SECOND REGULAR SESSION

HOUSE COMMITTEE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 765

93RD GENERAL ASSEMBLY

Reported from the Committee on Health Care Policy April 10, 2006 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 765 Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

3546L.04C

AN ACT

To repeal section 431.064, RSMo, and to enact in lieu thereof one new section relating to emergency medical treatment, with an emergency clause.

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

Section A. Section 431.064, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 431.064, to read as follows:

431.064. 1. When an adult person, because of a medical condition, is treated by a teaching hospital for a medical school accredited by the American Osteopathic Association or the American Medical Association and such person is incapable of giving informed consent for an experimental treatment, test or drug, then such treatment, test or drug may proceed upon obtaining consent of a legal guardian, attorney-in-fact, or a family member in the following order of priority:

(1) Spouse unless the patient has no spouse, or is separated, or the spouse is physically or mentally incapable of giving consent, or the spouse's whereabouts is unknown or the spouse is overseas;

(2) Adult child;

(3) Parent;

(4) Brother or sister;

(5) Relative by blood or marriage.

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.

2. Nothing in this section shall authorize such legal guardian, attorney-in-fact, or family member to consent to treatment in contravention to such incapacitated person's expressed permission regarding such treatment.

3. In a life-threatening emergency, consent of such an incapacitated person to any research program or experimental procedure shall not be required when the institutional review board responsible for the review, approval, and continuing review of the research activity has approved both the research activity and a waiver of informed consent and has both found and documented that the requirements for an exception from informed consent requirements for emergency research, as provided under Part 50 of Title 21 or Part 46 of Title 45 of the Code of Federal Regulations, as amended, have been satisfied.

Section B. Because of the need to no longer delay the use of experimental medical treatments for life-threatening emergencies, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

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