

FIRST REGULAR SESSION

# HOUSE BILL NO. 617

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DAVIS (Sponsor), RUESTMAN, JONES (89), SANDER, POLLOCK, NOLTE, MOORE, SCHAAF, VIEBROCK, ERVIN, LEMBKE, FLOOK, STEVENSON, NIEVES, THRELKELD, WRIGHT, FISHER, HARRIS (110), CASEY, MEINERS, BEARDEN, KINGERY, SCHOELLER, COX, ONDER, WOOD, KELLY, DEEKEN, MAY, FRANZ, COOPER (155), MCGHEE, SMITH (150) AND FUNDERBURK (Co-sponsors).

Read 1st time January 25, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0899L.02I

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### AN ACT

To repeal section 431.061, RSMo, and to enact in lieu thereof one new section relating to prescription contraceptives for minors.

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

Section A. Section 431.061, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 431.061, to read as follows:

431.061. 1. In addition to such other persons as may be so authorized and empowered, any one of the following persons if otherwise competent to contract, is authorized and empowered to consent, either orally or otherwise, to any surgical, medical, or other treatment or procedures not prohibited by law:

(1) Any adult eighteen years of age or older for himself **or herself**;

(2) Any parent for his **or her** minor child in his **or her** legal custody;

(3) Any minor who has been lawfully married and any minor parent or legal custodian of a child for himself **or herself**, his **or her** child and any child in his **or her** legal custody;

(4) Any minor for himself **or herself** in case of:

(a) Pregnancy, but excluding:

**a. Abortions; and**

**b. Prescriptive contraceptive drugs and devices;**

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 (b) Venereal disease;
- 14 (c) Drug or substance abuse including those referred to in chapter 195, RSMo;
- 15 (5) Any adult standing in loco parentis, whether serving formally or not, for his **or her**
- 16 minor charge in case of emergency as defined in section 431.063;
- 17 (6) Any guardian of the person for his **or her** ward;
- 18 (7) During the absence of a parent so authorized and empowered, any adult for his **or her**
- 19 minor brother or sister;
- 20 (8) During the absence of a parent so authorized and empowered, any grandparent for
- 21 his **or her** minor grandchild;
- 22 (9) "Absence" as used in (7) and (8) above shall mean absent at a time when further
- 23 delay occasioned by an attempt to obtain a consent may jeopardize the life, health or limb of the
- 24 person affected, or may result in disfigurement or impairment of faculties.
- 25 2. For purposes of consent to hospitalization or medical, surgical or other treatment or
- 26 procedures, a "minor" shall be defined as any person under eighteen years of age and an "adult"
- 27 shall be defined as any person eighteen years of age or older.
- 28 3. The provisions of sections 431.061 and 431.063 shall be liberally construed, and all
- 29 relationships set forth in subsection 1 of this section shall include the adoptive and
- 30 step-relationship as well as the natural relationship and the relationship by the half blood as well
- 31 as by the whole blood.
- 32 4. A consent by one person so authorized and empowered shall be sufficient
- 33 notwithstanding that there are other persons so authorized and empowered or that such other
- 34 persons shall refuse or decline to consent or shall protest against the proposed surgical, medical
- 35 or other treatment or procedures.
- 36 5. Any person acting in good faith and not having been put on notice to the contrary shall
- 37 be justified in relying on the representations of any person purporting to give such consent,
- 38 including, but not limited to, his **or her** identity, his **or her** age, his **or her** marital status, and
- 39 his **or her** relationship to any other person for whom the consent is purportedly given.
- 40 **6. (1) The right of a minor to self-consent to a prescriptive contraceptive drug or**
- 41 **device under subparagraph b. of paragraph (a) of subdivision (4) of subsection 1 of this**
- 42 **section may be granted by a court under the following procedures:**
- 43 **(a) The minor or next friend of the minor shall make an application to the juvenile**
- 44 **court which shall assist the minor or next friend of the minor in preparing the petition and**
- 45 **notices required under this section. The minor or the next friend of the minor shall**
- 46 **thereafter file a petition setting forth the initials of the minor; the age of the minor; the**
- 47 **names and addresses of each parent, guardian, or, if the minor's parents are deceased and**
- 48 **no guardian has been appointed, any other person standing in loco parentis of the minor;**

49 that the minor has been fully informed of the risks and consequences of the prescriptive  
50 contraceptive drug or device; that the minor is of sound mind and has sufficient intellectual  
51 capacity to consent to the prescriptive contraceptive drug or device; that, if the court does  
52 not grant the minor majority rights for the purpose of consent to the prescriptive  
53 contraceptive drug or device, the court should find that the prescriptive contraceptive drug  
54 or device is in the best interest of the minor and give judicial consent to the prescriptive  
55 contraceptive drug or device; that the court should appoint a guardian ad litem of the  
56 child; and if the minor does not have private counsel, that the court should appoint  
57 counsel. The petition shall be signed by the minor or the next friend of the minor;

58 (b) A hearing on the merits of the petition, to be held on the record, shall be held  
59 as soon as possible within five days of the filing of the petition. If any party is unable to  
60 afford counsel, the court shall appoint counsel at least twenty-four hours before the time  
61 of the hearing. At the hearing, the court shall hear evidence relating to the emotional  
62 development, maturity, intellect, and understanding of the minor; the nature, possible  
63 consequences, and alternatives to the prescriptive contraceptive drug or device; and any  
64 other evidence that the court may find useful in determining whether the minor should be  
65 granted majority rights for the purpose of consenting to the prescriptive contraceptive  
66 drug or device or whether the prescriptive contraceptive drug or device is in the best  
67 interests of the minor;

68 (c) In the decree, the court shall for good cause:

69 a. Grant the petition for majority rights for the purpose of consenting to the  
70 prescriptive contraceptive drug or device; or

71 b. Find the prescriptive contraceptive drug or device to be in the best interests of  
72 the minor and give judicial consent to the prescriptive contraceptive drug or device, setting  
73 forth the grounds for so finding; or

74 c. Deny the petition, setting forth the grounds on which the petition is denied;

75 (d) If the petition is allowed, the informed consent of the minor, pursuant to a court  
76 grant of majority rights, or the judicial consent, shall bar an action by the parents or  
77 guardian of the minor against those prescribing the contraceptive drug or device. The  
78 immunity granted shall only extend to the prescribing of contraceptive drugs or devices in  
79 accordance herewith and any necessary accompanying services which are performed in a  
80 competent manner. The costs of the action shall be borne by the parties;

81 (e) An appeal from an order issued under the provisions of this section may be  
82 taken to the court of appeals of this state by the minor or by a parent or guardian of the  
83 minor. The notice of intent to appeal shall be given within twenty-four hours from the date

84 of issuance of the order. The record on appeal shall be completed and the appeal shall be  
85 perfected within five days from the filing of notice to appeal.

86 (2) If a minor desires to have a prescription for a contraceptive drug or device, she  
87 shall be orally informed of and, if possible, sign the written consent. No prescription for  
88 a contraceptive drug or device shall be prescribed for any minor against her will.

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