

SECOND REGULAR SESSION

HOUSE BILL NO. 1520

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WRIGHT-JONES (Sponsor), JOHNSON (47), DENISON, BAKER (25), CHAPPELLE-NADAL, BOWMAN, DAUS, BEAN, PARKER, STORCH, LAMPE, BROWN (50), DARROUGH, OXFORD, ZWEIFEL, CORCORAN, FRASER, HAYWOOD, WILDBERGER, BLAND, BOGETTO, PAGE, LeVOTA, LOWE (44), HUGHES, JOHNSON (90), CURLS, LOW (39), DONNELLY, BOYKINS, SANDERS BROOKS, HOSKINS, VOGT, JOHNSON (61), WALTON, EL-AMIN AND HARRIS (23) (Co-sponsors).

Read 1st time January 25, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4230L.011

AN ACT

To repeal section 170.015, RSMo, and to enact in lieu thereof six new sections relating to reducing the number of abortions in the state through the prevention first act, with penalty provisions.

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

Section A. Section 170.015, RSMo, is repealed and six new sections enacted in lieu
2 thereof, to be known as sections 170.015, 191.717, 191.718, 191.720, 192.970, and 338.012, to
3 read as follows:

170.015. 1. Any course materials and instruction relating to human sexuality and
2 sexually transmitted diseases shall be medically and factually accurate and shall:

3 (1) Present abstinence from sexual activity as the preferred choice of behavior in relation
4 to all sexual activity for unmarried pupils because it is the only method that is one hundred
5 percent effective in preventing pregnancy, sexually transmitted diseases and the emotional
6 trauma associated with adolescent sexual activity, and advise students that teenage sexual
7 activity places them at a higher risk of dropping out of school because of the consequences of
8 sexually transmitted diseases and unplanned pregnancy;

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

9 (2) Stress that sexually transmitted diseases are serious, possible, health hazards of
10 sexual activity. Pupils shall be provided with the latest medical information regarding exposure
11 to human immunodeficiency virus, acquired immune deficiency syndrome (AIDS), human
12 papilloma virus, hepatitis and other sexually transmitted diseases;

13 (3) Present students with the latest medically factual information regarding both the
14 possible side effects and health benefits of all forms of contraception, including the success and
15 failure rates for the prevention of pregnancy and sexually transmitted diseases;

16 (4) Include a discussion of the possible emotional and psychological consequences of
17 preadolescent and adolescent sexual activity and the consequences of adolescent pregnancy, as
18 well as the advantages of adoption, including the adoption of special needs children, and the
19 processes involved in making an adoption plan;

20 (5) Teach skills of conflict management, personal responsibility and positive self-esteem
21 through discussion and role-playing at appropriate grade levels to emphasize that the pupil has
22 the power to control personal behavior. Pupils shall be encouraged to base their actions on
23 reasoning, self-discipline, sense of responsibility, self-control, and ethical considerations, such
24 as respect for one's self and others. Pupils shall be taught not to make unwanted physical and
25 verbal sexual advances or otherwise exploit another person. Pupils shall be taught to resist
26 unwanted sexual advances and other negative peer pressure;

27 (6) Advise pupils of the laws pertaining to their financial responsibility to children born
28 in and out of wedlock and advise pupils of the provisions of chapter 566, RSMo, pertaining to
29 statutory rape.

30 2. Policies concerning referrals and parental notification regarding contraception shall
31 be determined by local school boards, consistent with the provisions of section 167.611, RSMo.

32 3. A school district which provides human sexuality instruction may separate students
33 according to gender for instructional purposes.

34 4. The board of a school district shall determine the specific content of the district's
35 instruction in human sexuality, in accordance with subsections 1 to 3 of this section, and shall
36 ensure that all instruction in human sexuality is appropriate to the age of the students receiving
37 such instruction.

38 5. A school district shall notify the parent or legal guardian of each student enrolled in
39 the district of:

40 (1) The basic content of the district's human sexuality instruction to be provided to the
41 student; and

42 (2) The parent's right to remove the student from any part of the district's human
43 sexuality instruction.

44 6. A school district shall make all curriculum materials used in the district's human
45 sexuality instruction available for public inspection pursuant to chapter 610, RSMo, prior to the
46 use of such materials in actual instruction.

