

SECOND REGULAR SESSION

SENATE BILL NO. 956

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

Read 1st time January 30, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5122S.011

AN ACT

To repeal section 188.027, RSMo, and to enact in lieu thereof one new section relating to abortion.

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

Section A. Section 188.027, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 188.027, to read as follows:

188.027. 1. Except in cases of medical emergency, no abortion shall be
2 performed or induced on a woman without her voluntary and informed consent,
3 given freely and without coercion. Consent to an abortion is voluntary and
4 informed and given freely and without coercion if, and only if, at least
5 seventy-two hours prior to the abortion:

6 (1) The physician who is to perform or induce the abortion, a qualified
7 professional, or the referring physician has informed the woman orally, reduced
8 to writing, and in person, of the following:

9 (a) The name of the physician who will perform or induce the abortion;

10 (b) Medically accurate information that a reasonable patient would
11 consider material to the decision of whether or not to undergo the abortion,
12 including:

13 a. A description of the proposed abortion method;

14 b. The immediate and long-term medical risks to the woman associated
15 with the proposed abortion method including, but not limited to, infection,
16 hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies
17 or the ability to carry a subsequent child to term, and possible adverse
18 psychological effects associated with the abortion; and

19 c. The immediate and long-term medical risks to the woman, in light of

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

20 the anesthesia and medication that is to be administered, the unborn child's
21 gestational age, and the woman's medical history and medical condition;

22 (c) Alternatives to the abortion which shall include making the woman
23 aware that information and materials shall be provided to her detailing such
24 alternatives to the abortion;

25 (d) A statement that the physician performing or inducing the abortion
26 is available for any questions concerning the abortion, together with the
27 telephone number that the physician may be later reached to answer any
28 questions that the woman may have;

29 (e) The location of the hospital that offers obstetrical or gynecological care
30 located within thirty miles of the location where the abortion is performed or
31 induced and at which the physician performing or inducing the abortion has
32 clinical privileges and where the woman may receive follow-up care by the
33 physician if complications arise;

34 (f) The gestational age of the unborn child at the time the abortion is to
35 be performed or induced; and

36 (g) The anatomical and physiological characteristics of the unborn child
37 at the time the abortion is to be performed or induced;

38 (2) The physician who is to perform or induce the abortion or a qualified
39 professional has presented the woman, in person, printed materials provided by
40 the department, which describe the probable anatomical and physiological
41 characteristics of the unborn child at two-week gestational increments from
42 conception to full term, including color photographs or images of the developing
43 unborn child at two-week gestational increments. Such descriptions shall include
44 information about brain and heart functions, the presence of external members
45 and internal organs during the applicable stages of development and information
46 on when the unborn child is viable. The printed materials shall prominently
47 display the following statement: "The life of each human being begins at
48 conception. Abortion will terminate the life of a separate, unique, living human
49 being.";

50 (3) The physician who is to perform or induce the abortion, a qualified
51 professional, or the referring physician has presented the woman, in person,
52 printed materials provided by the department, which describe the various
53 surgical and drug-induced methods of abortion relevant to the stage of pregnancy,
54 as well as the immediate and long-term medical risks commonly associated with
55 each abortion method including, but not limited to, infection, hemorrhage,

56 cervical tear or uterine perforation, harm to subsequent pregnancies or the ability
57 to carry a subsequent child to term, and the possible adverse psychological effects
58 associated with an abortion;

59 (4) (a) The physician who is to perform or induce the abortion or a
60 qualified professional shall [provide the woman with the opportunity to view], at
61 least seventy-two hours prior to the abortion, **perform** an active ultrasound of
62 the unborn child and [hear] **auscultate** the heartbeat of the unborn child **so**
63 **that the woman may hear the heartbeat of the unborn child** if the
64 heartbeat is audible. The woman shall be provided with a geographically indexed
65 list maintained by the department of health care providers, facilities, and clinics
66 that perform ultrasounds, including those that offer ultrasound services free of
67 charge. Such materials shall provide contact information for each provider,
68 facility, or clinic, including telephone numbers and, if available, website
69 addresses. Should the woman decide to obtain an **additional** ultrasound from
70 [a] **another** provider, facility, or clinic [other than the abortion facility], the
71 woman shall be offered a reasonable time to obtain the ultrasound examination
72 before the date and time set for performing or inducing an abortion.

