

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 716
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Family Services April 11, 2007 with recommendation that House Committee Substitute for House Bill No. 716 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1824L.02C

AN ACT

To repeal sections 170.015, 188.015, 188.075, and 197.200, RSMo, and to enact in lieu thereof six new sections relating to abortion, with penalty provisions.

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

Section A. Sections 170.015, 188.015, 188.075, and 197.200, RSMo, are repealed and
2 six new sections enacted in lieu thereof, to be known as sections 170.015, 188.015, 188.075,
3 188.325, 188.335, and 197.200, to 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;

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;

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.

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 **or present**
16 **students information on contraceptives in a manner consistent with the provisions of the**
17 **federal abstinence education law, 42 U.S.C. Section 710;**

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

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

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

32 (7) **Present the benefits to individuals, families, and society of a lifelong**
33 **monogamous marriage between a man and a woman;**

34 (8) **Present scientifically accurate information, consistent with the provisions of**
35 **sections 1.205, RSMo, and 188.015, RSMo, on the development of the unborn child,**
36 **including information about how alcohol, drug, and tobacco use by the mother can be**
37 **harmful to the developing unborn child.**

38 2. Policies concerning referrals and parental notification regarding contraception shall
39 be determined by local school boards **or charter schools**, consistent with the provisions of
40 section 167.611, RSMo.

41 3. A school district **or charter school** which provides human sexuality instruction may
42 separate students according to gender for instructional purposes.

43 4. The board of a school district **or charter school** shall determine the specific content
44 of the district's **or school's** instruction in human sexuality, in accordance with subsections 1 to
45 3 of this section, and shall ensure that all instruction in human sexuality is appropriate to the age
46 of the students receiving such instruction.

47 5. A school district **or charter school** shall notify the parent or legal guardian of each
48 student enrolled in the district **or school** of:

49 (1) The basic content of the district's **or school's** human sexuality instruction to be
50 provided to the student; and

51 (2) The parent's right to remove the student from any part of the district's **or school's**
52 human sexuality instruction.

53 6. A school district **or charter school** shall make all curriculum materials used in the
54 district's **or school's** human sexuality instruction available for public inspection pursuant to
55 chapter 610, RSMo, prior to the use of such materials in actual instruction.

56 **7. No school district or charter school, or its personnel or agents, shall provide**
57 **abortion services, or permit a person or entity to offer, sponsor, or furnish in any manner**
58 **any course materials or instruction relating to human sexuality or sexually transmitted**
59 **diseases to its students if such person or entity is a provider of abortion services.**

60 **8. As used in this section, the following terms mean:**

61 (1) "Abortion", the same meaning as such term is defined in section 188.015,
62 RSMo;

63 (2) "Abortion services":

64 (a) **Performing, inducing, or assisting in the performing or inducing of an abortion;**

65 (b) **Encouraging a patient to have an abortion or referring a patient for an**
66 **abortion; or**

67 (c) **Developing or dispensing drugs, chemicals, or devices intended to be used to**
68 **induce an abortion which is not necessary to save the life of the mother.**

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

13 (6) "**Medical emergency**", **a condition which, on the basis of a physician's good**
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 guilty of
4 a class A misdemeanor, **unless a different penalty is provided for in state law**, and, upon
5 conviction, shall be punished as provided by law.

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

188.325. 1. There is hereby established the "Missouri Alternatives to Abortion
2 Services Program" which shall be administered by a state agency or agencies, as designated
3 by appropriations to such or each agency. The alternatives to abortion services program
4 shall consist of services or counseling to pregnant women and continuing for one year after
5 birth to assist women in carrying their unborn children to term instead of having
6 abortions, and to assist women in caring for their dependent children or placing their
7 children for adoption.

8 2. Services provided under the alternatives to abortion program shall include, but
9 not be limited to the following:

- 10 (1) Prenatal care;
- 11 (2) Medical and mental health care;
- 12 (3) Parenting skills;
- 13 (4) Drug and alcohol testing and treatment;
- 14 (5) Child care, and newborn and infant care;
- 15 (6) Housing and utilities;
- 16 (7) Educational services;

- 17 **(8) Food, clothing, and supplies relating to pregnancy, newborn care, and**
18 **parenting;**
- 19 **(9) Adoption assistance;**
- 20 **(10) Job training and placement;**
- 21 **(11) Establishing and promoting responsible paternity;**
- 22 **(12) Ultrasound services;**
- 23 **(13) Case management;**
- 24 **(14) Domestic abuse protection; and**
- 25 **(15) Transportation.**