47 **7. If any individual believes that the local school district is not complying with this**
48 **section, such individual may request in writing to the state auditor that the local school**
49 **district's curriculum on human sexuality be audited. If the state auditor finds that the**
50 **local school district has violated this section, the audit finding shall be forwarded to the**
51 **attorney general. If the attorney general agrees with the auditor's findings, the attorney**
52 **general shall advise such school district that both the state auditor and attorney general**
53 **have determined that the school district is not in compliance with the requirements of this**
54 **section. Any school district which does not correct the deficiencies in its human sexuality**
55 **curriculum to the satisfaction of both the state auditor and the attorney general in a timely**
56 **manner shall be considered as having a negative result for purposes of meeting the**
57 **objectives of any school improvement plan of the district.**

191.717. 1. Sections 191.717 and 191.718 shall be known and may be cited as the
2 **"Compassionate Assistance for Rape Emergencies (CARE) Act".**

3 **2. As used in sections 191.717 and 191.718, unless the context clearly indicates**
4 **otherwise, the following terms shall mean:**

5 **(1) "Emergency care to sexual assault victims", medical examinations, procedures,**
6 **or services provided at a hospital to a sexual assault victim following an alleged rape;**

7 **(2) "Emergency contraception", any drug or device approved by the Food and**
8 **Drug Administration that prevents pregnancy after sexual intercourse;**

9 **(3) "Health care facility", any urgent care center or facility that offers treatment**
10 **for patients during normal business, after-business, or weekend hours and that is affiliated**
11 **with a licensed hospital;**

12 **(4) "Medically and factually accurate and objective", verified or supported by the**
13 **weight of research conducted in compliance with accepted scientific methods and is**
14 **published in peer-reviewed journals where applicable, or comprising information that**
15 **leading professional organizations and agencies with relevant expertise in the field, such**
16 **as the American College of Obstetricians and Gynecologists (ACOG), recognize as accurate**
17 **and objective;**

18 **(5) "Sexual assault", the same meaning as such term is defined in section 566.040,**
19 **RSMo;**

20 **(6) "Sexual assault victim", a female who is alleged to have been raped and is**
21 **presented as a patient.**

191.718. 1. It shall be the standard of care for any hospital and any health care facility that provides emergency care to sexual assault victims to:

(1) Provide each sexual assault victim with medically and factually accurate and objective written and oral information about emergency contraception;

(2) Orally inform each sexual assault victim of her option to be provided emergency contraception at the hospital; and

(3) Provide the complete regimen of emergency contraception immediately at the hospital or health care facility to each sexual assault victim who requests it.

2. Hospitals and health care facilities shall ensure that each person who provides care to sexual assault victims is provided with medically and factually accurate and objective information about emergency contraception.

3. The department of health and senior services shall develop, prepare, and produce informational materials relating to emergency contraception for the prevention of pregnancy for distribution to use in any hospital or health care facility in the state in quantities sufficient to comply with the requirements of this section. The director, in collaboration with community sexual assault programs, may also approve informational materials from other sources.

4. The information materials must:

(1) Be medically and factually accurate and objective;

(2) Be clearly written and readily comprehensible in a culturally competent manner as the department deems necessary to inform victims of sexual assault; and

(3) Explain the nature of emergency contraception, including its use, safety, efficacy, and availability, and that it does not cause abortion.

5. The department of health and senior services shall respond to complaints and shall periodically determine whether hospitals and health care facilities are complying with the provisions of this section. The department may use all investigative tools available to verify compliance. If the department determines that a hospital or health care facility is not in compliance, the department shall:

(1) Impose an administrative penalty of five thousand dollars per woman who is denied medically and factually accurate and objective information about emergency contraception or who is not offered or provided emergency contraception; and

(2) Impose an administrative penalty of five thousand dollars for failure to comply with the provisions of this section and for every thirty days that a hospital or health care facility is not in compliance, an additional penalty of five thousand dollars shall be imposed.

