

SECOND REGULAR SESSION

HOUSE BILL NO. 1379

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GATSCHENBERGER (Sponsor),
HICKS AND ENGLISH (Co-sponsors).

5405H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 188.027, RSMo, and to enact in lieu thereof one new section relating to informed consent for abortions.

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

Section A. Section 188.027, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 188.027, to read as follows:

188.027. 1. Except in the case of medical emergency, no abortion shall be performed or induced on a woman without her voluntary and informed consent, given freely and without coercion. Consent to an abortion is voluntary and informed and given freely and without coercion[,] if, and only if, at least twenty-four hours prior to the abortion:

(1) The physician who is to perform or induce the abortion or a qualified professional has informed the woman, orally, reduced to writing, and in person, of the following:

(a) The name of the physician who will perform or induce the abortion;

(b) Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion, including:

a. A description of the proposed abortion method;

b. The immediate and long-term medical risks to the woman associated with the proposed abortion method including, but not limited to, infection, hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to term, and possible adverse psychological effects associated with the abortion; and

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.

15 c. The immediate and long-term medical risks to the woman, in light of the anesthesia
16 and medication that is to be administered, the unborn child's gestational age, and the woman's
17 medical history and medical condition;

18 (c) Alternatives to the abortion which shall include making the woman aware that
19 information and materials shall be provided to her detailing such alternatives to the abortion;

20 (d) A statement that the physician performing or inducing the abortion is available for
21 any questions concerning the abortion, together with the telephone number that the physician
22 may be later reached to answer any questions that the woman may have;

23 (e) The location of the hospital that offers obstetrical or gynecological care located
24 within thirty miles of the location where the abortion is performed or induced and at which the
25 physician performing or inducing the abortion has clinical privileges and where the woman may
26 receive follow-up care by the physician if complications arise;

27 (f) The gestational age of the unborn child at the time the abortion is to be performed or
28 induced; and

29 (g) The anatomical and physiological characteristics of the unborn child at the time the
30 abortion is to be performed or induced;

31 (2) The physician who is to perform or induce the abortion or a qualified professional
32 has presented the woman, in person, printed materials provided by the department, which
33 describe the probable anatomical and physiological characteristics of the unborn child at
34 two-week gestational increments from conception to full term, including color photographs or
35 images of the developing unborn child at two-week gestational increments. Such descriptions
36 shall include information about brain and heart functions, the presence of external members and
37 internal organs during the applicable stages of development and information on when the unborn
38 child is viable. The printed materials shall prominently display the following statement: "The
39 life of each human being begins at conception. Abortion will terminate the life of a separate,
40 unique, living human being.";

41 (3) The physician who is to perform or induce the abortion or a qualified professional
42 has presented the woman, in person, printed materials provided by the department, which
43 describe the various surgical and drug-induced methods of abortion relevant to the stage of
44 pregnancy, as well as the immediate and long-term medical risks commonly associated with each
45 abortion method including, but not limited to, infection, hemorrhage, cervical tear or uterine
46 perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to term,
47 and the possible adverse psychological effects associated with an abortion;

48 (4) The physician who is to perform or induce the abortion [or a qualified professional
49 shall provide the woman with the opportunity to view] **shall conduct or request that a**
50 **qualified professional conduct**, at least twenty-four hours prior to the abortion, an active

51 ultrasound of the unborn child and **allow the woman to** hear the heartbeat of the unborn child
52 if the heartbeat is audible. **The physician who is to perform or induce the abortion shall**
53 **review the ultrasound with the woman. If the ultrasound cannot be conducted at the**
54 **abortion facility,** the woman shall be provided with a geographically indexed list maintained
55 by the department of health care providers, facilities, and clinics that perform ultrasounds,
56 including those that offer ultrasound services free of charge. Such materials shall provide
57 contact information for each provider, facility, or clinic including telephone numbers and, if
58 available, website addresses. Should the woman [decide] **need** to obtain an ultrasound from a
59 provider, facility, or clinic other than the abortion facility, the woman shall be offered a
60 reasonable time to obtain the ultrasound examination before the date and time set for performing
61 or inducing an abortion. **If the woman obtains an ultrasound from a provider, facility, or**
62 **clinic other than the abortion facility, she shall be required to submit verification stating**
63 **the date and time that the ultrasound was conducted and that it was reviewed with the**
64 **woman, allowing her to view the ultrasound images and hear the heartbeat of the unborn**
65 **child if the heartbeat is audible.** The person conducting the ultrasound shall ensure that the
66 active ultrasound image is of a quality consistent with standard medical practice in the
67 community, contains the dimensions of the unborn child, and accurately portrays the presence
68 of external members and internal organs, if present or viewable, of the unborn child. **The**
69 **woman shall also be given a copy of the ultrasound image.** The auscultation of fetal heart
70 tone must also be of a quality consistent with standard medical practice in the community. If the
71 woman [chooses to view] **views** the ultrasound [or hear] , **hears** the heartbeat, or both at the
72 abortion facility, the viewing [or] , hearing, or both shall be provided to her at the abortion
73 facility at least twenty-four hours prior to the abortion being performed or induced. **Victims of**
74 **rape or incest shall be exempt from the requirements of this subdivision if the victims have**
75 **reported the crime to the proper law enforcement authority;**

