

SECOND REGULAR SESSION

HOUSE BILL NO. 2972

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DURNELL.

6422H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 210.070 and 210.100, RSMo, and to enact in lieu thereof two new sections relating to the administration of eye drops to newborn infants, with penalty provisions.

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

Section A. Sections 210.070 and 210.100, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 210.070 and 210.100, to read as follows:

210.070. 1. **Immediately after delivery of a newborn infant**, a physician, midwife,
2 or nurse who shall be in attendance upon ~~[a]~~ **the newborn infant or its mother** ~~[shall]~~ **may**
3 drop into the eyes of such infant ~~[a prophylactic medication approved by the state department~~
4 ~~of health and senior services]~~ **erythromycin to protect the infant from any infection that**
5 **may have been contracted during the birthing process. The physician, midwife, or**
6 **nurse in attendance at the birth shall not administer erythromycin eye drops unless**
7 **informed consent from the infant's parent or legal guardian has been obtained and**
8 **documented. Within forty-eight hours of the administration of erythromycin eye drops,**
9 **a written report on the administration of the eye drops as well as written documentation**
10 **of the informed consent obtained from the infant's parent or legal guardian shall be**
11 **provided to the local public health agency of the city, town, or county where the birth**
12 **occurred.**

13 2. ~~[Administration of such eye drops shall not be required if a parent or legal guardian~~
14 ~~of such infant objects to the treatment because it is against the religious beliefs of the parent~~
15 ~~or legal guardian.]~~ **A parent or legal guardian may report any administration of**
16 **erythromycin eye drops without the informed consent required under this section to the**
17 **department of health and senior services. Any physician, midwife, or nurse who**

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 administers erythromycin eye drops without the informed consent required under this
19 section shall receive a written warning from the department of health and senior
20 services for the first violation. A second violation shall result in a fine of five thousand
21 dollars and a one-year suspension of any professional health-related license held by the
22 physician, midwife, or nurse by the relevant licensing board. A third and any
23 subsequent violation shall result in a fine of five thousand dollars and revocation of any
24 such professional license by the relevant licensing board.

25 3. Failure or refusal of the parent or legal guardian of a newborn infant to
26 consent to the administration of erythromycin eye drops under this section shall not be
27 grounds to contact any state agency or department including, but not limited to, the
28 children's division of the department of social services. If any state agency or
29 department is contacted in violation of this subsection, the parent or legal guardian of
30 the newborn infant may bring a civil action in circuit court for such relief as may be
31 appropriate. Any such action may be brought in the county where the violation
32 occurred. The court shall award court costs and reasonable attorney's fees incurred by
33 the parent or legal guardian if the court finds that this subsection has been violated.

210.100. 1. Except as otherwise provided in this section, any person violating any
2 of the provisions of sections 210.070 to 210.090 shall be deemed guilty of a misdemeanor.

3 2. Administration of erythromycin eye drops by a physician, midwife, or nurse
4 in violation of the requirements of section 210.070 shall not be a criminal act but shall
5 subject the physician, midwife, or nurse to the penalties described in subsection 2 of
6 section 210.070.

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