

SECOND REGULAR SESSION

HOUSE BILL NO. 1956

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BILLINGTON.

4440H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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Section A. Section 188.027, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 188.027, to read as follows: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 cases 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 seventy-two hours prior to the abortion:

(1) The physician who is to perform or induce the abortion, a qualified professional, or the referring physician 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.

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

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

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

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

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

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

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

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

50 (4) The physician who is to perform or induce the abortion or a qualified professional
51 shall ~~provide the woman with the opportunity to view~~ at least seventy-two hours prior to the

52 abortion **perform** an active ultrasound of the unborn child and ~~[hear]~~ **auscultate** the fetal
53 heartbeat of the unborn child **so that the woman may hear the fetal heartbeat** if the heartbeat
54 is audible. ~~[The woman shall be provided with a geographically indexed list maintained by the~~
55 ~~department of health care providers, facilities, and clinics that perform ultrasounds, including~~
56 ~~those that offer ultrasound services free of charge. Such materials shall provide contact~~
57 ~~information for each provider, facility, or clinic including telephone numbers and, if available,~~
58 ~~website addresses. Should the woman decide to obtain an ultrasound from a provider, facility,~~
59 ~~or clinic other than the abortion facility, the woman shall be offered a reasonable time to obtain~~
60 ~~the ultrasound examination before the date and time set for performing or inducing an abortion.]~~
61 **The physician who is to perform or induce the abortion or a qualified professional shall**
62 **provide a simultaneous explanation of what the ultrasound is depicting, which shall include**
63 **the presence and location of the unborn child within the uterus and the number of unborn**
64 **children depicted and also, if the ultrasound image indicates that fetal demise has**
65 **occurred, inform the woman of that fact.** The person conducting the ultrasound shall ensure
66 that the 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 auscultation of fetal heart tone must also be of a quality consistent with standard medical practice
70 in the community]. ~~If the woman chooses to view the ultrasound or hear the heartbeat or both~~
71 ~~at the abortion facility, the viewing or hearing or both shall be provided to her at the abortion~~
72 ~~facility at least seventy-two hours prior to the abortion being performed or induced];~~

73 (5) The printed materials provided by the department shall include information on the
74 possibility of an abortion causing pain in the unborn child. This information shall include, but
75 need not be limited to, the following:

76 (a) Unborn children as early as eight weeks gestational age start to show spontaneous
77 movements and unborn children at this stage in pregnancy show reflex responses to touch;

78 (b) In the unborn child, the area around his or her mouth and lips is the first part of the
79 unborn child's body to respond to touch and by fourteen weeks gestational age most of the
80 unborn child's body is responsive to touch;

81 (c) Pain receptors on the unborn child's skin develop around his or her mouth at around
82 seven to eight weeks gestational age, around the palms of his or her hands at ten to ten and a half
83 weeks, on the abdominal wall at fifteen weeks, and over all of his or her body at sixteen weeks
84 gestational age;

85 (d) Beginning at sixteen weeks gestational age and later, it is possible for pain to be
86 transmitted from receptors to the cortex of the unborn child's brain, where thinking and
87 perceiving occur;

88 (e) When a physician performs a life-saving surgery, he or she provides anesthesia to
89 unborn children as young as sixteen weeks gestational age in order to alleviate the unborn child's
90 pain; and

91 (f) A description of the actual steps in the abortion procedure to be performed or induced
92 and at which steps the abortion procedure could be painful to the unborn child;

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

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

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

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

117 (d) Prominently display the statement: "There are public and private agencies willing
118 and able to help you carry your child to term, and to assist you and your child after your child is
119 born, whether you choose to keep your child or place him or her for adoption. The state of
120 Missouri encourages you to contact those agencies before making a final decision about abortion.
121 State law requires that your physician or a qualified professional give you the opportunity to call
122 agencies like these before you undergo an abortion.";