36 **6. The department shall promulgate rules to implement the provisions of sections**
37 **191.717 and 191.718. Any rule or portion of a rule, as that term is defined in section**
38 **536.010, RSMo, that is created under the authority delegated in this section shall become**
39 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
40 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
41 **nonseverable and if any of the powers vested with the general assembly pursuant to**
42 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
43 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
44 **rule proposed or adopted after August 28, 2006, shall be invalid and void.**

191.720. 1. This section shall be known and may be cited as the "Birth Control
2 **Protection Act".**

3 **2. The general assembly of this state finds that:**

4 **(1) Citizens of this state have a protectable interest in the freedom from**
5 **unreasonable government intrusions into their private lives;**

6 **(2) This interest in freedom from unreasonable government intrusions into the**
7 **private lives of citizens encompasses and protects the right of consenting individuals to**
8 **obtain and use safe and effective methods of contraception without interference by**
9 **governmental entities;**

10 **(3) It is the public policy of this state that the interest in freedom from**
11 **unreasonable government intrusions into the private lives of citizens, and specifically the**
12 **right of consenting individuals to obtain and use safe and effective methods of**
13 **contraception without interference by governmental entities, shall be safeguarded and that**
14 **the laws of this state shall be interpreted and construed to recognize and protect these**
15 **rights.**

16 **3. Notwithstanding any other provisions of law, no governmental actor or entity,**
17 **whether state, county, municipal, or otherwise, within the state of Missouri, shall:**

18 **(1) Be authorized to act in any fashion so as to deprive consenting individuals of the**
19 **right to obtain and use safe and effective methods of contraception; or**

20 **(2) Interfere with or discriminate against, in the regulation or provision of benefits,**
21 **facilities, services, or information, the right of consenting individuals to obtain and use safe**
22 **and effective methods of contraception.**

23 **4. Nothing in this section shall be interpreted to prevent implementation of laws,**
24 **rules, ordinances, taxes, or regulations affecting the method and manner of sale or**
25 **distribution of contraceptives, provided such laws, rules, ordinances, taxes, or regulations**
26 **are reasonably designed to promote public health and safety, and do not have the effect of**
27 **unreasonably hindering public access to contraceptives.**

192.970. 1. Subject to appropriation, the department of health and senior services shall implement a women's health services program by July 1, 2007. Initial funding for the program shall be in the amount of five million dollars. Such program shall have the goal of reducing the number of unintended pregnancies in Missouri by providing women's health services through qualified health providers, as determined by the department.

2. For purposes of this section, women's health services shall include, but not be limited to:

- (1) Breast and cervical cancer checks;**
- (2) Screening and treatment for sexually transmitted diseases;**
- (3) HIV screening;**
- (4) Voluntary choice of contraception, including natural family planning;**
- (5) Infertility treatment;**
- (6) Patient education and pre-pregnancy counseling on the dangers of smoking, alcohol, and drug use during pregnancy;**
- (7) Education on sexual coercion and violence in relationships; and**
- (8) Prenatal and other health care referrals.**

338.012. 1. Every pharmacy licensed by the board of pharmacy owes a duty to properly fill the valid and lawful prescriptions of customers.

2. Every licensed pharmacy shall require employees and prospective employees to notify the pharmacy in writing of categories or types of prescriptions that such employee would decline to fill due to sincerely held religious beliefs.

3. Once notified under subsection 2 of this section, a licensed pharmacy may attempt to accommodate the employee's or prospective employee's sincerely held religious beliefs, so long as such accommodation can be made without causing undue hardship to the pharmacy or its clients.

4. For purposes of subsection 3 of this section, undue hardship shall have the same meaning as Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq.; including, but not limited to, the following factors:

- (1) Whether the proposed accommodation would delay the filling of prescriptions such that the pharmacy is not able to fill certain prescriptions in the equivalent time period as the pharmacy is filling other prescriptions of in-stock medications or devices at that time;**
- (2) The pharmacy's ability to fill the patient's prescription in-store;**
- (3) The pharmacy's financial costs in implementing the accommodation;**
- (4) The negative impact on the pharmacy's reputation or good will in the community due to failure to provide timely prescription services.**

21 **5. Every licensed pharmacy has a duty to treat each customer in a nonjudgmental**
22 **manner and ensure that each customer is not subjected to indignity, humiliation, breaches**
23 **of confidentiality, or pressure to fill or not to fill the prescription, regardless of whether an**
24 **accommodation has been implemented under subsection 3 of this section.**

25 **6. Violation of the provisions of this section shall subject the licensed pharmacy to**
26 **disciplinary action under section 338.055.**

27 **7. A person or governmental entity who believes that a violation of this section has**
28 **occurred may make an allegation of that fact to the board in writing.**

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