73 (b) **The physician who is to perform or induce the abortion, or**
74 **a qualified professional, shall provide a simultaneous explanation**
75 **during the ultrasound of what the ultrasound is depicting, which shall**
76 **include the presence and location of the unborn child within the uterus**
77 **and the number of unborn children depicted, and shall, if the**
78 **ultrasound image indicates that the death of the unborn child has**
79 **occurred, inform the woman of that fact.** The person conducting the
80 ultrasound shall ensure that the active ultrasound image is of a quality
81 consistent with standard medical practice in the community, contains the
82 dimensions of the unborn child, and accurately portrays the presence of external
83 members and internal organs, if present or viewable, of the unborn child. The
84 auscultation of fetal heart tone must also be of a quality consistent with standard
85 medical practice in the community[. If the woman chooses to view the ultrasound
86 or hear the heartbeat or both at the abortion facility, the viewing or hearing or
87 both shall be provided to her at the abortion facility at least seventy-two hours
88 prior to the abortion being performed or induced];

89 (5) The printed materials provided by the department shall include
90 information on the possibility of an abortion causing pain in the unborn
91 child. This information shall include, but need not be limited to, the following:

92 (a) Unborn children as early as eight weeks gestational age start to show
93 spontaneous movements and unborn children at this stage in pregnancy show
94 reflex responses to touch;

95 (b) In the unborn child, the area around his or her mouth and lips is the
96 first part of the unborn child's body to respond to touch and by fourteen weeks
97 gestational age most of the unborn child's body is responsive to touch;

98 (c) Pain receptors on the unborn child's skin develop around his or her
99 mouth at around seven to eight weeks gestational age, around the palms of his
100 or her hands at ten to ten and a half weeks, on the abdominal wall at fifteen
101 weeks, and over all of his or her body at sixteen weeks gestational age;

102 (d) Beginning at sixteen weeks gestational age and later, it is possible for
103 pain to be transmitted from receptors to the cortex of the unborn child's brain,
104 where thinking and perceiving occur;

105 (e) When a physician performs a life-saving surgery, he or she provides
106 anesthesia to unborn children as young as sixteen weeks gestational age in order
107 to alleviate the unborn child's pain; and

108 (f) A description of the actual steps in the abortion procedure to be
109 performed or induced and at which steps the abortion procedure could be painful
110 to the unborn child;

111 (6) The physician who is to perform or induce the abortion or a qualified
112 professional has presented the woman, in person, printed materials provided by
113 the department explaining to the woman alternatives to abortion she may wish
114 to consider. Such materials shall:

115 (a) Identify on a geographical basis public and private agencies available
116 to assist a woman in carrying her unborn child to term, and to assist her in
117 caring for her dependent child or placing her child for adoption, including
118 agencies commonly known and generally referred to as pregnancy resource
119 centers, crisis pregnancy centers, maternity homes, and adoption agencies. Such
120 materials shall provide a comprehensive list by geographical area of the agencies,
121 a description of the services they offer, and the telephone numbers and addresses
122 of the agencies; provided that such materials shall not include any programs,
123 services, organizations, or affiliates of organizations that perform or induce, or
124 assist in the performing or inducing of, abortions or that refer for abortions;

125 (b) Explain the Missouri alternatives to abortion services program under
126 section 188.325, and any other programs and services available to pregnant
127 women and mothers of newborn children offered by public or private agencies

