

FIRST REGULAR SESSION

SENATE BILL NO. 546

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS BRAY, JUSTUS, SMITH, DAYS, COLEMAN, GRAHAM AND WILSON.

Read 1st time February 21, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1865S.011

AN ACT

To repeal section 170.015, RSMo, and to enact in lieu thereof seven new sections relating to reducing the number of abortions in the state through the prevention first act, with penalty provisions.

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

Section A. Section 170.015, RSMo, is repealed and seven new sections enacted in lieu thereof, to be known as sections 170.015, 191.717, 191.718, 191.720, 192.970, 338.012, and 338.014, to read as follows:

170.015. 1. Any course materials and instruction relating to human sexuality and sexually transmitted diseases shall be medically and factually accurate and shall:

(1) Present abstinence from sexual activity as the preferred choice of behavior in relation to all sexual activity for unmarried pupils because it is the only method that is one hundred percent effective in preventing pregnancy, sexually transmitted diseases and the emotional trauma associated with adolescent sexual activity, and advise students that teenage sexual activity places them at a higher risk of dropping out of school because of the consequences of sexually transmitted diseases and unplanned pregnancy;

(2) Stress that sexually transmitted diseases are serious, possible, health hazards of sexual activity. Pupils shall be provided with the latest medical information regarding exposure to human immunodeficiency virus, acquired immune deficiency syndrome (AIDS), human papilloma virus, hepatitis and other sexually transmitted diseases;

(3) Present students with the latest medically factual information regarding both the possible side effects and health benefits of all forms of

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

18 contraception, including the success and failure rates for the prevention of
19 pregnancy and sexually transmitted diseases;

20 (4) Include a discussion of the possible emotional and psychological
21 consequences of preadolescent and adolescent sexual activity and the
22 consequences of adolescent pregnancy, as well as the advantages of adoption,
23 including the adoption of special needs children, and the processes involved in
24 making an adoption plan;

25 (5) Teach skills of conflict management, personal responsibility and
26 positive self-esteem through discussion and role-playing at appropriate grade
27 levels to emphasize that the pupil has the power to control personal
28 behavior. Pupils shall be encouraged to base their actions on reasoning,
29 self-discipline, sense of responsibility, self-control, and ethical considerations,
30 such as respect for one's self and others. Pupils shall be taught not to make
31 unwanted physical and verbal sexual advances or otherwise exploit another
32 person. Pupils shall be taught to resist unwanted sexual advances and other
33 negative peer pressure;

34 (6) Advise pupils of the laws pertaining to their financial responsibility
35 to children born in and out of wedlock and advise pupils of the provisions of
36 chapter 566, RSMo, pertaining to statutory rape.

37 **2. School districts or charter schools, or its personnel or agents**
38 **shall not permit a person or entity to offer, sponsor, or furnish in any**
39 **manner any course materials or instruction relating to human sexuality**
40 **or sexually transmitted diseases to its students if such a person or**
41 **entity opposes contraception or distributes medically inaccurate**
42 **information on contraception. "Medically inaccurate information" is**
43 **information that is not verified or supported by the weight of research**
44 **conducted in compliance with accepted scientific methods or published**
45 **in peer reviewed journals where applicable; or information that goes**
46 **against leading professional organizations and agencies with relevant**
47 **expertise in the fields, such as the American College of Obstetricians**
48 **and Gynecologists.**

49 **3. Policies concerning referrals and parental notification regarding**
50 **contraception shall be determined by local school boards, consistent with the**
51 **provisions of section 167.611, RSMo.**

52 **[3.] 4. A school district which provides human sexuality instruction may**
53 **separate students according to gender for instructional purposes.**

54 [4.] 5. The board of a school district shall determine the specific content
55 of the district's instruction in human sexuality, in accordance with subsections
56 1 to 3 of this section, and shall ensure that all instruction in human sexuality is
57 appropriate to the age of the students receiving such instruction.

58 [5.] 6. A school district shall notify the parent or legal guardian of each
59 student enrolled in the district of:

60 (1) The basic content of the district's human sexuality instruction to be
61 provided to the student; and

62 (2) The parent's right to remove the student from any part of the district's
63 human sexuality instruction.

64 [6.] 7. A school district shall make all curriculum materials used in the
65 district's human sexuality instruction available for public inspection pursuant to
66 chapter 610, RSMo, prior to the use of such materials in actual instruction.

67 8. **If any individual believes that the local school district is not**
68 **complying with this section, such individual may request in writing to**
69 **the principal or superintendent of the school district that the**
70 **curriculum comply with this section. The principal or superintendent**
71 **then must correct the problem within ninety days. If the problem has**
72 **not been corrected within ninety days then the individual may appeal**
73 **to the local board of education for compliance with this section.**

191.717. 1. Sections 191.717 and 191.718 may be cited as the
2 "Compassionate Assistance for Rape Emergencies (CARE) Act".

