

SECOND REGULAR SESSION

SENATE BILL NO. 562

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GROSS.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3377S.02I

AN ACT

To repeal sections 188.015 and 188.039, RSMo, and to enact in lieu thereof five new sections relating to the unborn child pain prevention act.

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

Section A. Sections 188.015 and 188.039, RSMo, are repealed and five new
2 sections enacted in lieu thereof, to be known as sections 188.015, 188.039,
3 188.275, 188.278, and 188.281, to read as follows:

188.015. Unless the language or context clearly indicates a different
2 meaning is intended, the following words or phrases for the purposes of sections
3 188.010 to 188.130 shall be given the meaning ascribed to them:

4 (1) "Abortion", the intentional destruction of the life of an embryo or fetus
5 in his or her mother's womb or the intentional termination of the pregnancy of a
6 mother with an intention other than to increase the probability of a live birth or
7 to remove a dead or dying unborn child;

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

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

12 (4) "Gestational age", length of pregnancy as measured from the first day
13 of the woman's last menstrual period;

14 (5) "**Medical emergency**", a condition which, on the basis of the
15 physician's good faith clinical judgment, so complicates the medical
16 condition of a pregnant woman as to necessitate the immediate
17 abortion of her pregnancy to avert her death or for which a delay will
18 create a serious risk of substantial and irreversible impairment of a

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **major bodily function;**

20 (6) "Physician", any person licensed to practice medicine in this state by
21 the state board of registration of the healing arts;

22 (7) **"Probable gestational age", the age that, with reasonable**
23 **probability in the judgment of a physician, will be the gestational age**
24 **of the unborn child at the time the abortion is planned to be performed;**

25 [(6)] (8) "Unborn child", the offspring of human beings from the moment
26 of conception until birth and at every stage of its biological development,
27 including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;

28 [(7)] (9) "Viability", that stage of fetal development when the life of the
29 unborn child may be continued indefinitely outside the womb by natural or
30 artificial life-supportive systems.

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

7 2.] Except in the case of medical emergency, no person shall perform or
8 induce an abortion unless at least twenty-four hours prior thereto a treating
9 physician has conferred with the patient and discussed with her the indicators
10 and contraindicators, and risk factors including any physical, psychological, or
11 situational factors for the proposed procedure and the use of medications,
12 including but not limited to mifepristone, in light of her medical history and
13 medical condition. For an abortion performed or an abortion induced by a drug
14 or drugs, such conference shall take place at least twenty-four hours prior to the
15 writing or communication of the first prescription for such drug or drugs in
16 connection with inducing an abortion. Only one such conference shall be required
17 for each abortion.

18 [3.] 2. The patient shall be evaluated by a treating physician during the
19 conference for indicators and contraindicators, risk factors including any physical,
20 psychological, or situational factors which would predispose the patient to or
21 increase the risk of experiencing one or more adverse physical, emotional, or
22 other health reactions to the proposed procedure or drug or drugs in either the
23 short or long term as compared with women who do not possess such risk factors.

24 [4.] 3. At the end of the conference, and if the woman chooses to proceed

25 with the abortion, a treating physician shall sign and shall cause the patient to
26 sign a written statement that the woman gave her informed consent freely and
27 without coercion after the physician had discussed with her the indicators and
28 contraindicators, and risk factors, including any physical, psychological, or
29 situational factors. All such executed statements shall be maintained as part of
30 the patient's medical file, subject to the confidentiality laws and rules of this
31 state.

32 [5.] 4. The director of the department of health and senior services shall
33 disseminate a model form that physicians may use as the written statement
34 required by this section, but any lack or unavailability of such a model form shall
35 not affect the duties of the physician set forth in subsections [2 to 4] 1 to 3 of
36 this section.

188.275. 1. Sections 188.275 to 188.281 shall be known as the
2 **"Unborn Child Pain Prevention Act".**

3 **2. Except in the case of a medical emergency, at least twenty-four**
4 **hours before an abortion is performed on an unborn child whose**
5 **probable gestation age is twenty weeks or more, the treating physician**
6 **performing the abortion shall inform the pregnant woman that she has**
7 **the right to review the printed materials described in section 188.281.**

8 **3. The treating physician shall inform the pregnant woman that**
9 **the materials have been provided by the state of Missouri and they**
10 **contain information on pain in relation to the unborn child.**

11 **4. If the pregnant woman chooses to view the materials other**
12 **than on the Internet website, the materials shall either:**

13 **(1) Be given to her at least twenty-four hours before the**
14 **abortion; or**

15 **(2) Mailed to her at least seventy-two hours before the abortion**
16 **by certified mail, restricted delivery to addressee, so that the postal**
17 **employee may deliver the mail only to the pregnant woman.**

18 **5. The pregnant woman shall certify in writing before the**
19 **abortion that:**

20 **(1) The information described in subsection 2 of this section has**
21 **been furnished her; and**

22 **(2) She has been informed of her opportunity to review the**
23 **printed material described in section 188.281.**

24 **6. Before the abortion is performed, the treating physician who**
25 **is to perform the abortion shall:**

26 (1) Obtain a copy of the written certification required under
27 subsection 5 of this section; and

28 (2) Retain it on file with the woman's medical record for at least
29 three years following the date of receipt.

188.278. 1. Except in the case of a medical emergency, before an
2 abortion is performed on an unborn child whose probable gestational
3 age is twenty weeks or more, the treating physician performing the
4 abortion shall inform the pregnant woman:

5 (1) Whether an anesthetic or analgesic would eliminate or
6 alleviate organic pain to the unborn child that could be caused by the
7 particular method of abortion to be employed; and

8 (2) Of the particular medical risks associated with the particular
9 anesthetic or analgesic.

10 2. After presenting the information required in subsection 1 of
11 this section and with the consent of the pregnant woman, the treating
12 physician shall administer the anesthetic or analgesic.

188.281. 1. Within ninety days after the effective date of sections
2 188.275 to 188.281, the department of health and senior services shall
3 publish printed materials with the following statement concerning
4 unborn children of twenty weeks gestational age or more:

5 "By twenty weeks gestation, the unborn child has the
6 physical structures necessary to experience pain. There is
7 evidence that by twenty weeks gestation unborn children
8 seek to evade certain stimuli in a manner that in an infant
9 or an adult would be interpreted to be a response to
10 pain. Anesthesia is routinely administered to unborn
11 children who are twenty weeks gestational age or more
12 who undergo prenatal surgery."

13 2. The materials shall be objective, nonjudgmental, and designed
14 to convey only accurate scientific information about the human fetus
15 at the various gestational ages.

16 3. The department shall make the materials available on the
17 department's website.

18 4. The materials referred to in this section shall be printed in a
19 typeface large enough to be clearly legible.

20 5. Upon request, the department shall make available to any
21 person, facility, or hospital the materials required under this

22 section. The department shall have the discretion to determine the
23 appropriate cost and number of materials given.

24 6. The department of health and senior services shall include on
25 its Internet website the information described in this section.

26 7. No information regarding persons who use the website shall
27 be collected or maintained.

28 8. The department shall monitor the website on a daily basis to
29 prevent and correct tampering.

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