

FIRST REGULAR SESSION

HOUSE BILL NO. 540

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HANNEGAN.

1335H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 188.039, RSMo, and to enact in lieu thereof one new section relating to abortion.

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

Section A. Section 188.039, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 188.039, to read as follows:

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

2. Except in the case of medical emergency, no person shall perform or induce an abortion unless at least seventy-two hours prior thereto the physician who is to perform or induce the abortion, a qualified professional, or the referring physician has conferred with the patient and discussed with her the indicators and contraindicators, and risk factors including any physical, psychological, or situational factors for the proposed procedure and the use of medications, including but not limited to mifepristone, in light of her medical history and medical condition. For an abortion performed or an abortion induced by a drug or drugs, such conference shall take place at least seventy-two hours prior to the writing or communication of the first prescription for such drug or drugs in connection with inducing an abortion. Only one such conference shall be required for each abortion. **In regard to referrals, no physician, qualified person, or licensed medical provider making more than five referrals per year for abortions outside the state of Missouri shall make a referral for abortion prior to a**

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.

18 **qualified person's evaluation under subsection 3 of this section, the disclosure of risks**
19 **under subsection 4 of this section, and the provision of a copy of the risk evaluation form**
20 **to the woman.**

21 3. The patient shall be evaluated by the physician who is to perform or induce the
22 abortion, a qualified professional, or the referring physician during the conference for indicators
23 and contraindicators, risk factors including any physical, psychological, or situational factors
24 which would predispose the patient to or increase the risk of experiencing one or more adverse
25 physical, emotional, or other health reactions to the proposed procedure or drug or drugs in either
26 the short or long term as compared with women who do not possess such risk factors. **At a**
27 **minimum, the risk evaluation shall include the risk evaluation form disseminated as**
28 **provided under subsection 5 of this section, a copy of which shall be retained as part of the**
29 **patient's medical file, subject to the confidentiality laws and rules of this state, and a copy**
30 **of which shall be delivered to the department of health and senior services within one**
31 **hundred twenty days.**

32 4. At the end of the conference, and if the woman chooses to proceed with the abortion,
33 the physician who is to perform or induce the abortion, a qualified professional, or the referring
34 physician shall sign and shall cause the patient to sign a written statement that the woman gave
35 her informed consent freely and without coercion after the physician or qualified professional
36 had discussed with her the indicators and contraindicators, and risk factors, including any
37 physical, psychological, or situational factors. All such executed statements shall be maintained
38 as part of the patient's medical file, subject to the confidentiality laws and rules of this state.

39 5. The director of the department of health and senior services shall:

40 **(1) Disseminate a model form that physicians or qualified professionals may use as the**
41 **written statement required by this section, but any lack or unavailability of such a model form**
42 **shall not affect the duties of the physician or qualified professional set forth in subsections 2 to**
43 **4 of this section; and**

44 **(2) Disseminate a risk evaluation form required under subsection 3 of this section,**
45 **a copy of which shall be delivered to the director of the department of health and senior**
46 **services which excludes any personal identifying information, and shall include:**

47 **(a) A checklist or rating form of the statistically significant risk factors described**
48 **in subsection 3 of this section; and**

49 **(b) Any additional demographic information or questions deemed useful by the**
50 **director of the department of health and senior services relating to risk factors; and**

51 **(3) Publish an annual summary of the risk evaluation checklist; and**

52 **(4) Make the risk evaluation data available to researchers.**

53 6. As used in this section, the term "qualified professional" shall refer to a physician,
54 physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional
55 counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting
56 under the supervision of the physician performing or inducing the abortion, and acting within the
57 course and scope of his or her authority provided by law. The provisions of this section shall not
58 be construed to in any way expand the authority otherwise provided by law relating to the
59 licensure, registration, or scope of practice of any such qualified professional.

60 7. If the provisions in subsection 2 of this section requiring a seventy-two-hour waiting
61 period for an abortion are ever temporarily or permanently restrained or enjoined by judicial
62 order, then the waiting period for an abortion shall be twenty-four hours; provided, however, that
63 if such temporary or permanent restraining order or injunction is stayed or dissolved, or
64 otherwise ceases to have effect, the waiting period for an abortion shall be seventy-two hours.

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