3 2. As used in sections 191.717 to 191.718, unless the context
4 clearly indicates otherwise, the following terms shall mean:

5 (1) "Emergency care to sexual assault victims", medical
6 examinations, procedures, or services provided at a hospital to a sexual
7 assault victim following an alleged rape;

8 (2) "Emergency contraception", any drug or device approved by
9 the Food and Drug Administration that prevents pregnancy after sexual
10 intercourse;

11 (3) "Health care facility", any urgent care center or facility that
12 offers treatment for patients during normal business, after-business, or
13 weekend hours and that is affiliated with a licensed hospital;

14 (4) "Medically and factually accurate and objective", verified or
15 supported by the weight of research conducted in compliance with
16 accepted scientific methods and is published in peer-reviewed journals

17 where applicable; or comprising information that leading professional
18 organizations and agencies with relevant expertise in the field, such as
19 the American College of Obstetricians and Gynecologists, recognize as
20 accurate and objective;

21 (5) "Sexual assault", as defined in section 566.040, RSMo;

22 (6) "Sexual assault victim", a female who is alleged to have been
23 raped and is presented as a patient.

191.718. 1. It shall be the standard of care for any hospital and
2 any health care facility that provides emergency care to sexual assault
3 victims to:

4 (1) Provide each sexual assault victim with medically and
5 factually accurate and objective written and oral information about
6 emergency contraception;

7 (2) Orally inform each sexual assault victim of her option to be
8 provided emergency contraception at the hospital;

9 (3) Provide the complete regimen of emergency contraception
10 immediately at the hospital or health care facility to each sexual
11 assault victim who requests it; and

12 (4) Follow the Department of Justice protocols on HIV/STI
13 screening and prophylactic treatment.

14 2. Hospitals and health care facilities shall ensure that each
15 person who provides care to sexual assault victims is provided with
16 medically and factually accurate and objective information about
17 emergency contraception.

18 3. The department of health and senior services shall develop,
19 prepare, and produce informational materials relating to emergency
20 contraception for the prevention of pregnancy for distribution in any
21 hospital or health care facility in the state in quantities sufficient to
22 comply with the requirements of this section. The director, in
23 collaboration with community sexual assault programs, may also
24 approve informational materials from other sources.

25 4. The information materials shall:

26 (1) Be medically and factually accurate and objective;

27 (2) Be clearly written and readily comprehensible in a culturally
28 competent manner, as the department deems necessary to inform
29 victims of sexual assault; and

30 (3) Explain the nature of emergency contraception, including its

31 use, safety, efficacy, and availability, and that it does not cause
32 abortion.

33 5. The department of health and senior services shall respond to
34 complaints and shall periodically determine whether hospitals and
35 health care facilities are complying with the provisions of this
36 section. The department may use all investigative tools available to
37 verify compliance. If the department determines that a hospital or
38 health care facility is not in compliance, the department shall:

39 (1) Impose an administrative penalty of five thousand dollars per
40 woman who is denied medically and factually accurate and objective
41 information about emergency contraception or who is not offered or
42 provided emergency contraception; and

43 (2) Impose an administrative penalty of five thousand dollars for
44 failure to comply with the provisions of this section and for every
45 thirty days that a hospital or health care facility is not in compliance,
46 an additional penalty of five thousand dollars shall be imposed.

47 6. The department shall promulgate rules to implement the
48 provisions of sections 191.717 to 191.718.

49 7. Any rule or portion of a rule, as that term is defined in section
50 536.010, RSMo, that is created under the authority delegated in this
51 section shall become effective only if it complies with and is subject to
52 all of the provisions of chapter 536, RSMo, and, if applicable, section
53 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
54 and if any of the powers vested with the general assembly pursuant to
55 chapter 536, RSMo, to review, to delay the effective date, or to
56 disapprove and annul a rule are subsequently held unconstitutional,
57 then the grant of rulemaking authority and any rule proposed or
58 adopted after August 28, 2007, shall be invalid and void.

191.720. 1. This section shall be known and may be cited as the
2 "Birth Control Protection Act".