26 **3. Actual provision and delivery of services and counseling shall be dependent on**
27 **client needs and not otherwise prioritized by the agency or agencies administering the**
28 **program. Services and counseling shall be available only during pregnancy and continuing**
29 **for one year after birth, and shall exclude any family planning services. The agency or**
30 **agencies administering the program may contract with other public or private agencies or**
31 **entities to provide the services or counseling on behalf of the agency or agencies**
32 **administering the program. Such other public or private agencies or entities may provide**
33 **additional services or counseling, or services or counseling for more than one year after**
34 **birth, that are not funded under the alternatives to abortion services program, as long as**
35 **such services or counseling are not inconsistent with the provisions of this section.**
36 **Contractors for the alternatives to abortion services program may also be contractors for**
37 **the alternatives to abortion public awareness program established in section 188.335.**

38 **4. The agency or agencies administering the program shall to the greatest extent**
39 **possible supplement and match moneys appropriated for the alternatives to abortion**
40 **services program with federal and other public moneys and with private moneys. The**
41 **agency or agencies administering the program shall prioritize such additional federal,**
42 **other public, and private moneys so that they are used preferentially for the alternatives**
43 **to abortion services program and the alternatives to abortion public awareness program.**

44 **5. The alternatives to abortion services program and the moneys expended under**
45 **this section shall not be used to perform or induce, assist in the performing or inducing of**
46 **or refer for abortions. Moneys expended under this section shall not be granted to**
47 **organizations or affiliates of organizations that perform or induce, assist in the performing**
48 **or inducing of or refer for abortions.**

188.335. 1. There is hereby established the "Missouri Alternatives to Abortion
2 **Public Awareness Program" which shall be administered by a state agency or agencies, as**
3 **designated by appropriations to such or each agency.**

4 **2. The purpose of the alternatives to abortion public awareness program is to help**
5 **pregnant women at risk for having abortions to be made aware of the alternatives to**
6 **abortion agencies located and alternatives to abortion services available to them in their**
7 **local communities. The alternatives to abortion public awareness program shall include**
8 **the development and promotion of a web site which provides a geographically indexed list**
9 **of alternatives to abortion agencies as well as contractors for the alternatives to abortion**
10 **services program established in section 188.325. As used in this section, "alternatives to**
11 **abortion agencies" means agencies exempt from income taxation pursuant to the United**
12 **States Internal Revenue Code that offer alternatives to abortion services as defined within**
13 **section 188.325, including but not limited to maternity homes, pregnancy resource centers,**
14 **and agencies commonly known and referred to as crisis pregnancy centers. The**
15 **alternatives to abortion public awareness program may also include but need not be**
16 **limited to the use of television, radio, outdoor advertising, newspapers, magazines, and**
17 **other print media, and the Internet to provide information on these alternatives to abortion**
18 **agencies and services. The state agency or agencies administering the alternatives to**
19 **abortion public awareness program are encouraged to give first preference to contracting**
20 **with private agencies or entities, which are exempt from income taxation pursuant to the**
21 **United States Internal Revenue Code, to conduct the alternatives to abortion public**
22 **awareness program. Contractors for the alternatives to abortion public awareness**
23 **program may also be contractors for the alternatives to abortion services program**
24 **established in section 188.325.**

25 **3. The agency or agencies administering the program shall to the greatest extent**
26 **possible supplement and match moneys appropriated for the alternatives to abortion**
27 **public awareness program with federal and other public moneys and with private moneys.**
28 **The agency or agencies administering the program shall prioritize such additional federal,**
29 **other public, and private moneys so that they are used preferentially for the alternatives**
30 **to abortion public awareness program and the alternatives to abortion services program.**

31 **4. The alternatives to abortion public awareness program and the moneys expended**
32 **under this section shall not be used to perform or induce, assist in the performing or**
33 **inducing of or refer for abortions. Moneys expended under this section shall not be**
34 **granted to organizations or affiliates of organizations that perform or induce, assist in the**
35 **performing or inducing of or refer for abortions.**

197.200. As used in sections 197.200 to 197.240, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Ambulatory surgical center", any public or private establishment operated primarily
4 for the purpose of performing surgical procedures or primarily for the purpose of performing

5 childbirths, **or any establishment operated for the purpose of performing or inducing any**
6 **second or third trimester abortions or five or more first trimester abortions per month,** and
7 which does not provide services or other accommodations for patients to stay more than
8 twenty-three hours within the establishment, provided, however, that nothing in this definition
9 shall be construed to include the offices of dentists currently licensed pursuant to chapter 332,
10 RSMo;

11 (2) "Dentist", any person currently licensed to practice dentistry pursuant to chapter 332,
12 RSMo;

13 (3) "Department", the department of health and senior services;

14 (4) "Governmental unit", any city, county or other political subdivision of this state, or
15 any department, division, board or other agency of any political subdivision of this state;

16 (5) "Person", any individual, firm, partnership, corporation, company, or association and
17 the legal successors thereof;

18 (6) "Physician", any person currently licensed to practice medicine pursuant to chapter
19 334, RSMo;

20 (7) "Podiatrist", any person currently licensed to practice podiatry pursuant to chapter
21 330, RSMo.

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