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

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

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

147 3. No abortion shall be performed or induced unless and until the woman upon whom
148 the abortion is to be performed or induced certifies in writing on a checklist form provided by
149 the department that she has been presented all the information required in subsection 1 of this
150 section, that she has ~~[been provided the opportunity to view]~~ **viewed** an active ultrasound image
151 of the unborn child and ~~[hear]~~ **heard** the heartbeat of the unborn child if it is audible, **or**
152 **declined to do so**, and that she further certifies that she gives her voluntary and informed
153 consent, freely and without coercion, to the abortion procedure. **When the ultrasound images**
154 **and heartbeat sounds are provided to and reviewed with the woman upon whom the**
155 **abortion is to be performed or induced, nothing in this section shall be construed to**
156 **prevent the woman from averting her eyes from the ultrasound images or requesting that**
157 **the volume of the heartbeat be reduced or turned off if the heartbeat is audible. Neither**
158 **the physician, the qualified technician, or the woman upon whom the abortion is to be**

159 **performed or induced shall be subject to any penalty if the woman refuses to look at the**
160 **displayed ultrasound images or refuses to listen to the heartbeat if the heartbeat is audible.**

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

167 (1) Rape crisis centers, as defined in section 455.003;

168 (2) Shelters for victims of domestic violence, as defined in section 455.200; and

169 (3) Orders of protection, pursuant to chapter 455.

170 5. The physician who is to perform or induce the abortion shall, at least seventy-two
171 hours prior to such procedure, inform the woman orally and in person of:

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

176 (2) The immediate and long-term medical risks to the woman, in light of the anesthesia
177 and medication that is to be administered, the unborn child's gestational age, and the woman's
178 medical history and medical conditions.

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

182 7. In the event of a medical emergency, the physician who performed or induced the
183 abortion shall clearly certify in writing the nature and circumstances of the medical emergency.
184 This certification shall be signed by the physician who performed or induced the abortion, and
185 shall be maintained under section 188.060.

186 8. No person or entity shall require, obtain, or accept payment for an abortion from or
187 on behalf of a patient until at least seventy-two hours have passed since the time that the
188 information required by subsection 1 of this section has been provided to the patient. Nothing
189 in this subsection shall prohibit a person or entity from notifying the patient that payment for the
190 abortion will be required after the seventy-two-hour period has expired if she voluntarily chooses
191 to have the abortion.

192 9. The term "qualified professional" as used in this section shall refer to a physician,
193 physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional
194 counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting

195 under the supervision of the physician performing or inducing the abortion, and acting within the
196 course and scope of his or her authority provided by law. The provisions of this section shall not
197 be construed to in any way expand the authority otherwise provided by law relating to the
198 licensure, registration, or scope of practice of any such qualified professional.

199 10. By November 30, 2010, the department shall produce the written materials and forms
200 described in this section. Any written materials produced shall be printed in a typeface large
201 enough to be clearly legible. All information shall be presented in an objective, unbiased manner
202 designed to convey only accurate scientific and medical information. The department shall
203 furnish the written materials and forms at no cost and in sufficient quantity to any person who
204 performs or induces abortions, or to any hospital or facility that provides abortions. The
205 department shall make all information required by subsection 1 of this section available to the
206 public through its department website. The department shall maintain a toll-free,
207 twenty-four-hour hotline telephone number where a caller can obtain information on a regional
208 basis concerning the agencies and services described in subsection 1 of this section. No
209 identifying information regarding persons who use the website shall be collected or maintained.
210 The department shall monitor the website on a regular basis to prevent tampering and correct any
211 operational deficiencies.

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

217 12. If the provisions in subsections 1 and 8 of this section requiring a seventy-two-hour
218 waiting period for an abortion are ever temporarily or permanently restrained or enjoined by
219 judicial order, then the waiting period for an abortion shall be twenty-four hours; provided,
220 however, that if such temporary or permanent restraining order or injunction is stayed or
221 dissolved, or otherwise ceases to have effect, the waiting period for an abortion shall be
222 seventy-two hours.

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