 82**; **CCS** for **HCS** for **SB 196**; **SCS** for **SB 211**; **CCS** for **SB 294**; **CCS** for **HS** for **HCS** for **SCS** for **SBs 308 and 314**; **CCS** for **HS** for **SB 326**; **SCS** for **SBs 328, 87, 100 and 55**; **CCS** for **HS** for **HCS** for **SS** for **SCS** for **SB 335**; **HS** for **HCS** for **SCS** for **SBs 387, 206 and 131**; **CCS** for **HS** for **HCS** for **SCS** for **SB 394**; **CCS** for **HS** for **HCS** for **SCS** for **SB 436**; **HS** for **SCS** for **SB 498**; and **HS** for **HCS** for **SB 518**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the bills would be signed by the President Pro Tem to the end that they may become law. No objections being made, the bills were so read by the Secretary and signed by the President Pro Tem.

### **BILLS DELIVERED TO THE GOVERNOR**

**CCS** for **HS** for **HCS** for **SS** for **SCS** for **SBs 1, 92, 111, 129 and 222**; **CCS No. 2** for **HS** for **HCS** for **SCS** for **SBs 8 and 173**; **CCS** for **HS** for **HCS** for **SS** for **SCS** for **SBs 14, 60 and 69**; **CCS** for **HS** for **SS** for **SCS** for **SB 19**; **CCS No. 2** for **HS** for **HCS** for **SB 20**; **CCS** for **HS** for **HCS** for **SCS** for **SB 61**; **SB 71**; **SB 115**; **HS** for **HCS** for **SS** for **SCS** for **SBs 160 and 82**; **CCS** for **HCS** for **SB 196**; **SCS** for **SB 211**; **CCS** for **SB 294**; **CCS** for **HS** for **HCS** for **SCS** for **SBs 308 and 314**; **CCS** for **HS** for **SB 326**; **SCS** for **SBs 328, 87, 100 and 55**; **CCS** for **HS** for **HCS** for **SS** for **SCS** for **SB 335**; **HS** for **HCS** for **SCS** for **SBs 387, 206 and 131**; **CCS** for **HS** for **HCS** for **SCS** for **SB 394**; **CCS** for **HS** for **HCS** for **SCS** for **SB 436**; **HS** for **SCS** for **SB 498**; and **HS** for **HCS** for **SB 518**, after having been duly signed by the Speaker of the House of Representatives in open session, were delivered to the Governor by the Secretary of the Senate.

### **SIGNING OF BILLS**

The President Pro Tem announced that all other business would be suspended and **SCS** for **HCS** for **HB 60**; **CCS** for **SCS** for **HCS** for **HB 139**; **HS** for **HB 162**; **SS No. 2** for **SCS** for **HB 191**; **HB 261**; **CCS** for **SS** for **SCS** for **HCS** for **HB 267**; **SS** for **SCS** for **HCS** for **HBs 316, 660 and 203**; **CCS** for **SCS** for **HB 368**; **SCS** for **HB 401**; **CCS** for **SS** for **SCS** for **HS** for **HB 450**; **CCS** for **SS** for **SCS** for **HCS** for **HB 490** and **HCS** for **HB 308**; **CCS** for **SS** for **SCS** for **HS** for **HB 516**; **CCS** for **SCS** for **HCS** for **HBs 603, 722 and 783**; **CCS** for **SS** for **SCS** for **HCS** for **HB 676**; **CCS** for **SS** for **SCS** for **HS** for **HCS** for **HB 701**; **CCS** for **SS** for **SCS** for **HS** for **HCS** for **HB 793**; **CCS** for **SCS** for **HS** for **HCS** for **HB 852**; **SS** for **SCS** for **HCS** for **HB 888**; **SS No. 2** for **HCS** for **HB 889**; and **HB 903**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the bills would be signed by the President Pro Tem to the end that they may become law. No objections being made, the bills were so read by the Secretary and signed by the President Pro Tem.

### **OBJECTIONS**

Senator Singleton offered the following constitutional objection:

May 14, 1999

The Honorable Edward Quick  
Senate President Pro Tem  
State Capitol, Room 326  
Jefferson City, MO 65101

RE: Constitutional Objection to the Conference Committee Report on Senate Committee Substitute for House Committee Substitute for House Bill 343.

Dear Senator Quick:

I would like to lodge a formal constitutional objection to **CCS/SCS/HCS/HB 343** based on the published Senate Rules, for the following reasons:

1. The content of the bill went beyond the scope and title of the original bill. The title addressed professional licensing when in fact the content of the bill addressed ambulances, transportation of patients, fireworks and other subjects, which were not included in the original bill nor covered by the final title.
2. A Senate amendment was passed on April 27, 1999, dealing with the lien laws for certain professionals, that were licensed under this act. When Senator Harold Caskey, Senate sponsor, made a motion to take **SCS/HCS/HB 343** as amended to a conference, the conference report then altered the Senate amendment to change public policy which was not allowed by his Senate

motion made on May 11, 1999, on page 1322 on the Senate Journal. The motion for conference did not allow for exceeding the difference and the above mentioned amendment was substantially changed including public policy and methods of payments for attorneys.

