

SECOND REGULAR SESSION

# HOUSE BILL NO. 1339

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86) (Sponsor), LEMBKE, PHILLIPS,  
MUCKLER, ERVIN, VILLA, HARRIS (110), KELLY (36), BAKER AND HANAWAY (Co-sponsors).

Read 1<sup>st</sup> time January 29, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3297L.01I

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### AN ACT

To repeal sections 188.015 and 188.075, RSMo, and to enact in lieu thereof three new sections relating to consent to abortion, with penalty provisions.

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

Section A. Sections 188.015 and 188.075, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 188.015, 188.075, and 188.250, to read as  
3 follows:

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

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

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

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

10 (4) **"Department", the department of health and senior services;**

11 [(4)] (5) "Gestational age", length of pregnancy as measured from the first day of the  
12 woman's last menstrual period;

13 (6) **"Medical emergency", a condition which, on the basis of a physician's good**

**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.**

14 **faith clinical judgment, so complicates the medical condition of a pregnant woman as to**  
15 **necessitate the immediate abortion of her pregnancy to avert the death of the pregnant**  
16 **woman or for which a delay will create a serious risk of substantial and irreversible**  
17 **impairment of a major bodily function of the pregnant woman;**

18 [(5)] (7) "Physician", any person licensed to practice medicine in this state by the state  
19 board of registration of the healing arts;

20 [(6)] (8) "Unborn child", the offspring of human beings from the moment of conception  
21 until birth and at every stage of its biological development, including the human conceptus,  
22 zygote, morula, blastocyst, embryo, and fetus;

23 [(7)] (9) "Viability", that stage of fetal development when the life of the unborn child  
24 may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

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

6 **2. It shall be a defense for any person alleged to have violated any provision of this**  
7 **chapter that the person performed an action or did not perform an action because of a**  
8 **medical emergency. This defense shall be available in criminal, civil, and administrative**  
9 **actions or proceedings. The defendant shall have the burden of injecting the issue of**  
10 **medical emergency as a defense.**

188.250. 1. No person shall intentionally cause, aid, or assist a minor to obtain an  
2 abortion without the consent or consents required by section 188.028.

3 **2. Any person who violates subsection 1 of this section shall be civilly liable to the**  
4 **minor and to the person or persons required to give the consent or consents pursuant to**  
5 **section 188.028. A court may award damages, attorney's fees, and court costs to any**  
6 **person adversely affected by a violation of this section.**

7 **3. It shall not be a defense to a claim brought pursuant to this section that the**  
8 **abortion was performed or induced pursuant to consent to the abortion given in a lawful**  
9 **manner in the state or place where the abortion was performed or induced.**

10 **4. An unemancipated minor does not have capacity to consent to any action in**  
11 **violation of this section or section 188.028.**

12 **5. A court may enjoin conduct that would be in violation of this section upon**  
13 **petition by the attorney general, a prosecuting or circuit attorney, or any person adversely**  
14 **affected or who reasonably may be adversely affected by such conduct, upon a showing**  
15 **that such conduct:**

- 16           **(1) Is reasonably anticipated to occur in the future; or**
- 17           **(2) Has occurred in the past and that it is not unreasonable to expect that under**
- 18 **similar circumstances such conduct will be repeated.**