

SECOND REGULAR SESSION

HOUSE BILL NO. 1192

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MILLER.

4105L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 188.028, RSMo, and to enact in lieu thereof one new section relating to consent for abortion for minors.

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

Section A. Section 188.028, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 188.028, to read as follows:

188.028. 1. No person shall knowingly perform an abortion upon a pregnant woman under the age of eighteen years unless:

(1) The attending physician has secured the informed written consent of the minor and one parent, **and both custodial parents or the guardian of the minor have been notified in writing at least seven days prior to the abortion. For purposes of this subdivision, "custodial parents" means both parents in an intact family or any parent of a minor who has been awarded sole or joint physical custody of such minor by a court of competent jurisdiction. Custodial parent does not include any parent who has been convicted of sexual abuse of such minor or whose custodial rights have been terminated by a court of competent jurisdiction;** or

(2) The minor is emancipated and the attending physician has received the informed written consent of the minor; or

(3) The minor has been granted the right to self-consent to the abortion by court order pursuant to subsection 2 of this section, and the attending physician has received the informed written consent of the minor; or

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.

16 (4) The minor has been granted consent to the abortion by court order, and the court has
17 given its informed written consent in accordance with subsection 2 of this section, and the minor
18 is having the abortion willingly, in compliance with subsection 3 of this section.

19 2. The right of a minor to self-consent to an abortion under subdivision (3) of subsection
20 1 of this section or court consent under subdivision (4) of subsection 1 of this section may be
21 granted by a court pursuant to the following procedures:

22 (1) The minor or next friend shall make an application to the juvenile court which shall
23 assist the minor or next friend in preparing the petition and notices required pursuant to this
24 section. The minor or the next friend of the minor shall thereafter file a petition setting forth the
25 initials of the minor; the age of the minor; the names and addresses of each parent, guardian, or,
26 if the minor's parents are deceased and no guardian has been appointed, any other person
27 standing in loco parentis of the minor; that the minor has been fully informed of the risks and
28 consequences of the abortion; that the minor is of sound mind and has sufficient intellectual
29 capacity to consent to the abortion; that, if the court does not grant the minor majority rights for
30 the purpose of consent to the abortion, the court should find that the abortion is in the best
31 interest of the minor and give judicial consent to the abortion; that the court should appoint a
32 guardian ad litem of the child; and if the minor does not have private counsel, that the court
33 should appoint counsel. The petition shall be signed by the minor or the next friend;

34 (2) A hearing on the merits of the petition, to be held on the record, shall be held as soon
35 as possible within five days of the filing of the petition. If any party is unable to afford counsel,
36 the court shall appoint counsel at least twenty-four hours before the time of the hearing. At the
37 hearing, the court shall hear evidence relating to the emotional development, maturity, intellect
38 and understanding of the minor; the nature, possible consequences, and alternatives to the
39 abortion; and any other evidence that the court may find useful in determining whether the minor
40 should be granted majority rights for the purpose of consenting to the abortion or whether the
41 abortion is in the best interests of the minor;

42 (3) In the decree, the court shall for good cause:

43 (a) Grant the petition for majority rights for the purpose of consenting to the abortion;
44 or

45 (b) Find the abortion to be in the best interests of the minor and give judicial consent to
46 the abortion, setting forth the grounds for so finding; or

47 (c) Deny the petition, setting forth the grounds on which the petition is denied;

48 (4) If the petition is allowed, the informed consent of the minor, pursuant to a court grant
49 of majority rights, or the judicial consent, shall bar an action by the parents or guardian of the
50 minor on the grounds of battery of the minor by those performing the abortion. The immunity
51 granted shall only extend to the performance of the abortion in accordance herewith and any

52 necessary accompanying services which are performed in a competent manner. The costs of the
53 action shall be borne by the parties;

54 (5) An appeal from an order issued under the provisions of this section may be taken to
55 the court of appeals of this state by the minor or by a parent or guardian of the minor. The notice
56 of intent to appeal shall be given within twenty-four hours from the date of issuance of the order.
57 The record on appeal shall be completed and the appeal shall be perfected within five days from
58 the filing of notice to appeal. Because time may be of the essence regarding the performance of
59 the abortion, the supreme court of this state shall, by court rule, provide for expedited appellate
60 review of cases appealed under this section.

61 3. If a minor desires an abortion, then she shall be orally informed of and, if possible,
62 sign the written consent required by section 188.039 in the same manner as an adult person. No
63 abortion shall be performed on any minor against her will, except that an abortion may be
64 performed against the will of a minor pursuant to a court order described in subdivision (4) of
65 subsection 1 of this section that the abortion is necessary to preserve the life of the minor.

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