

FIRST REGULAR SESSION

HOUSE BILL NO. 919

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRAGG.

1870H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 188.027, 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Section A. Section 188.027, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 188.027, to read as follows: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
26 the physician performing or inducing the abortion has clinical privileges and where the
27 woman may 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
29 or induced; and

30 (g) The anatomical and physiological characteristics of the unborn child at the time
31 the 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 two-
35 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
38 and internal organs during the applicable stages of development and information on when the
39 unborn child is viable. The printed materials shall prominently display the following
40 statement: "The life of each human being begins at conception. Abortion will terminate the
41 life of a separate, unique, living human being.";

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

53 the heartbeat is audible. The woman shall be provided with a geographically indexed list
54 maintained by the department of health care providers, facilities, and clinics that perform
55 ultrasounds, including those that offer ultrasound services free of charge. Such materials
56 shall provide contact information for each provider, facility, or clinic including telephone
57 numbers and, if available, website addresses. Should the woman decide to obtain an
58 ultrasound from a provider, facility, or clinic other than the abortion facility, the woman shall
59 be offered a reasonable time to obtain the ultrasound examination before the date and time set
60 for performing or inducing an abortion. The person conducting the ultrasound shall ensure
61 that the active ultrasound image is of a quality consistent with standard medical practice in the
62 community, contains the dimensions of the unborn child, and accurately portrays the presence
63 of external members and internal organs, if present or viewable, of the unborn child. The
64 auscultation of fetal heart tone must also be of a quality consistent with standard medical
65 practice in the community. If the woman chooses to view the ultrasound or hear the heartbeat
66 or both at the abortion facility, the viewing or hearing or both shall be provided to her at the
67 abortion facility at least seventy-two hours prior to the abortion being performed or induced;

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

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

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

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

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

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

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

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

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

100 (b) Explain the Missouri alternatives to abortion services program under section
101 188.325, and any other programs and services available to pregnant women and mothers of
102 newborn children offered by public or private agencies which assist a woman in carrying her
103 unborn child to term and assist her in caring for her dependent child or placing her child for
104 adoption, including but not limited to prenatal care; maternal health care; newborn or infant
105 care; mental health services; professional counseling services; housing programs; utility
106 assistance; transportation services; food, clothing, and supplies related to pregnancy;
107 parenting skills; educational programs; job training and placement services; drug and alcohol
108 testing and treatment; and adoption assistance;

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

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

118 (7) The physician who is to perform or induce the abortion or a qualified professional
119 has presented the woman, in person, printed materials provided by the department explaining
120 that the father of the unborn child is liable to assist in the support of the child, even in
121 instances where he has offered to pay for the abortion. Such materials shall include
122 information on the legal duties and support obligations of the father of a child, including, but
123 not limited to, child support payments, and the fact that paternity may be established by the
124 father's name on a birth certificate or statement of paternity, or by court action. Such printed

125 materials shall also state that more information concerning paternity establishment and child
126 support services and enforcement may be obtained by calling the family support division
127 within the Missouri department of social services; and

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

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

142 3. No abortion shall be performed or induced unless and until the woman upon whom
143 the abortion is to be performed or induced certifies in writing on a checklist form provided by
144 the department that she has been presented all the information required in subsection 1 of this
145 section, that she has ~~[been provided the opportunity to view]~~ **viewed** an active ultrasound
146 image of the unborn child and ~~[hear]~~ **heard** the heartbeat of the unborn child if it is audible,
147 and that she further certifies that she gives her voluntary and informed consent, freely and
148 without coercion, to the abortion procedure.

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

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

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

- 160 (1) The immediate and long-term medical risks to the woman associated with the
161 proposed abortion method including, but not limited to, infection, hemorrhage, cervical tear

162 or uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent
163 child to term, and possible adverse psychological effects associated with the abortion; and

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

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

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

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

180 9. The term "qualified professional" as used in this section shall refer to a physician,
181 physician assistant, registered nurse, licensed practical nurse, psychologist, licensed
182 professional counselor, or licensed social worker, licensed or registered under chapter 334,
183 335, or 337, acting under the supervision of the physician performing or inducing the
184 abortion, and acting within the course and scope of his or her authority provided by law. The
185 provisions of this section shall not be construed to in any way expand the authority otherwise
186 provided by law relating to the licensure, registration, or scope of practice of any such
187 qualified professional.

188 10. By November 30, 2010, the department shall produce the written materials and
189 forms described in this section. Any written materials produced shall be printed in a typeface
190 large enough to be clearly legible. All information shall be presented in an objective,
191 unbiased manner designed to convey only accurate scientific and medical information. The
192 department shall furnish the written materials and forms at no cost and in sufficient quantity
193 to any person who performs or induces abortions, or to any hospital or facility that provides
194 abortions. The department shall make all information required by subsection 1 of this section
195 available to the public through its department website. The department shall maintain a toll-
196 free, twenty-four-hour hotline telephone number where a caller can obtain information on a
197 regional basis concerning the agencies and services described in subsection 1 of this section.
198 No identifying information regarding persons who use the website shall be collected or

199 maintained. The department shall monitor the website on a regular basis to prevent tampering
200 and correct any operational deficiencies.

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

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

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