

SECOND REGULAR SESSION

# SENATE BILL NO. 496

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WRIGHT-JONES.

Pre-filed December 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4418S.011

## AN ACT

To repeal section 170.015, RSMo, and to enact in lieu thereof seven new sections relating to increasing preventive health services through the prevention first act.

*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Section A. Section 170.015, RSMo, is repealed and seven new sections enacted in lieu thereof, to be known as sections 170.015, 191.717, 191.718, 191.720, 192.970, 338.012, and 338.014, to read as follows: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, **be based on peer reviewed projects that have been demonstrated to influence healthy behavior, be age appropriate,** 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] **as the only sure way to avoid pregnancy or sexually transmitted infection;**

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

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

18 hepatitis and other sexually transmitted diseases;

19 (3) Present students with the latest medically factual information  
20 regarding [both the possible side effects and health benefits of all forms of  
21 contraception, including the success and failure rates for the prevention of  
22 pregnancy and sexually transmitted diseases; or shall present students with  
23 information on contraceptives and pregnancy in a manner consistent with the  
24 provisions of the federal abstinence education law, 42 U.S.C. Section 710] **about**  
25 **the health benefits and side effects of all contraceptives and barrier**  
26 **methods as a means to prevent pregnancy and to reduce the risk of**  
27 **contracting sexually transmitted infections, HIV/AIDS and other**  
28 **diseases;**

29 (4) [Include a discussion of the possible emotional and psychological  
30 consequences of preadolescent and adolescent sexual activity and the  
31 consequences of adolescent pregnancy, as well as the advantages of adoption,  
32 including the adoption of special needs children, and the processes involved in  
33 making an adoption plan;

34 (5)] **Provide information about the vaccine for human papilloma**  
35 **virus, which may prevent cervical cancer, genital warts, infertility, and**  
36 **other reproductive health problems, when administered prior to**  
37 **becoming sexually active;**

38 (5) **Encourage family communication between parents and**  
39 **children about sexuality;**

40 (6) **Help young people gain knowledge about the physical,**  
41 **biological, and hormonal changes of adolescence and subsequent states**  
42 **of human maturation and the skills to make responsible decisions about**  
43 **sexuality, including how alcohol and drug use can affect that decision**  
44 **making;**

45 (7) Teach skills of conflict management, personal responsibility and  
46 positive self-esteem through discussion and role-playing at appropriate grade  
47 levels to emphasize that the pupil has the power to control personal  
48 behavior. Pupils shall be encouraged to base their actions on reasoning,  
49 self-discipline, sense of responsibility, self-control, and ethical considerations,  
50 such as respect for one's self and others. Pupils shall be taught not to make  
51 unwanted physical and verbal sexual advances or otherwise exploit another  
52 person. Pupils shall be taught to resist unwanted sexual advances and other  
53 negative peer pressure;

54 [(6)] (8) Advise pupils of the laws pertaining to their financial  
55 responsibility to children born in and out of wedlock and advise pupils of the  
56 provisions of chapter 566 pertaining to statutory rape;

57 (9) **Help pupils develop skills in critical thinking, problem**  
58 **solving, decision making, and stress management in order to make**  
59 **healthy decisions about sexuality and relationships;**

60 (10) **Teach pupils about the dangers of sexual predators,**  
61 **including online predators when using electronic communication**  
62 **methods such as the internet, cell phones, text messages, chat rooms,**  
63 **email, and instant messaging programs. Pupils shall be taught how to**  
64 **behave responsibly and remain safe on the internet and the importance**  
65 **of having open communication with responsible adults and reporting**  
66 **any inappropriate situation, activity, or abuse to a responsible adult,**  
67 **and depending on intent and content, to local law enforcement, the FBI,**  
68 **or the CyberTipLine;**

69 (11) **Teach pupils about the consequences, both personal and**  
70 **legal, of inappropriate text messaging even among friends.**

71 2. Policies concerning referrals and parental notification regarding  
72 contraception shall be determined by local school boards or charter schools,  
73 consistent with the provisions of section 167.611.

74 3. A school district or charter school which provides human sexuality  
75 instruction may separate students according to gender for instructional purposes.

76 4. The board of a school district or charter school shall determine the  
77 specific content of the district's or school's instruction in human sexuality, in  
78 accordance with subsections 1 to 3 of this section, and shall ensure that all  
79 instruction in human sexuality is appropriate to the age of the students receiving  
80 such instruction.

81 5. A school district or charter school shall notify the parent or legal  
82 guardian of each student enrolled in the district or school of:

83 (1) The basic content of the district's or school's human sexuality  
84 instruction to be provided to the student; and

85 (2) The parent's right to remove the student from any part of the district's  
86 or school's human sexuality instruction.

87 6. A school district or charter school shall make all curriculum materials  
88 **and names and affiliations of presenters** used in the district's or school's  
89 human sexuality instruction available for public inspection pursuant to chapter

90 610 prior to the use of such materials in actual instruction.

91 [7. No school district or charter school, or its personnel or agents, shall  
92 provide abortion services, or permit a person or entity to offer, sponsor, or furnish  
93 in any manner any course materials or instruction relating to human sexuality  
94 or sexually transmitted diseases to its students if such person or entity is a  
95 provider of abortion services.

96 8. As used in this section, the following terms mean:

97 (1) "Abortion", the same meaning as such term is defined in section  
98 188.015;

99 (2) "Abortion services":

100 (a) Performing, inducing, or assisting in the performance or inducing of  
101 an abortion which is not necessary to save the life of the mother;

102 (b) Encouraging a patient to have an abortion or referring a patient for  
103 an abortion, which is not necessary to save the life of the mother; or

104 (c) Developing or dispensing drugs, chemicals, or devices intended to be  
105 used to induce an abortion which is not necessary to save the life of the mother.]

**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;

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 as referenced in 19 CSR 40-10.010  
14 and the sexual assault forensic exam checklist promulgated by the  
15 department of health and senior services.

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

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

27 4. The informational materials shall:

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

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

32 (3) Explain the nature of emergency contraception, including its  
33 use, safety, efficacy, and availability, and that it does not cause  
34 abortion.

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

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

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

49           6. The department shall promulgate rules to implement the  
50 provisions of sections 191.717 to 191.718.

51           7. Any rule or portion of a rule, as that term is defined in section  
52 536.010 that is created under the authority delegated in this section  
53 shall become effective only if it complies with and is subject to all of  
54 the provisions of chapter 536, and, if applicable, section 536.028. This  
55 section and chapter 536 are nonseverable and if any of the powers  
56 vested with the general assembly pursuant to chapter 536, to review, to  
57 delay the effective date, or to disapprove and annul a rule are  
58 subsequently held unconstitutional, then the grant of rulemaking  
59 authority and any rule proposed or adopted after August 28, 2012, shall  
60 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, 2013. 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.

21           3. Pursuant to section 23.253 of the Missouri sunset act:

22           (1) The provisions of the new program authorized under this

23 section shall sunset automatically six years after the effective date of

24 this section unless reauthorized by an act of the general assembly; and

25           (2) If such program is reauthorized, the program authorized

26 under this section shall sunset automatically twelve years after the

27 effective date of the reauthorization of this section; and

28           (3) This section shall terminate on September first of the

29 calendar year immediately following the calendar year in which the

30 program authorized under this section is sunset.

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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