

FIRST REGULAR SESSION

HOUSE BILL NO. 821

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ONDER (Sponsor), DEMPSEY, JONES (89), SANDER, BEARDEN, DEEKEN, FLOOK, STEVENSON, THRELKELD, FISHER, MUSCHANY, HARRIS (110), WOOD, DAVIS, COX, TILLEY, SMITH (14), SMITH (150), RUZICKA, NOLTE, SCHOELLER, COOPER (155), POLLOCK, CUNNINGHAM (86), BRUNS, MOORE, EMERY, McGHEE, PEARCE, HUNTER, NIEVES, BAKER (123), BIVINS, FAITH, WETER, SCHNEIDER AND GRISAMORE (Co-sponsors).

Read 1st time February 8, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1739L.011

AN ACT

To repeal sections 188.015 and 188.039, RSMo, and to enact in lieu thereof five new sections relating to the unborn child pain prevention act.

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

Section A. Sections 188.015 and 188.039, RSMo, are repealed and five new sections
2 enacted in lieu thereof, to be known as sections 188.015, 188.039, 188.275, 188.278, and
3 188.281, to read as follows:

188.015. Unless the language or context clearly indicates a different meaning is intended,
2 the following words or phrases for the purposes of sections 188.010 to 188.130 shall be given
3 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;

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.

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

12 (5) **"Medical emergency", a condition which, on the basis of the physician's good**
13 **faith clinical judgment, so complicates the medical condition of a pregnant woman as to**
14 **necessitate the immediate abortion of her pregnancy to avert her death or for which a**
15 **delay will create a serious risk of substantial and irreversible impairment of a major bodily**
16 **function;**

17 (6) "Physician", any person licensed to practice medicine in this state by the state board
18 of registration of the healing arts;

19 (7) **"Probable gestational age", the age that, with reasonable probability in the**
20 **judgment of a physician, will be the gestational age of the unborn child at the time the**
21 **abortion is planned to be performed;**

22 [(6)] (8) "Unborn child", the offspring of human beings from the moment of conception
23 until birth and at every stage of its biological development, including the human conceptus,
24 zygote, morula, blastocyst, embryo, and fetus;

25 [(7)] (9) "Viability", that stage of fetal development when the life of the unborn child
26 may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

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

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

15 [3.] 2. The patient shall be evaluated by a treating physician during the conference for
16 indicators and contraindicators, risk factors including any physical, psychological, or situational
17 factors which would predispose the patient to or increase the risk of experiencing one or more
18 adverse physical, emotional, or other health reactions to the proposed procedure or drug or drugs
19 in either the short or long term as compared with women who do not possess such risk factors.

20 [4.] 3. At the end of the conference, and if the woman chooses to proceed with the
21 abortion, a treating physician shall sign and shall cause the patient to sign a written statement that
22 the woman gave her informed consent freely and without coercion after the physician had
23 discussed with her the indicators and contraindicators, and risk factors, including any physical,
24 psychological, or situational factors. All such executed statements shall be maintained as part
25 of the patient's medical file, subject to the confidentiality laws and rules of this state.

26 [5.] 4. The director of the department of health and senior services shall disseminate a
27 model form that physicians may use as the written statement required by this section, but any
28 lack or unavailability of such a model form shall not affect the duties of the physician set forth
29 in subsections [2 to 4] 1 to 3 of this section.

**188.275. 1. Sections 188.275 to 188.281 shall be known as the "Unborn Child Pain
2 Prevention Act".**

3 **2. Except in the case of a medical emergency, at least twenty-four hours before an**
4 **abortion is performed on an unborn child whose probable gestation age is twenty weeks**
5 **or more, the treating physician performing the abortion shall inform the pregnant woman**
6 **that she has the right to review the printed materials described in section 188.281.**

7 **3. The treating physician shall inform the pregnant woman that the materials have**
8 **been provided by the state of Missouri and they contain information on pain in relation to**
9 **the unborn child.**

10 **4. If the pregnant woman chooses to view the materials other than on the Internet**
11 **website, the materials shall either:**

12 **(1) Be given to her at least twenty-four hours before the abortion; or**

13 **(2) Mailed to her at least seventy-two hours before the abortion by certified mail,**
14 **restricted delivery to addressee, so that the postal employee may deliver the mail only to**
15 **the pregnant woman.**

16 **5. The pregnant woman shall certify in writing before the abortion that:**

17 **(1) The information described in subsection 2 of this section has been furnished**
18 **her; and**

19 **(2) She has been informed of her opportunity to review the printed material**
20 **described in section 188.281.**

21 **6. Before the abortion is performed, the treating physician who is to perform the**
22 **abortion shall:**

23 **(1) Obtain a copy of the written certification required under subsection 5 of this**
24 **section; and**

25 **(2) Retain it on file with the woman's medical record for at least three years**
26 **following the date of receipt.**

188.278. 1. Except in the case of a medical emergency, before an abortion is performed on an unborn child whose probable gestational age is twenty weeks or more, the treating physician performing the abortion shall inform the pregnant woman:

(1) Whether an anesthetic or analgesic would eliminate or alleviate organic pain to the unborn child that could be caused by the particular method of abortion to be employed; and

(2) Of the particular medical risks associated with the particular anesthetic or analgesic.

2. After presenting the information required in subsection 1 of this section and with the consent of the pregnant woman, the treating physician shall administer the anesthetic or analgesic.

188.281. 1. Within ninety days after the effective date of sections 188.275 to 188.281, the department of health and senior services shall publish printed materials with the following statement concerning unborn children of twenty weeks gestational age or more:

"By twenty weeks gestation, the unborn child has the physical structures necessary to experience pain. There is evidence that by twenty weeks gestation unborn children seek to evade certain stimuli in a manner that in an infant or an adult would be interpreted to be a response to pain. Anesthesia is routinely administered to unborn children who are twenty weeks gestational age or more who undergo prenatal surgery."

2. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the human fetus at the various gestational ages.

3. The department shall make the materials available on the department's website.

4. The materials referred to in this section shall be printed in a typeface large enough to be clearly legible.

5. Upon request, the department shall make available to any person, facility, or hospital the materials required under this section. The department shall have the discretion to determine the appropriate cost and number of materials given.

6. The department of health and senior services shall include on its Internet website the information described in this section.

7. No information regarding persons who use the website shall be collected or maintained.

8. The department shall monitor the website on a daily basis to prevent and correct tampering.

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