

SECOND REGULAR SESSION

HOUSE BILL NO. 2001

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RUPP.

Read 1st time March 13, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5597L.011

AN ACT

To repeal sections 188.015, 188.029, 188.030, 188.039, 188.055, 188.205, 188.210, and 188.215, RSMo, and to enact in lieu thereof ten new sections relating to abortion, with a penalty provision.

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

Section A. Sections 188.015, 188.029, 188.030, 188.039, 188.055, 188.205, 188.210, 2 and 188.215, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as 3 sections 188.011, 188.015, 188.016, 188.017, 188.029, 188.030, 188.055, 188.205, 188.210, and 4 188.215, to read as follows:

188.011. In accordance with section 1.205, RSMo, the general assembly accepts and 2 concurs that life begins at the time of conception, a conclusion confirmed by scientific 3 advances since the 1973 decision of *Roe v. Wade*, including the fact that each human being 4 is totally unique immediately at fertilization. In addition, the general assembly finds, and 5 in recognition of the technological advances and medical experience and body of 6 knowledge about abortions produced and made available since the 1973 decision of *Roe 7 v. Wade*, that to fully protect the rights, interests, and health of the pregnant mother, the 8 rights, interest, and life of her unborn child, and the mother's fundamental natural 9 intrinsic right to a relationship with her child, abortions in Missouri should be prohibited. 10 In addition, the general assembly finds that the guarantee of due process of law under the 11 Missouri Constitution applies equally to born and unborn human beings, and that under

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.

12 **the Missouri Constitution, a pregnant mother and her unborn child, each possess a natural**
13 **and unalienable right to life.**

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:

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 other than a hospital;

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

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

12 (5) "Physician", any person licensed to practice medicine in this state by the state board
13 of registration of the healing arts;

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

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

19 **in this chapter, the following terms shall mean:**

20 (1) "Fertilization", that point in time when a male human sperm penetrates the
21 zona pellucida of a female human ovum;

22 (2) "Pregnant", the human female reproductive condition of having a living unborn
23 human being within her body throughout the entire embryonic and fetal ages of the
24 unborn child from fertilization to full gestation and childbirth;

25 (3) "Unborn human being", an individual living member of the species, homo
26 sapiens, throughout the entire embryonic and fetal ages of the unborn child from
27 fertilization to full gestation and childbirth.

188.016. 1. No person shall knowingly administer to, prescribe for, or procure for,
2 or sell to any pregnant woman any medicine, drug, or other substance with the specific
3 intent of causing or abetting the termination of the life of an unborn human being. No
4 person shall knowingly use or employ any instrument or procedure upon a pregnant
5 woman with the specific intent of causing or abetting the termination of the life of an
6 unborn human being.

7 2. Any person who violates this section is guilty of a class A felony.

188.017. 1. No licensed physician who performs a medical procedure designed or intended to prevent the death of a pregnant mother is guilty of violating section 188.016. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of the unborn child in a manner consistent with conventional medical practice.

2. Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn child is not a violation of this section.

3. Nothing in this chapter shall be construed to subject a pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.

188.029. Before a physician performs an abortion to prevent the death of a pregnant woman on a woman [he] the physician has reason to believe is carrying an unborn child of twenty or more weeks gestational age, the physician shall first determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by the ordinarily skillful, careful, and prudent physician engaged in similar practice under the same or similar conditions. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the mother.

188.030. 1. No abortion of [a viable] an unborn child shall be performed in this state unless necessary to [preserve the life or health of the woman] prevent the death of a pregnant 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] prevent the death of the pregnant 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] of death of the pregnant 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] an unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

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

 188.055. 1. Every abortion facility, hospital, and physician shall be supplied with forms
2 by the department of health and senior services for use in regards to the consents and reports
3 required by sections 188.010 to 188.085. A purpose and function of such consents and reports
4 shall be [the preservation of maternal health and life] **preventing the death of the pregnant**
5 **woman** by adding to the sum of medical knowledge through the compilation of relevant maternal
6 [health and] life data and to monitor all abortions performed to assure that they are done only
7 under and in accordance with the provisions of the law.

 2. All information obtained by physician, hospital, or abortion facility from a patient for
9 the purpose of preparing reports to the department of health and senior services under sections
10 188.010 to 188.085 or reports received by the [division] **department of health and senior**
11 **services** shall be confidential and shall be used only for statistical purposes. Such records,
12 however, may be inspected and health data acquired by local, state, or national public health
13 officers.

 188.205. It shall be unlawful for any public funds to be expended for the purpose of
2 performing or assisting an abortion, not necessary to [save the life of the mother] **prevent the**
3 **death of a pregnant woman**, or for the purpose of encouraging or counseling a woman to have
4 an abortion not necessary to [save her life] **prevent her death**.

 188.210. It shall be unlawful for any public employee within the scope of his
2 employment to perform or assist an abortion, not necessary to [save the life of the mother]
3 **prevent the death of a pregnant woman**. It shall be unlawful for a doctor, nurse or other health
4 care personnel, a social worker, a counselor or persons of similar occupation who is a public
5 employee within the scope of his **or her** public employment to encourage or counsel a woman
6 to have an abortion not necessary to [save her life] **prevent her death**.

 188.215. It shall be unlawful for any public facility to be used for the purpose of
2 performing or assisting an abortion not necessary to [save the life of the mother] **prevent the**
3 **death of a pregnant woman** or for the purpose of encouraging or counseling a woman to have
4 an abortion not necessary to [save her life] **prevent her death**.

2 [188.039. 1. For purposes of this section, "medical emergency" means
3 a condition which, on the basis of the physician's good faith clinical judgment,
4 so complicates the medical condition of a pregnant woman as to necessitate the
5 immediate abortion of her pregnancy to avert her death or for which a delay will
6 create a serious risk of substantial and irreversible impairment of a major bodily
7 function.

8 2. Except in the case of medical emergency, no person shall perform or
9 induce an abortion unless at least twenty-four hours prior thereto a treating
10 physician has conferred with the patient and discussed with her the indicators and
11 contraindicators, and risk factors including any physical, psychological, or
12 situational factors for the proposed procedure and the use of medications,
13 including but not limited to mifepristone, in light of her medical history and
14 medical condition. For an abortion performed or an abortion induced by a drug
15 or drugs, such conference shall take place at least twenty-four hours prior to the
16 writing or communication of the first prescription for such drug or drugs in
17 connection with inducing an abortion. Only one such conference shall be
18 required for each abortion.

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

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

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

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