

FIRST REGULAR SESSION

# HOUSE BILL NO. 1018

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WRIGHT-JONES (Sponsor), CHAPPELLE-NADAL, DONNELLY, ZIMMERMAN, HUGHES, HAYWOOD, JONES (117), LAMPE, DOUGHERTY, TALBOY, BAKER (25), PAGE, CURLS, LOW (39), LeVOTA, STORCH, OXFORD, JOHNSON, HARRIS (23), NORR, HOSKINS, LOWE (44), ZWEIFEL, BOWMAN, NASHEED, WALTON, VOGT, YOUNG, McCLANAHAN, FRAME, CORCORAN, DARROUGH, BLAND, HOLSMAN, MEINERS, DAUS, WILDBERGER, KOMO, BURNETT, BROWN (50), GEORGE, EL-AMIN AND AULL (Co-sponsors).

Read 1st time February 28, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2156L.011

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### AN ACT

To repeal section 170.015, RSMo, and to enact in lieu thereof seven new sections relating to reducing the number of abortions in the state through the prevention first act, with penalty provisions.

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

Section A. Section 170.015, RSMo, is repealed and seven new sections enacted in lieu thereof, to be known as sections 170.015, 191.717, 191.718, 191.720, 192.970, 338.012, and 338.014, to read as follows:

170.015. 1. Any course materials and instruction relating to human sexuality and sexually transmitted diseases shall be medically and factually accurate and shall:

(1) Present abstinence from sexual activity as the preferred choice of behavior in relation to all sexual activity for unmarried pupils because it is the only method that is one hundred percent effective in preventing pregnancy, sexually transmitted diseases and the emotional trauma associated with adolescent sexual activity, and advise students that teenage sexual activity places them at a higher risk of dropping out of school because of the consequences of sexually transmitted diseases and unplanned pregnancy;

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.

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;

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;

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

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

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

30 **2. School districts or charter schools, or its personnel or agents shall not permit a**  
31 **person or entity to offer, sponsor, or furnish in any manner any course materials or**  
32 **instruction relating to human sexuality or sexually transmitted diseases to its students if**  
33 **such a person or entity opposes contraception or distributes medically inaccurate**  
34 **information on contraception. "Medically inaccurate information" is information that is**  
35 **not verified or supported by the weight of research conducted in compliance with accepted**  
36 **scientific methods or published in peer reviewed journals where applicable; or information**  
37 **that goes against leading professional organizations and agencies with relevant expertise**  
38 **in the fields, such as the American College of Obstetricians and Gynecologists.**

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

41 [3.] **4. A school district which provides human sexuality instruction may separate**  
42 **students according to gender for instructional purposes.**

43 [4.] **5. The board of a school district shall determine the specific content of the district's**  
44 **instruction in human sexuality, in accordance with subsections 1 to 3 of this section, and shall**

45 ensure that all instruction in human sexuality is appropriate to the age of the students receiving  
46 such instruction.

47 [5.] 6. A school district shall notify the parent or legal guardian of each student enrolled  
48 in the district of:

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

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

53 [6.] 7. A school district shall make all curriculum materials used in the district's human  
54 sexuality instruction available for public inspection pursuant to chapter 610, RSMo, prior to the  
55 use of such materials in actual instruction.

56 **8. If any individual believes that the local school district is not complying with this**  
57 **section, such individual may request in writing to the principal or superintendent of the**  
58 **school district that the curriculum comply with this section. The principal or**  
59 **superintendent then must correct the problem within ninety days. If the problem has not**  
60 **been corrected within ninety days then the individual may appeal to the local board of**  
61 **education for compliance with this section.**

**191.717. 1. Sections 191.717 and 191.718 may be cited as the "Compassionate**  
2 **Assistance for Rape Emergencies (CARE) Act".**

3 **2. As used in sections 191.717 to 191.718, unless the context clearly indicates**  
4 **otherwise, the following terms shall mean:**

5 **(1) "Emergency care to sexual assault victims", medical examinations, procedures,**  
6 **or services provided at a hospital to a sexual assault victim following an alleged rape;**

7 **(2) "Emergency contraception", any drug or device approved by the Food and**  
8 **Drug Administration that prevents pregnancy after sexual intercourse;**