128 which assist a woman in carrying her unborn child to term and assist her in
129 caring for her dependent child or placing her child for adoption, including but not
130 limited to prenatal care; maternal health care; newborn or infant care; mental
131 health services; professional counseling services; housing programs; utility
132 assistance; transportation services; food, clothing, and supplies related to
133 pregnancy; parenting skills; educational programs; job training and placement
134 services; drug and alcohol testing and treatment; and adoption assistance;

135 (c) Identify the state website for the Missouri alternatives to abortion
136 services program under section 188.325, and any toll-free number established by
137 the state operated in conjunction with the program;

138 (d) Prominently display the statement: "There are public and private
139 agencies willing and able to help you carry your child to term, and to assist you
140 and your child after your child is born, whether you choose to keep your child or
141 place him or her for adoption. The state of Missouri encourages you to contact
142 those agencies before making a final decision about abortion. State law requires
143 that your physician or a qualified professional give you the opportunity to call
144 agencies like these before you undergo an abortion.";

145 (7) The physician who is to perform or induce the abortion or a qualified
146 professional has presented the woman, in person, printed materials provided by
147 the department explaining that the father of the unborn child is liable to assist
148 in the support of the child, even in instances where he has offered to pay for the
149 abortion. Such materials shall include information on the legal duties and
150 support obligations of the father of a child, including, but not limited to, child
151 support payments, and the fact that paternity may be established by the father's
152 name on a birth certificate or statement of paternity, or by court action. Such
153 printed materials shall also state that more information concerning paternity
154 establishment and child support services and enforcement may be obtained by
155 calling the family support division within the Missouri department of social
156 services; and

157 (8) The physician who is to perform or induce the abortion or a qualified
158 professional shall inform the woman that she is free to withhold or withdraw her
159 consent to the abortion at any time without affecting her right to future care or
160 treatment and without the loss of any state or federally funded benefits to which
161 she might otherwise be entitled.

162 2. All information required to be provided to a woman considering
163 abortion by subsection 1 of this section shall be presented to the woman

164 individually, in the physical presence of the woman and in a private room, to
165 protect her privacy, to maintain the confidentiality of her decision, to ensure that
166 the information focuses on her individual circumstances, to ensure she has an
167 adequate opportunity to ask questions, and to ensure that she is not a victim of
168 coerced abortion. Should a woman be unable to read materials provided to her,
169 they shall be read to her. Should a woman need an interpreter to understand the
170 information presented in the written materials, an interpreter shall be provided
171 to her. Should a woman ask questions concerning any of the information or
172 materials, answers shall be provided in a language she can understand.

173 3. No abortion shall be performed or induced unless and until the woman
174 upon whom the abortion is to be performed or induced certifies in writing on a
175 checklist form provided by the department that she has been presented all the
176 information required in subsection 1 of this section, that she has [been provided
177 the opportunity to view] **viewed** an active ultrasound image of the unborn child
178 and [hear] **heard** the heartbeat of the unborn child if it is audible, **or declined**
179 **to do so**, and that she further certifies that she gives her voluntary and informed
180 consent, freely and without coercion, to the abortion procedure.

181 4. No physician shall perform or induce an abortion unless and until the
182 physician has obtained from the woman her voluntary and informed consent given
183 freely and without coercion. If the physician has reason to believe that the
184 woman is being coerced into having an abortion, the physician or qualified
185 professional shall inform the woman that services are available for her and shall
186 provide her with private access to a telephone and information about such
187 services, including but not limited to the following:

- 188 (1) Rape crisis centers, as defined in section 455.003;
189 (2) Shelters for victims of domestic violence, as defined in section 455.200;
190 and
191 (3) Orders of protection, pursuant to chapter 455.

