

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 156

92ND GENERAL ASSEMBLY

0545L.06T

2003

AN ACT

To repeal section 188.039, RSMo, and to enact in lieu thereof two new sections relating to a twenty-four hour waiting period for certain medical procedures, with an effective date for a certain section.

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

Section A. Section 188.039, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 188.039 and 188.043, to read as follows:

188.039. 1. [No physician shall perform an abortion unless, prior to such abortion, the physician certifies in writing that the woman gave her informed consent, freely and without coercion, after the attending physician had informed her of the information contained in subsection 2 of this section and shall further certify in writing the pregnant woman's age, based upon proof of age offered by her.

2. In order to insure that the consent for an abortion is truly informed consent, no abortion shall be performed or induced upon a pregnant woman unless she has signed a consent form that shall be supplied by the state department of health and senior services, acknowledging that she has been informed by the attending physician of the following facts:

(1) That according to the best medical judgment of her attending physician whether she is or is not pregnant;

(2) The particular risks associated with the abortion technique to be used;

(3) Alternatives to abortion shall be given by the attending physician.

3. The physician may inform the woman of any other material facts or opinions, or provide any explanation of the above information which, in the exercise of his best medical

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

16 judgment, is reasonably necessary to allow the woman to give her informed consent to the
17 proposed abortion, with full knowledge of its nature and consequences.] **For purposes of this**
18 **section, "medical emergency" means a condition which, on the basis of the physician's**
19 **good faith clinical judgment, so complicates the medical condition of a pregnant woman**
20 **as to necessitate the immediate abortion of her pregnancy to avert her death or for which**
21 **a delay will create a serious risk of substantial and irreversible impairment of a major**
22 **bodily function.**

23 **2. Except in the case of medical emergency, no person shall perform or induce an**
24 **abortion unless at least twenty-four hours prior thereto, a treating physician has conferred**
25 **with the patient and discussed with her the indicators and contra-indicators, and risk**
26 **factors, including any physical, psychological, or situational factors for the proposed**
27 **procedure and the use of medications, including but not limited to mifepristone, in light**
28 **of her medical history and medical condition. For an abortion performed or an abortion**
29 **induced by a drug or drugs, such conference shall take place at least twenty-four hours**
30 **prior to the writing or communication of the first prescription for such drug or drugs in**
31 **connection with inducing an abortion. Only one such conference shall be required for each**
32 **abortion.**

33 **3. The patient shall be evaluated by a treating physician during the conference for**
34 **indicators and contraindicators, risk factors, including any physical, psychological, or**
35 **situational factors which would predispose the patient to or increase the risk of**
36 **experiencing one or more adverse physical, emotional, or other health reactions to the**
37 **proposed procedure or drug or drugs in either the short or long term as compared with**
38 **women who do not possess such risk factors.**

39 **4. At the end of the conference, and if the woman chooses to proceed with the**
40 **abortion, a treating physician shall sign and shall cause the patient to sign a written**
41 **statement that the woman gave her informed consent freely and without coercion after the**
42 **physician had discussed with her the indicators and contraindicators, and risk factors,**
43 **including any physical, psychological, or situational factors. All such executed statements**
44 **shall be maintained as part of the patient's medical file, subject to the confidentiality laws**
45 **and rules of this state.**

46 **5. The director of the department of health and senior services shall disseminate**
47 **a model form that physicians may use as the written statement required by this section, but**
48 **any lack or unavailability of such a model form shall not affect the duties of the physician**
49 **set forth in subsections 2 to 4 of this section.**

188.043. 1. No person shall perform or induce a surgical or medical abortion unless

2 such person has proof of medical malpractice insurance with coverage amounts of at least
3 five hundred thousand dollars.

4 2. For the purpose of this section, "medical malpractice insurance" means
5 insurance coverage against the legal liability of the insured and against loss, damage, or
6 expense incident to a claim arising out of the death or injury of any person as a result of
7 the negligence or malpractice in rendering professional service by any health care
8 provider.

9 3. No abortion facility or hospital shall employ or engage the services of a person
10 to perform one or more abortions if the person does not have proof of medical malpractice
11 insurance pursuant to this section, except the abortion facility or hospital may provide
12 medical malpractice insurance for the services of persons employed or engaged by such
13 facility or hospital.

14 4. Notwithstanding the provisions of section 334.100, RSMo, failure of a person to
15 maintain the medical malpractice insurance required by this section shall be an additional
16 ground for sanctioning of a person's license, certificate, or permit.

Section B. The effective date of section 188.043 of section A of this act shall be
2 January 1, 2004.