

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 156**  
**92ND GENERAL ASSEMBLY**

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Reported from the Committee on Health Care Policy, February 20, 2003, with recommendation that the House Committee Substitute for House Bill No. 156 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

0545L.05C

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**AN ACT**

To repeal section 188.039, RSMo, and to enact in lieu thereof two new sections relating to a twenty-four hour waiting period for certain medical procedures, with an effective date for a certain section.

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

Section A. Section 188.039, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 188.039 and 188.043, to read as follows:

188.039. 1. [No physician shall perform an abortion unless, prior to such abortion, the physician certifies in writing that the woman gave her informed consent, freely and without coercion, after the attending physician had informed her of the information contained in subsection 2 of this section and shall further certify in writing the pregnant woman's age, based upon proof of age offered by her.

2. In order to insure that the consent for an abortion is truly informed consent, no abortion shall be performed or induced upon a pregnant woman unless she has signed a consent form that shall be supplied by the state department of health and senior services, acknowledging that she has been informed by the attending physician of the following facts:

(1) That according to the best medical judgment of her attending physician whether she is or is not pregnant;

(2) The particular risks associated with the abortion technique to be used;

(3) Alternatives to abortion shall be given by the attending physician.

3. The physician may inform the woman of any other material facts or opinions, or

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

15 provide any explanation of the above information which, in the exercise of his best medical  
16 judgment, is reasonably necessary to allow the woman to give her informed consent to the  
17 proposed abortion, with full knowledge of its nature and consequences.] **For purposes of this**  
18 **section, "medical emergency" means a condition which, on the basis of the physician's**  
19 **good faith clinical judgment, so complicates the medical condition of a pregnant woman**  
20 **as to necessitate the immediate abortion of her pregnancy to avert her death or for which**  
21 **a delay will create a serious risk of substantial and irreversible impairment of a major**  
22 **bodily function. Emergency abortions shall require the agreement of a second physician's**  
23 **consultation.**

24 **2. Except in the case of medical emergency, no person shall perform or induce an**  
25 **abortion unless at least twenty-four hours prior thereto, the treating physician has**  
26 **conferred with the patient and discussed with her the indicators and contra-indicators for**  
27 **the proposed procedure and the use of medications, including but not limited to RU-486,**  
28 **in light of her medical history and medical condition. For an abortion induced by a drug**  
29 **or drugs, such conference shall take place at least twenty-four hours prior to the writing**  
30 **or communication of the first prescription for such drug or drugs in connection with**  
31 **inducing an abortion. Only one such conference shall be required.**

32 **3. The patient shall be evaluated by the treating physician during the conference**  
33 **for risk factors, including any physical, psychological, or situational factors which would**  
34 **predispose the patient to or increase the risk of experiencing one or more adverse physical,**  
35 **emotional, or other health reactions to the proposed procedure or drug or drugs in either**  
36 **the short or long term as compared with women who do not possess such risk factors.**

37 **4. At the end of the conference, the treating physician shall sign and shall cause the**  
38 **patient to sign a written statement that the woman gave her informed consent freely and**  
39 **without coercion after the physician had discussed with her the goals, alternatives to**  
40 **abortion, and short and long term risks. All such executed statements shall be maintained**  
41 **as part of the patient's medical file, subject to the confidentiality laws and rules of this**  
42 **state.**

43 **5. The director of the department of health and senior services shall disseminate**  
44 **a model form that physicians may use as the written statement required by this section, but**  
45 **any lack or unavailability of such a model form shall not affect the duties of the physician**  
46 **set forth in subsections 2 to 4 of this section.**

**188.043. 1. No person shall perform a surgical or medical abortion unless such**  
2 **person has proof of medical malpractice insurance with coverage amounts of at least five**  
3 **hundred thousand dollars.**

4 **2. For the purpose of this section, "medical malpractice insurance" means**

5 **insurance coverage against the legal liability of the insured and against loss, damage, or**  
6 **expense incident to a claim arising out of the death or injury of any person as a result of**  
7 **the negligence or malpractice in rendering professional service by any health care**  
8 **provider.**

9 **3. No abortion facility or hospital shall employ or engage the services of a person**  
10 **to perform one or more abortions if the person does not have proof of medical malpractice**  
11 **insurance pursuant to this section.**

12 **4. Notwithstanding the provisions of section 334.100, RSMo, failure of a person to**  
13 **maintain the medical malpractice insurance required by this section shall be an additional**  
14 **ground for sanctioning of a person's license, certificate, or permit.**

Section B. The effective date of section 188.043 of section A of this act shall be January  
2 1, 2004.