3 2. The general assembly of this state finds that:

4 (1) Citizens of this state have a protectable interest in freedom
5 from unreasonable government intrusions into their private lives;

6 (2) This interest in freedom from unreasonable government
7 intrusions into the private lives of citizens encompasses and protects
8 the right of consenting individuals to obtain and use safe and effective
9 methods of contraception without interference by governmental

10 entities;

11 (3) It is the public policy of this state that the interest in
12 freedom from unreasonable government intrusions into the private
13 lives of citizens, and specifically the right of consenting individuals to
14 obtain and use safe and effective methods of contraception without
15 interference by governmental entities, shall be safeguarded and that
16 the laws of this state shall be interpreted and construed to recognize
17 and protect these rights.

18 3. Notwithstanding any other provisions of law, no governmental
19 actor or entity, whether state, county, municipal, or otherwise, within
20 the state of Missouri, shall:

21 (1) Be authorized to act in any fashion so as to deprive
22 consenting individuals of the right to obtain and use safe and effective
23 methods of contraception; or

24 (2) Interfere with or discriminate against, in the regulation or
25 provision of benefits, facilities, services, or information, the right of
26 consenting individuals to obtain and use safe and effective methods of
27 contraception.

28 4. Nothing in this section shall be interpreted to prevent
29 implementation of laws, rules, ordinances, taxes, or regulations
30 affecting the method and manner of sale or distribution of
31 contraceptives, provided such laws, rules, ordinances, taxes, or
32 regulations are reasonably designed to promote public health and
33 safety, and do not have the effect of unreasonably hindering public
34 access to contraceptives.

192.970. 1. Subject to appropriation, the department of health
2 and senior services shall implement a women's health services program
3 by July 1, 2008. Initial funding for the program shall be in the amount
4 of five million dollars. Such program shall have the goal of reducing
5 the number of unintended pregnancies in Missouri by providing
6 women's health services through qualified health providers, as
7 determined by the department.

8 2. For purposes of this section, women's health services shall
9 include, but not be limited to:

10 (1) Breast and cervical cancer checks;

11 (2) Screening and treatment for sexually transmitted diseases;

12 (3) HIV screening;

- 13 (4) Voluntary choice of contraception, including natural family
14 planning;
- 15 (5) Infertility treatment;
- 16 (6) Patient education and pre-pregnancy counseling on the
17 dangers of smoking, alcohol, and drug use during pregnancy;
- 18 (7) Education on sexual coercion and violence in relationships;
19 and
- 20 (8) Prenatal and other health care referrals.

338.012. 1. Upon receipt of a valid and lawful prescription, a
2 licensed pharmacy shall dispense any prescribed drug or device in
3 stock without delay, consistent with the normal time frame for filling
4 any other prescription.

5 2. Nothing herein shall prohibit a licensed pharmacy from
6 refusing to dispense a prescribed drug or device in accordance with
7 standard pharmacy practice if:

8 (1) There is a valid medical concern that such drug or device will
9 cause problems due to therapeutic duplications, drug-disease
10 contraindications, drug interactions, including serious interactions
11 with prescription or over-the-counter medications, incorrect dosage or
12 duration of drug treatment, drug-allergy interactions, drug abuse, or
13 drug misuse; or

14 (2) The customer is unable to pay for the drug or device.

15 3. When a customer requests a prescribed drug or device not in
16 stock, the pharmacy shall offer the customer the following options:

17 (1) The pharmacy shall obtain the drug or device under standard
18 procedures for expedited ordering of any prescription drug or device
19 not in stock and promptly notify the customer when the pharmacy
20 receives the drug or device; or

21 (2) The pharmacy shall locate a pharmacy of the customer's
22 choice or the closest pharmacy that has the drug or device in stock and
23 transfer the customer's prescription to that pharmacy under standard
24 procedures for transferring prescriptions.

25 The pharmacy shall perform the customer's chosen option in a timely
26 fashion and return the prescription order to the customer upon request
27 at any time prior to dispensing.

28 4. Every licensed pharmacy shall ensure that it does not
29 intimidate, threaten, or harass its customers in the delivery of services.

338.014. 1. A licensed pharmacy shall fulfill all lawful requests
2 for contraception approved for over-the-counter use in a timely fashion.

3 2. Where a customer lawfully requests contraception approved
4 for over-the-counter use, and that drug is not in stock, the pharmacy
5 shall offer the customer the following options:

6 (1) The pharmacy will obtain the contraception under the
7 pharmacy's standard procedures for expedited ordering of over-the-
8 counter drugs not in stock and promptly notify the customer when the
9 pharmacy receives the contraception; or

10 (2) The pharmacy will locate a pharmacy of the customer's choice
11 or the closest pharmacy that has the contraception in stock and refer
12 the customer to that pharmacy.

13 The pharmacy shall perform the customer's chosen option in a timely
14 fashion.

15 3. Every licensed pharmacy shall ensure that it does not
16 intimidate, threaten, or harass its customers in the delivery of services.

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