

# HOUSE BILL NO. 2040

## 102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WEBER.

3712H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 188.015 and 188.017, RSMo, and to enact in lieu thereof two new sections relating to abortion, with penalty provisions.

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

Section A. Sections 188.015 and 188.017, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 188.015 and 188.017, to read as follows:

188.015. As used in this chapter, the following terms mean:

2 (1) "Abortion":

3 (a) The act of using or prescribing any instrument, device, medicine, drug, or any  
4 other means or substance with the intent to destroy the life of an embryo or fetus in his or her  
5 mother's womb; or

6 (b) The intentional termination of the pregnancy of a mother by using or prescribing  
7 any instrument, device, medicine, drug, or other means or substance with an intention other  
8 than to increase the probability of a live birth or to remove a dead unborn child; **and**

9 (c) **"Abortion" shall not include U.S. Food and Drug Administration-approved**  
10 **hormonal birth control, emergency contraceptives used to prevent pregnancy after**  
11 **sexual intercourse, and long-acting reversible contraceptives, as described in section**  
12 **208.1070, when used with the intention to prevent pregnancy or for reasons other than**  
13 **to intentionally terminate a pregnancy;**

14 (2) "Abortion facility", a clinic, physician's office, or any other place or facility in  
15 which abortions are performed or induced other than a hospital;

16 (3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

17 (4) "Department", the department of health and senior services;

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 (5) "Down Syndrome", the same meaning as defined in section 191.923;

19 (6) "Gestational age", length of pregnancy as measured from the first day of the  
20 woman's last menstrual period;

21 (7) "Medical emergency", a condition which, based on reasonable medical judgment,  
22 so complicates the medical condition of a pregnant woman as to necessitate the immediate  
23 abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will  
24 create a serious risk of substantial and irreversible physical impairment of a major bodily  
25 function of the pregnant woman. **A "medical emergency" shall include, but not be limited  
26 to, an ectopic pregnancy at any point following the diagnosis of such;**

27 (8) "Physician", any person licensed to practice medicine in this state by the state  
28 board of registration for the healing arts;

29 (9) "Reasonable medical judgment", a medical judgment that would be made by a  
30 reasonably prudent physician, knowledgeable about the case and the treatment possibilities  
31 with respect to the medical conditions involved;

32 (10) "Unborn child", the offspring of human beings from the moment of conception  
33 until birth and at every stage of its biological development, including the human conceptus,  
34 zygote, morula, blastocyst, embryo, and fetus;

35 (11) "Viability" or "viable", that stage of fetal development when the life of the  
36 unborn child may be continued indefinitely outside the womb by natural or artificial life-  
37 supportive systems;

38 (12) "Viable pregnancy" or "viable intrauterine pregnancy", in the first trimester of  
39 pregnancy, an intrauterine pregnancy that can potentially result in a liveborn baby.

188.017. 1. This section shall be known and may be cited as the "Right to Life of the  
2 Unborn Child Act".

3 2. Notwithstanding any other provision of law to the contrary, no abortion shall be  
4 performed or induced upon a woman, except in cases of medical emergency. Any person who  
5 knowingly performs or induces an abortion of an unborn child in violation of this subsection  
6 shall be guilty of a class B felony, as well as subject to suspension or revocation of his or her  
7 professional license by his or her professional licensing board. A woman upon whom an  
8 abortion is performed or induced in violation of this subsection shall not be prosecuted for a  
9 conspiracy to violate the provisions of this subsection.

10 3. It shall be an affirmative defense for any person alleged to have violated the  
11 provisions of subsection 2 of this section that the person performed or induced an abortion  
12 because of a medical emergency. The defendant shall have the burden of persuasion that the  
13 defense is more probably true than not.

14 4. ~~[The enactment of this section shall only become effective upon notification to the~~  
15 ~~revisor of statutes by an opinion by the attorney general of Missouri, a proclamation by the~~

16 ~~governor of Missouri, or the adoption of a concurrent resolution by the Missouri general~~  
17 ~~assembly that:~~

18 ~~(1) The United States Supreme Court has overruled, in whole or in part, Roe v. Wade,~~  
19 ~~410 U.S. 113 (1973), restoring or granting to the state of Missouri the authority to regulate~~  
20 ~~abortion to the extent set forth in this section, and that as a result, it is reasonably probable~~  
21 ~~that this section would be upheld by the court as constitutional;~~

22 ~~(2) An amendment to the Constitution of the United States has been adopted that has~~  
23 ~~the effect of restoring or granting to the state of Missouri the authority to regulate abortion to~~  
24 ~~the extent set forth in this section; or~~

25 ~~(3) The United States Congress has enacted a law that has the effect of restoring or~~  
26 ~~granting to the state of Missouri the authority to regulate abortion to the extent set forth in this~~  
27 ~~section] **The provisions of this section shall not be construed to impact or prohibit access**~~  
28 ~~**to other reproductive health care services including, but not limited to, access to U.S.**~~  
29 ~~**Food and Drug Administration-approved birth control measures such as hormonal**~~  
30 ~~**birth control, emergency contraceptives used to prevent pregnancy after sexual**~~  
31 ~~**intercourse, and long-acting reversible contraceptives, as described in section 208.1070.**~~