

FIRST EXTRAORDINARY SESSION

HOUSE BILL NO. 1

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86) (Sponsor), PHILLIPS, HARRIS (110), DAVIS, MEINERS, SANDER, MOORE, CHINN, FAITH, STEFANICK, AVERY, BAKER (123), BEHNEN, BIVINS, BRUNS, COOPER (158), DAY, DETHROW, DUSENBERG, EMERY, ERVIN, FRANZ, HOBBS, HUNTER, ICET, JACKSON, KRAUS, LAGER, LEMBKE, MUNZLINGER, MUSCHANY, NOLTE, POLLOCK, QUINN, RUPP, SATER, SCHAAF, SCHAD, SELF, SILVEY, SMITH (14), STEVENSON, SUTHERLAND, TILLEY, WETER, WOOD, WRIGHT (159) AND JETTON (Co-sponsors).

Read 1st time September 6, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2501L.02I

AN ACT

To repeal section 188.080, RSMo, and to enact in lieu thereof three new sections relating to abortion regulations and services for minors, with penalty provisions and an emergency clause.

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

Section A. Section 188.080, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 188.031, 188.080, and 188.250, to read as follows:

188.031. For purposes of section 188.028 "next friend" shall not include another minor child, or any entity or person in an individual or representative capacity that has a financial interest or potential gain from the proposed abortion, or any employee of or volunteer for such entity or person.

188.080. Notwithstanding any other penalty provision in this chapter, any person who is not a licensed physician as defined in section 188.015 who performs **or induces** or attempts to perform **or induce** an abortion on another as defined in subdivision (1) of section 188.015, is guilty of a [class B felony] **class A misdemeanor**, and, upon conviction, shall be punished as provided by law. Any physician performing **or inducing** an abortion who does not have [surgical] **clinical** privileges at a hospital which offers obstetrical or gynecological care **located within thirty miles of the location at which the abortion is performed or induced** shall be

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

8 guilty of a [class B felony] **class A misdemeanor**, and, upon conviction, shall be punished as
9 provided by law.

**188.250. 1. No person shall intentionally cause, aid, or assist a minor to obtain an
2 abortion without the consent or consents, or judicial decree, required by section 188.028,
3 RSMo.**

4 **2. A person who violates subsection 1 of this section shall be civilly liable to the
5 minor and to the person or persons required to give the consent or consents pursuant to
6 section 188.028. A court may award damages to the person or persons adversely affected
7 by a violation of subsection 1 of this section, including compensation for emotional injury
8 without the need for personal presence at the act or event, and the court may further
9 award attorneys' fees, litigation costs, and punitive damages. Any adult who engages in
10 or consents to another person engaging in a sex act with a minor in violation of the
11 provisions of chapter 566, 567, 568, or 573, RSMo, which results in the minor's pregnancy
12 shall not be awarded damages pursuant to this section.**

13 **3. It shall not be a defense to a claim brought pursuant to this section that the
14 abortion was performed or induced pursuant to consent to the abortion given in a manner
15 that is otherwise lawful in the state or place where the abortion was performed or induced.**

16 **4. An unemancipated minor does not have capacity to consent to any action in
17 violation of this section or section 188.028.**

18 **5. A court may enjoin conduct that would be in violation of this section upon
19 petition by the attorney general, a prosecuting or circuit attorney, or any person adversely
20 affected or who reasonably may be adversely affected by such conduct, upon a showing
21 that such conduct:**

22 **(1) Is reasonably anticipated to occur in the future; or**

23 **(2) Has occurred in the past, whether with the same minor or others, and that it is
24 not unreasonable to expect that such conduct will be repeated.**

Section B. Because immediate action is necessary to ensure the health and safety of
2 minors section A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the
4 meaning of the constitution, and section A of this act shall be in full force and effect upon its
5 passage and approval.