9 **(3) "Health care facility", any urgent care center or facility that offers treatment**  
10 **for patients during normal business, after-business, or weekend hours and that is affiliated**  
11 **with a licensed hospital;**

12 **(4) "Medically and factually accurate and objective", verified or supported by the**  
13 **weight of research conducted in compliance with accepted scientific methods and is**  
14 **published in peer-reviewed journals where applicable; or comprising information that**  
15 **leading professional organizations and agencies with relevant expertise in the field, such**  
16 **as the American College of Obstetricians and Gynecologists, recognize as accurate and**  
17 **objective;**

18 **(5) "Sexual assault", as defined in section 566.040, RSMo;**

19           (6) "Sexual assault victim", a female who is alleged to have been raped and is  
20 presented as a patient.

**191.718. 1. It shall be the standard of care for any hospital and any health care  
2 facility that provides emergency care to sexual assault victims to:**

3           (1) Provide each sexual assault victim with medically and factually accurate and  
4 objective written and oral information about emergency contraception;

5           (2) Orally inform each sexual assault victim of her option to be provided emergency  
6 contraception at the hospital;

7           (3) Provide the complete regimen of emergency contraception immediately at the  
8 hospital or health care facility to each sexual assault victim who requests it; and

9           (4) Follow the Department of Justice protocols on HIV/STI screening and  
10 prophylactic treatment.

11          **2. Hospitals and health care facilities shall ensure that each person who provides  
12 care to sexual assault victims is provided with medically and factually accurate and  
13 objective information about emergency contraception.**

14          **3. The department of health and senior services shall develop, prepare, and  
15 produce informational materials relating to emergency contraception for the prevention  
16 of pregnancy for distribution in any hospital or health care facility in the state in quantities  
17 sufficient to comply with the requirements of this section. The director, in collaboration  
18 with community sexual assault programs, may also approve informational materials from  
19 other sources.**

20          **4. The information materials shall:**

21           (1) Be medically and factually accurate and objective;

22           (2) Be clearly written and readily comprehensible in a culturally competent  
23 manner, as the department deems necessary to inform victims of sexual assault; and

24           (3) Explain the nature of emergency contraception, including its use, safety,  
25 efficacy, and availability, and that it does not cause abortion.

26          **5. The department of health and senior services shall respond to complaints and  
27 shall periodically determine whether hospitals and health care facilities are complying with  
28 the provisions of this section. The department may use all investigative tools available to  
29 verify compliance. If the department determines that a hospital or health care facility is  
30 not in compliance, the department shall:**

31           (1) Impose an administrative penalty of five thousand dollars per woman who is  
32 denied medically and factually accurate and objective information about emergency  
33 contraception or who is not offered or provided emergency contraception; and

34           (2) Impose an administrative penalty of five thousand dollars for failure to comply  
35 with the provisions of this section and for every thirty days that a hospital or health care  
36 facility is not in compliance, an additional penalty of five thousand dollars shall be  
37 imposed.

38           6. The department shall promulgate rules to implement the provisions of sections  
39 191.717 to 191.718.

40           7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
41 that is created under the authority delegated in this section shall become effective only if  
42 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if  
43 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
44 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,  
45 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
46 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
47 adopted after August 28, 2007, shall be invalid and void.

          191.720. 1. This section shall be known and may be cited as the "Birth Control  
2 Protection Act".

3           2. The general assembly of this state finds that:

4           (1) Citizens of this state have a protectable interest in freedom from unreasonable  
5 government intrusions into their private lives;

6           (2) This interest in freedom from unreasonable government intrusions into the  
7 private lives of citizens encompasses and protects the right of consenting individuals to  
8 obtain and use safe and effective methods of contraception without interference by  
9 governmental entities;

10          (3) It is the public policy of this state that the interest in freedom from  
11 unreasonable government intrusions into the private lives of citizens, and specifically the  
12 right of consenting individuals to obtain and use safe and effective methods of  
13 contraception without interference by governmental entities, shall be safeguarded and that  
14 the laws of this state shall be interpreted and construed to recognize and protect these  
15 rights.