192 5. The physician who is to perform or induce the abortion shall, at least
193 seventy-two hours prior to such procedure, inform the woman orally and in person
194 of:

- 195 (1) The immediate and long-term medical risks to the woman associated
196 with the proposed abortion method including, but not limited to, infection,
197 hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies
198 or the ability to carry a subsequent child to term, and possible adverse
199 psychological effects associated with the abortion; and

200 (2) The immediate and long-term medical risks to the woman, in light of
201 the anesthesia and medication that is to be administered, the unborn child's
202 gestational age, and the woman's medical history and medical conditions.

203 6. No physician shall perform or induce an abortion unless and until the
204 physician has received and signed a copy of the form prescribed in subsection 3
205 of this section. The physician shall retain a copy of the form in the patient's
206 medical record.

207 7. In the event of a medical emergency, the physician who performed or
208 induced the abortion shall clearly certify in writing the nature and circumstances
209 of the medical emergency. This certification shall be signed by the physician who
210 performed or induced the abortion, and shall be maintained under section
211 188.060.

212 8. No person or entity shall require, obtain, or accept payment for an
213 abortion from or on behalf of a patient until at least seventy-two hours have
214 passed since the time that the information required by subsection 1 of this section
215 has been provided to the patient. Nothing in this subsection shall prohibit a
216 person or entity from notifying the patient that payment for the abortion will be
217 required after the seventy-two-hour period has expired if she voluntarily chooses
218 to have the abortion.

219 9. The term "qualified professional" as used in this section shall refer to
220 a physician, physician assistant, registered nurse, licensed practical nurse,
221 psychologist, licensed professional counselor, or licensed social worker, licensed
222 or registered under chapter 334, 335, or 337, acting under the supervision of the
223 physician performing or inducing the abortion, and acting within the course and
224 scope of his or her authority provided by law. The provisions of this section shall
225 not be construed to in any way expand the authority otherwise provided by law
226 relating to the licensure, registration, or scope of practice of any such qualified
227 professional.

228 10. By November 30, 2010, the department shall produce the written
229 materials and forms described in this section. Any written materials produced
230 shall be printed in a typeface large enough to be clearly legible. All information
231 shall be presented in an objective, unbiased manner designed to convey only
232 accurate scientific and medical information. The department shall furnish the
233 written materials and forms at no cost and in sufficient quantity to any person
234 who performs or induces abortions, or to any hospital or facility that provides
235 abortions. The department shall make all information required by subsection 1

236 of this section available to the public through its department website. The
237 department shall maintain a toll-free, twenty-four-hour hotline telephone number
238 where a caller can obtain information on a regional basis concerning the agencies
239 and services described in subsection 1 of this section. No identifying information
240 regarding persons who use the website shall be collected or maintained. The
241 department shall monitor the website on a regular basis to prevent tampering
242 and correct any operational deficiencies.

243 11. In order to preserve the compelling interest of the state to ensure that
244 the choice to consent to an abortion is voluntary and informed, and given freely
245 and without coercion, the department shall use the procedures for adoption of
246 emergency rules under section 536.025 in order to promulgate all necessary rules,
247 forms, and other necessary material to implement this section by November 30,
248 2010.

249 12. If the provisions in subsections 1 and 8 of this section requiring a
250 seventy-two-hour waiting period for an abortion are ever temporarily or
251 permanently restrained or enjoined by judicial order, then the waiting period for
252 an abortion shall be twenty-four hours; provided, however, that if such temporary
253 or permanent restraining order or injunction is stayed or dissolved, or otherwise
254 ceases to have effect, the waiting period for an abortion shall be seventy-two
255 hours.

256 **13. It is the intent of the general assembly that this section be**
257 **severable as noted in section 1.140. In the event that any section,**
258 **subsection, subdivision, paragraph, sentence, or clause of this section**
259 **be declared invalid under the Constitution of the United States or the**
260 **Constitution of the State of Missouri, it is the intent of the general**
261 **assembly that the remaining provisions of this section remain in force**
262 **and effect as far as capable of being carried into execution as intended**
263 **by the general assembly.**

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