

# SENATE BILL NO. 765

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR DOUGHERTY.

Pre-filed December 16, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

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### AN ACT

To repeal section 431.064, RSMo, and to enact in lieu thereof one new section relating to emergency medical treatment.

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

Section A. Section 431.064, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 431.064, to read as follows:

431.064. 1. When an adult person, because of a medical condition, is  
2 treated by a teaching hospital for a medical school accredited by the American  
3 Osteopathic Association or the American Medical Association and such person is  
4 incapable of giving informed consent for an experimental treatment, test or drug,  
5 then such treatment, test or drug may proceed upon obtaining consent of a legal  
6 guardian, attorney-in-fact, or a family member in the following order of priority:

7 (1) Spouse unless the patient has no spouse, or is separated, or the spouse  
8 is physically or mentally incapable of giving consent, or the spouse's whereabouts  
9 is unknown or the spouse is overseas;

10 (2) Adult child;

11 (3) Parent;

12 (4) Brother or sister;

13 (5) Relative by blood or marriage.

14 2. Nothing in this section shall authorize such legal guardian,  
15 attorney-in-fact, or family member to consent to treatment in contravention to  
16 such incapacitated person's expressed permission regarding such treatment.

17 **3. This section shall not apply to any research program or**  
18 **experimental medical procedure for patients subject to a life-**  
19 **threatening emergency that is conducted in accordance with Part 50 of**  
20 **Title 21 and Part 46 of Title 45 of the Code of Federal Regulations.**

