

SECOND REGULAR SESSION

# HOUSE BILL NO. 1613

## 97TH GENERAL ASSEMBLY

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

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D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 188, RSMo, by adding thereto one new section relating to the ultrasound informed consent act, with penalty provisions.

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

Section A. Chapter 188, RSMo, is amended by adding thereto one new section, to be known as section 188.090, to read as follows:

**188.090. 1. This section shall be known and may be cited as the “Ultrasound Informed Consent Act”.**

**2. For purposes of this section the following terms shall mean:**

**(1) “Abortion”, the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the pregnancy of a woman with knowledge or reason to believe that the termination by those means will cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:**

**(a) Save the life or preserve the health of an unborn child;**

**(b) Remove a dead unborn child who did not die as a result of an intentional, knowing, or reckless action to terminate a pregnancy; or**

**(c) Remove an ectopic pregnancy;**

**(2) “Abortion provider”, a person performing or inducing an abortion or the facility at which the abortion is to be performed or induced;**

**(3) “Conflict of interest disclaimer”, a written or oral statement divulging the abortion provider’s gross income from the previous fiscal year, as well as the percentage**

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.

17 of that income which was obtained as fees for the performance of abortions, together with  
18 a statement concerning the monetary loss to the abortion provider which would result from  
19 the woman's decision to carry the pregnancy to term;

20 (4) "Medical emergency", a condition which so complicates the medical condition  
21 of a pregnant woman that the death of the woman would result from the failure to  
22 immediately terminate the pregnancy.

23 3. (1) No abortion shall be performed or induced without the voluntary and  
24 informed consent of the woman upon whom the abortion is performed or induced. Except  
25 in the case of a medical emergency, consent to an abortion is voluntary and informed only  
26 if:

27 (a) At least seventy-two hours before the abortion, the physician who is to perform  
28 the abortion has informed the woman orally and in writing of the following:

29 a. The name of the physician who will perform the abortion;

30 b. A thorough and accurate description of the proposed method for performing the  
31 abortion, including information on the probable gestational age of the unborn child at the  
32 time the abortion is to be performed and the probable anatomical and physiological  
33 characteristics of an unborn child at that age;

34 c. A description of immediate and long-term physical and psychological risks  
35 involved in the abortion procedure including, but not limited to, the risks of infection,  
36 hemorrhage, cervical or uterine perforation, risks to subsequent pregnancies, infertility,  
37 and increased risk of breast cancer;

38 d. A description of alternatives to abortion, including the availability of adoption  
39 alternatives and the availability of financial help from adoptive parents and other sources  
40 for prenatal care, childbirth, and neonatal care expenses;

41 e. A description of medical assistance benefits that may be available for prenatal  
42 care, childbirth, and neonatal care together with the names and contact information for  
43 individuals and organizations that may be willing to assist with the costs involved in  
44 carrying the pregnancy to term and information on the liability of the father for child  
45 support and other expenses;

46 f. A conflict of interest disclaimer; and

47 g. Any other medical or other information that a reasonable patient would consider  
48 material to the decision of whether to have an abortion;

49 (b) At least seventy-two hours prior to the abortion, the abortion provider has  
50 provided the woman in writing and, where applicable, orally:

51 a. A current sonogram of the unborn child portraying the entire body of the  
52 unborn child, including:

- 53           (i) A verbal description of all relevant features of the sonogram with audible  
54 heartbeat if present;
- 55           (ii) Upon request and without additional charge, a photograph or print of the  
56 sonogram of a quality consistent with the current standard medical practice;
- 57           (iii) In order to provide the possibility of a second opinion, a list of all known  
58 sonogram providers within a ten-mile radius of the abortion provider or if there are no  
59 such sonogram providers within a ten-mile radius of the abortion provider, a list of all  
60 known sonogram providers within a fifty-mile radius of the abortion provider; and
- 61           (iv) Nothing in this section shall be construed to prevent the pregnant woman from  
62 not listening to the sounds detected by the fetal heart monitor or from not viewing the  
63 images displayed on the ultrasound screen;
- 64           b. The probable gestational age of the unborn child, including provision of color  
65 photographs of fetal development within a four-week increment of the age of the unborn  
66 child and during each succeeding four-week increment during the pregnancy;
- 67           c. A description of the development of the child's nerve endings and the child's  
68 ability to feel pain at each stage of development;
- 69           d. Relevant information on the potential survival of the child at his or her current  
70 stage of development;
- 71           e. A statement that the woman is free to withhold or withdraw her consent to the  
72 abortion at any time without affecting her right to care or treatment in the future and  
73 without the loss of any state or federal benefits to which she might otherwise be entitled;  
74 and
- 75           f. Any other medical or other information that a reasonable patient would consider  
76 material to the decision of whether to have an abortion;
- 77           (2) The information provided in subdivision (1) of this subsection shall be provided  
78 individually in a private room and the woman shall be provided with an adequate  
79 opportunity to ask questions and receive answers she can understand;
- 80           (3) If the woman is unable to read the written materials provided to her under the  
81 provisions of subdivision (1) of this subsection, they shall be read to her and, if necessary,  
82 shall be explained in a way understandable to her. If the woman is unable to understand  
83 the sonogram, it shall be explained to her;
- 84           (4) The woman shall sign separate statements that the abortion provider has  
85 complied with each of the provisions of subdivision (1) of this subsection. The abortion  
86 provider shall, under oath and penalty of perjury, sign separate statements that he or she  
87 has complied with each of the provisions of subdivision (1) of this subsection;

88           **(5) No abortion provider may accept payment, nor may the abortion provider**  
89 **legally or otherwise bind a woman to make payment for the performance or inducement**  
90 **of an abortion prior to the expiration of seventy-two hours from the abortion provider's**  
91 **fulfillment of all of the provisions of paragraph (a) of subdivision (1) of this subsection;**

92           **(6) Whoever intentionally, knowingly, or recklessly violates any provision of this**  
93 **section or who performs an abortion with reason to believe such an abortion is a violation**  
94 **of this section shall be imprisoned for up to ten years, fined not more than one million**  
95 **dollars for each violation, or both;**

96           **(7) Any person or entity which has been convicted under the provisions of this**  
97 **section shall be referred to the professional disciplinary authority in this state.**

98           **4. Whoever is aggrieved by a violation of this section by an abortion provider may**  
99 **bring a cause of action against the abortion provider for damages, punitive damages, treble**  
100 **damages, and such equitable remedies as the court may deem appropriate.**

101           **5. (1) Nothing contained in this section shall be construed to preempt or supersede**  
102 **any provision of law or any provision of law which is more restrictive than the provisions**  
103 **of this section or create or recognize any right to an abortion or to sanction, approve of, or**  
104 **expand in any way the legality of abortion;**

105           **(2) The provisions of this section are severable. If any provision of this section or**  
106 **word, phrase, or application thereof is found to be invalid, that invalidity shall not affect**  
107 **the validity of the provisions or applications of the section not found to be invalid.**

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