3. As cited in *Hammerschmidt v. Boone County* 877 S.W.2d98, Article III, section 23, of the Missouri Constitution is one of several procedural limitations over legislative action. It provides: "no bill shall contain more than one subject which shall be clearly expressed in its title." The constitutional prohibition against bills containing more than one subject is a corollary to the constitutional requirement that "no bill shall be amended in its passage through either house as to change its original purpose." Due to multiple unrelated issues in CCS/SCS/HCS/HB 343, this bill is unconstitutional.

For this and for the content of the bill, I believe a constitutional objection should be sustained, CCS/SCS/HCS/HB 343 ruled not in order, and therefore, must be vetoed and case law upholding the above findings.

Sincerely,

/s/ Marvin Singleton, MD

Marvin A. Singleton, MD  
State Senator, 32nd District

### SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **CCS for SCS for HCS for HB 343**, having passed both branches of the General Assembly, would be read at length by the Secretary, and signed by the President Pro Tem to the end that it may become law. The bill was so read by the Secretary and signed by the President Pro Tem.

### OBJECTIONS

Senator Jacob submitted the following constitutional objection:

CONSTITUTIONAL OBJECTION TO  
SENATE SUBSTITUTE #3 FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILLS NOS. 427, 40, 196 & 404

COMES NOW, Ken Jacob of the 19th Senatorial District, a duly elected member of the Missouri Senate, to file this constitutional objection to Senate Substitute #3 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Numbers 427, 40, 196 & 404, First Regular Session of the Ninetieth General Assembly, as authorized by the provisions of Article III, Section 30, Constitution of Missouri.

I object to the signing of Senate Substitute #3 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Numbers 427, 40, 196 & 404 for the

following reasons:

1) Section 565.300.5 of the bill provides an exception to criminal responsibility for a physician to save the life of the mother during pregnancy or to save the life of any unborn or partially born child of the same pregnancy. The subsection does not provide an exception to preserve the health of the mother. Consequently, a physician who performs an abortion to prevent serious, permanent physical injury to a major bodily function of the mother could be prosecuted and found guilty of murder in the second degree.

2) Section 565.300.3 of the bill defines the crime of infanticide as "causing the death of a living infant with the purpose to cause said death by an overt act performed with the infant is partially born or born."

3) The definition of "partially born" contained in section 565.300.2 of the bill does not reference viability in any manner, and only refers to "partial separation of a child from the mother with the child's head intact with the torso." As a result, a physician could face a murder prosecution for performing an abortion on a fetus early in a woman's pregnancy, prior to the formation of any limbs, and that had no chance of survival outside the womb.

4) Supporters of the bill are expanding the prohibition against abortions of viable unborn children contained in section 188.030, RSMo, which permits such an abortion when "necessary to preserve the life or health of the woman." The law specifies that even the second physician, required to take all reasonable steps to preserve the life and health of the viable unborn child, shall give primary consideration to the mother. Pursuant to section 188.030, RSMo, the acts of the second physician to protect the life of the viable unborn child are required provided "it does not pose an increased risk to the life or health of the woman."

5) The intent of the supporters to expand current the provisions of Chapter 188, RSMo, by enacting a criminal prohibition contained in the bill was evidenced by their rejection of numerous amendments offered to include a limitation to pre-viable unborn children and to include a health exception for the mother (Senate Journal, April 28, 1999, pages 1000 - 1011; May 3, 1999, pages 1040 - 1041; May 4, 1999, pages 1069 - 1070, 1081 - 1083.) Senate Substitute #3 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Numbers 427, 40, 196 & 404, contained the original language of the prior substitute and incorporated the amendments that had been adopted.

4) Since 1973, the United States Supreme Court has consistently held that a state had a compelling interest in protecting the fetus only when the fetus became viable, and even then abortion had to be available if necessary to preserve the woman's life or health. Statutes that attempt to prohibit abortions pre-viability, or without consideration of the woman's health, are unconstitutional. Roe v. Wade, 410 U.S. 113 (1973); Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992).

5) Federal courts have recently repeatedly invalidated laws that restricted abortion services to women without regard to viability or that failed to contain an exception when the woman's health is endangered. Evans v. Kelley, 977 F. Supp. 1283 (E.D. Mich. 1997); Women's Medical Professional Corp. v. Voinovich, 130 F.3d 187 (6th Cir. 1997), cert. denied, 118 S. Ct. 1347 (1998).

Respectfully Submitted,

/s/ Ken Jacob

Senator, 19th District

**SIGNING OF CONCURRENT  
RESOLUTIONS**

The President Pro Tem announced that all other business would be suspended and **HCR 17** and **HCR 35**, would be read at length by the Secretary and, if no objections be made, be signed to the end that they shall have the full force and effect of law. No objections being made, the concurrent

resolutions were read by the Secretary and signed by the President Pro Tem.

On motion of Senator Quick, the Senate adjourned, pursuant to the Constitution.

ROGER B. WILSON  
Lieutenant Governor

TERRY L. SPIELER  
Secretary of the Senate

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