16          3. Notwithstanding any other provisions of law, no governmental actor or entity,  
17 whether state, county, municipal, or otherwise, within the state of Missouri, shall:

18          (1) Be authorized to act in any fashion so as to deprive consenting individuals of the  
19 right to obtain and use safe and effective methods of contraception; or

20          (2) Interfere with or discriminate against, in the regulation or provision of benefits,  
21 facilities, services, or information, the right of consenting individuals to obtain and use safe  
22 and effective methods of contraception.

23           **4. Nothing in this section shall be interpreted to prevent implementation of laws,**  
24 **rules, ordinances, taxes, or regulations affecting the method and manner of sale or**  
25 **distribution of contraceptives, provided such laws, rules, ordinances, taxes, or regulations**  
26 **are reasonably designed to promote public health and safety, and do not have the effect of**  
27 **unreasonably hindering public access to contraceptives.**

**192.970. 1. Subject to appropriation, the department of health and senior services**  
2 **shall implement a women's health services program by July 1, 2008. Initial funding for the**  
3 **program shall be in the amount of five million dollars. Such program shall have the goal**  
4 **of reducing the number of unintended pregnancies in Missouri by providing women's**  
5 **health services through qualified health providers, as determined by the department.**

6           **2. For purposes of this section, women's health services shall include, but not be**  
7 **limited to:**

- 8           **(1) Breast and cervical cancer checks;**
- 9           **(2) Screening and treatment for sexually transmitted diseases;**
- 10          **(3) HIV screening;**
- 11          **(4) Voluntary choice of contraception, including natural family planning;**
- 12          **(5) Infertility treatment;**
- 13          **(6) Patient education and pre-pregnancy counseling on the dangers of smoking,**  
14 **alcohol, and drug use during pregnancy;**
- 15          **(7) Education on sexual coercion and violence in relationships; and**
- 16          **(8) Prenatal and other health care referrals.**

**338.012. 1. Upon receipt of a valid and lawful prescription, a licensed pharmacy**  
2 **shall dispense any prescribed drug or device in stock without delay, consistent with the**  
3 **normal time frame for filling any other prescription.**

4           **2. Nothing herein shall prohibit a licensed pharmacy from refusing to dispense a**  
5 **prescribed drug or device in accordance with standard pharmacy practice if:**

6           **(1) There is a valid medical concern that such drug or device will cause problems**  
7 **due to therapeutic duplications, drug-disease contraindications, drug interactions,**  
8 **including serious interactions with prescription or over-the-counter medications, incorrect**  
9 **dosage or duration of drug treatment, drug-allergy interactions, drug abuse, or drug**  
10 **misuse; or**

11          **(2) The customer is unable to pay for the drug or device.**

12          **3. When a customer requests a prescribed drug or device not in stock, the**  
13 **pharmacy shall offer the customer the following options:**

14           (1) The pharmacy shall obtain the drug or device under standard procedures for  
15 expedited ordering of any prescription drug or device not in stock and promptly notify the  
16 customer when the pharmacy receives the drug or device; or

17           (2) The pharmacy shall locate a pharmacy of the customer's choice or the closest  
18 pharmacy that has the drug or device in stock and transfer the customer's prescription to  
19 that pharmacy under standard procedures for transferring prescriptions.

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21 The pharmacy shall perform the customer's chosen option in a timely fashion and return  
22 the prescription order to the customer upon request at any time prior to dispensing.

23           4. Every licensed pharmacy shall ensure that it does not intimidate, threaten, or  
24 harass its customers in the delivery of services.

          338.014. 1. A licensed pharmacy shall fulfill all lawful requests for contraception  
2 approved for over-the-counter use in a timely fashion.

3           2. Where a customer lawfully requests contraception approved for over-the-counter  
4 use, and that drug is not in stock, the pharmacy shall offer the customer the following  
5 options:

6           (1) The pharmacy will obtain the contraception under the pharmacy's standard  
7 procedures for expedited ordering of over-the-counter drugs not in stock and promptly  
8 notify the customer when the pharmacy receives the contraception; or

9           (2) The pharmacy will locate a pharmacy of the customer's choice or the closest  
10 pharmacy that has the contraception in stock and refer the customer to that pharmacy.

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12 The pharmacy shall perform the customer's chosen option in a timely fashion.

13           3. Every licensed pharmacy shall ensure that it does not intimidate, threaten, or  
14 harass its customers in the delivery of services.

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