76 (5) Prior to an abortion being performed or induced on an unborn child of twenty-two
77 weeks gestational age or older, the physician who is to perform or induce the abortion or a
78 qualified professional has presented the woman, in person, printed materials provided by the
79 department that offer information on the possibility of the abortion causing pain to the unborn
80 child. This information shall include, but need not be limited to, the following:

81 (a) At least by twenty-two weeks of gestational age, the unborn child possesses all the
82 anatomical structures, including pain receptors, spinal cord, nerve tracts, thalamus, and cortex,
83 that are necessary in order to feel pain;

84 (b) A description of the actual steps in the abortion procedure to be performed or
85 induced, and at which steps the abortion procedure could be painful to the unborn child;

86 (c) There is evidence that by twenty-two weeks of gestational age, unborn children seek
87 to evade certain stimuli in a manner that in an infant or an adult would be interpreted as a
88 response to pain;

89 (d) Anesthesia is given to unborn children who are twenty-two weeks or more gestational
90 age who undergo prenatal surgery;

91 (e) Anesthesia is given to premature children who are twenty-two weeks or more
92 gestational age who undergo surgery;

93 (f) Anesthesia or an analgesic is available in order to minimize or alleviate the pain to
94 the unborn child;

95 (6) The physician who is to perform or induce the abortion or a qualified professional
96 has presented the woman, in person, printed materials provided by the department explaining to
97 the woman alternatives to abortion she may wish to consider. Such materials shall:

98 (a) Identify on a geographical basis public and private agencies available to assist a
99 woman in carrying her unborn child to term, and to assist her in caring for her dependent child
100 or placing her child for adoption, including agencies commonly known and generally referred
101 to as pregnancy resource centers, crisis pregnancy centers, maternity homes, and adoption
102 agencies. Such materials shall provide a comprehensive list by geographical area of the agencies,
103 a description of the services they offer, and the telephone numbers and addresses of the agencies;
104 provided that such materials shall not include any programs, services, organizations, or affiliates
105 of organizations that perform or induce, or assist in the performing or inducing[,] of abortions
106 or that refer for abortions;

107 (b) Explain the Missouri alternatives to abortion services program under section 188.325,
108 and any other programs and services available to pregnant women and mothers of newborn
109 children offered by public or private agencies which assist a woman in carrying her unborn child
110 to term and assist her in caring for her dependent child or placing her child for adoption,
111 including but not limited to prenatal care; maternal health care; newborn or infant care; mental
112 health services; professional counseling services; housing programs; utility assistance;
113 transportation services; food, clothing, and supplies related to pregnancy; parenting skills;
114 educational programs; job training and placement services; drug and alcohol testing and
115 treatment; and adoption assistance;

116 (c) Identify the state website for the Missouri alternatives to abortion services program
117 under section 188.325, and any toll-free number established by the state operated in conjunction
118 with the program;

119 (d) Prominently display the statement: "There are public and private agencies willing
120 and able to help you carry your child to term, and to assist you and your child after your child is
121 born, whether you choose to keep your child or place him or her for adoption. The state of

122 Missouri encourages you to contact those agencies before making a final decision about abortion.
123 State law requires that your physician or a qualified professional give you the opportunity to call
124 agencies like these before you undergo an abortion.";

125 (7) The physician who is to perform or induce the abortion or a qualified professional
126 has presented the woman, in person, printed materials provided by the department explaining that
127 the father of the unborn child is liable to assist in the support of the child, even in instances
128 where he has offered to pay for the abortion. Such materials shall include information on the
129 legal duties and support obligations of the father of a child, including, but not limited to, child
130 support payments, and the fact that paternity may be established by the father's name on a birth
131 certificate or statement of paternity, or by court action. Such printed materials shall also state
132 that more information concerning paternity establishment and child support services and
133 enforcement may be obtained by calling the family support division within the Missouri
134 department of social services; and

135 (8) The physician who is to perform or induce the abortion or a qualified professional
136 shall inform the woman that she is free to withhold or withdraw her consent to the abortion at
137 any time without affecting her right to future care or treatment and without the loss of any state
138 or federally funded benefits to which she might otherwise be entitled.

139 2. All information required to be provided to a woman considering abortion by
140 subsection 1 of this section shall be presented to the woman individually, in the physical
141 presence of the woman and in a private room, to protect her privacy, to maintain the
142 confidentiality of her decision, to ensure that the information focuses on her individual
143 circumstances, to ensure she has an adequate opportunity to ask questions, and to ensure that she
144 is not a victim of coerced abortion. Should a woman be unable to read materials provided to her,
145 they shall be read to her. Should a woman need an interpreter to understand the information
146 presented in the written materials, an interpreter shall be provided to her. Should a woman ask
147 questions concerning any of the information or materials, answers shall be provided in a
148 language she can understand.

149 3. No abortion shall be performed or induced unless and until the woman upon whom
150 the abortion is to be performed or induced certifies in writing on a checklist form provided by
151 the department that she has been presented all the information required in subsection 1 of this
152 section, that [she has been provided the opportunity to view] an active ultrasound **has been**
153 **conducted and reviewed with her, allowing her to view an** image of the unborn child and hear
154 the heartbeat of the unborn child if it is audible, and that she further certifies that she gives her
155 voluntary and informed consent, freely and without coercion, to the abortion procedure.

156 4. No abortion shall be performed or induced on an unborn child of twenty-two weeks
157 gestational age or older unless and until the woman upon whom the abortion is to be performed

158 or induced has been provided the opportunity to choose to have an anesthetic or analgesic
159 administered to eliminate or alleviate pain to the unborn child caused by the particular method
160 of abortion to be performed or induced. The administration of anesthesia or analgesics shall be
161 performed in a manner consistent with standard medical practice in the community.

162 5. No physician shall perform or induce an abortion unless and until the physician has
163 obtained from the woman her voluntary and informed consent given freely and without coercion.
164 If the physician has reason to believe that the woman is being coerced into having an abortion,
165 the physician or qualified professional shall inform the woman that services are available for her
166 and shall provide her with private access to a telephone and information about such services,
167 including but not limited to the following:

- 168 (1) Rape crisis centers, as defined in section 455.003;
- 169 (2) Shelters for victims of domestic violence, as defined in section 455.200; and
- 170 (3) Orders of protection, pursuant to chapter 455.

171 6. No physician shall perform or induce an abortion unless and until the physician has
172 received and signed a copy of the form prescribed in subsection 3 of this section. The physician
173 shall retain a copy of the form in the patient's medical record.

174 7. In the event of a medical emergency as provided by section [188.075] **188.039**, the
175 physician who performed or induced the abortion shall clearly certify in writing the nature and
176 circumstances of the medical emergency. This certification shall be signed by the physician who
177 performed or induced the abortion, and shall be maintained under section 188.060.

178 8. No person or entity shall require, obtain, or accept payment for an abortion from or
179 on behalf of a patient until at least twenty-four hours have passed since the time that the
180 information required by subsection 1 **of this section** has been provided to the patient. Nothing
181 in this subsection shall prohibit a person or entity from notifying the patient that payment for the
182 abortion will be required after the twenty-four-hour period has expired if she voluntarily chooses
183 to have the abortion.

184 9. The term "qualified professional" as used in this section shall refer to a physician,
185 physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional
186 counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting
187 under the supervision of the physician performing or inducing the abortion, and acting within the
188 course and scope of his or her authority provided by law. The provisions of this section shall not
189 be construed to in any way expand the authority otherwise provided by law relating to the
190 licensure, registration, or scope of practice of any such qualified professional.

191 10. By November 30, 2010, the department shall produce the written materials and forms
192 described in this section. Any written materials produced shall be printed in a typeface large
193 enough to be clearly legible. All information shall be presented in an objective, unbiased manner

194 designed to convey only accurate scientific and medical information. The department shall
195 furnish the written materials and forms at no cost and in sufficient quantity to any person who
196 performs or induces abortions, or to any hospital or facility that provides abortions. The
197 department shall make all information required by subsection 1 of this section available to the
198 public through its department website. The department shall maintain a toll-free,
199 twenty-four-hour hotline telephone number where a caller can obtain information on a regional
200 basis concerning the agencies and services described in subsection 1 of this section. No
201 identifying information regarding persons who use the website shall be collected or maintained.
202 The department shall monitor the website on a regular basis to prevent tampering and correct any
203 operational deficiencies.

204 11. In order to preserve the compelling interest of the state to ensure that the choice to
205 consent to an abortion is voluntary and informed, and given freely and without coercion, the
206 department shall use the procedures for adoption of emergency rules under section 536.025 in
207 order to promulgate all necessary rules, forms, and other necessary material to implement this
208 section by November 30, 2010.

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