

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1327 & 2000
95TH GENERAL ASSEMBLY

3771L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 188.027, RSMo, and to enact in lieu thereof seven new sections relating to safeguards for pregnant women seeking abortions, with penalty provisions.

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

Section A. Section 188.027, RSMo, is repealed and seven new sections enacted in lieu thereof, to be known as sections 188.027, 188.108, 334.245, 565.305, 565.310, 565.315, and 1, to read as follows:

188.027. **1.** No abortion shall be performed [except with the prior, informed and written consent freely given of the pregnant woman.] **or induced on a woman without her voluntary and informed consent, given freely and without coercion. Consent to an abortion is voluntary and informed and given freely and without coercion, if and only if, at least twenty-four hours prior to the abortion:**

(1) The physician who is to perform or induce the abortion has informed the woman, orally, reduced to writing, and in person, of the following:

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

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

a. A description of the proposed abortion method;

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

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.

17 **c. The immediate and long-term medical risks to the woman, in light of the**
18 **anesthesia and medication that is to be administered, the unborn child's gestational age,**
19 **and the woman's medical history and medical condition;**

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

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

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

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

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

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

45 **(3) The physician who is to perform or induce the abortion or a qualified**
46 **professional has presented the woman, in person, printed materials provided by the**
47 **department or an informational video provided by the department, which describes the**
48 **various surgical and drug-induced methods of abortion relevant to the stage of pregnancy,**
49 **as well as the immediate and long-term medical risks commonly associated with each**
50 **abortion method including, but not limited to, infection, hemorrhage, cervical tear or**
51 **uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent**
52 **child to term, and the possible adverse psychological effects associated with an abortion;**

53 **(4) The physician who is to perform or induce the abortion or a qualified**
54 **professional shall, at least twenty-four hours prior to the abortion, provide the woman with**
55 **the opportunity to view an active ultrasound of the unborn child and hear the heartbeat**
56 **of the unborn child if the heartbeat is audible. The woman shall be provided with a**
57 **geographically indexed list maintained by the department of health and senior services of**
58 **health care providers, facilities, and clinics that perform ultrasounds, including those that**
59 **offer ultrasound services free of charge. Such materials shall provide contact information**
60 **for each provider, facility, or clinic including telephone numbers and, if available, website**
61 **addresses. Should the woman decide to obtain an ultrasound from a provider, facility, or**
62 **clinic other than the abortion facility, the woman shall be offered a reasonable time to**
63 **obtain the ultrasound examination before the date and time set for performing or inducing**
64 **an abortion. The person conducting the ultrasound shall ensure that the active ultrasound**
65 **image is of a quality consistent with standard medical practice in the community, contains**
66 **the dimensions of the unborn child, and accurately portrays the presence of external**
67 **members and internal organs, if present or viewable, of the unborn child. The auscultation**
68 **of fetal heart tone must also be of a quality consistent with standard medical practice in the**
69 **community. If the woman chooses to view the ultrasound or hear the heartbeat, or both,**
70 **at the abortion facility, the viewing or hearing, or both, shall be provided to her at the**
71 **abortion facility at least twenty-four hours prior to the abortion being performed or**
72 **induced;**

73 **(5) Prior to an abortion being performed or induced on an unborn child of twenty-**
74 **two weeks of gestational age or older, the physician who is to perform or induce the**
75 **abortion or a qualified professional has presented the woman, in person, printed materials**
76 **provided by the department or an informational video provided by the department that**
77 **offers information on the possibility of the abortion causing pain to the unborn child. This**
78 **information shall include, but not be limited to the following:**

79 **(a) At least by twenty-two weeks of gestational age, the unborn child possesses all**
80 **the anatomical structures, including pain receptors, spinal cord, nerve tracts, thalamus,**
81 **and cortex, that are necessary in order to feel pain;**

82 **(b) A description of the actual steps in the abortion procedure to be performed or**
83 **induced, and at which steps the abortion procedure could be painful to the unborn child;**

84 **(c) There is evidence that by twenty-two weeks of gestational age, unborn children**
85 **seek to evade certain stimuli in a manner that in an infant or an adult would be interpreted**
86 **as a response to pain;**

87 **(d) Anesthesia is given to unborn children who are twenty-two weeks or more**
88 **gestational age who undergo prenatal surgery;**

89 (e) Anesthesia is given to premature children who are twenty-two weeks or more
90 gestational age who undergo surgery;

91 (f) Anesthesia or an analgesic is available in order to minimize or alleviate the pain
92 to the unborn child;

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

97 (a) Identify on a geographical basis public and private agencies available to assist
98 a woman in carrying her unborn child to term, and to assist her in caring for her
99 dependent child or placing her child for adoption, including agencies commonly known
100 and generally referred to as pregnancy resource centers, crisis pregnancy centers,
101 maternity homes, and adoption agencies. Such materials shall provide a comprehensive
102 list by geographical area of the agencies, a description of the services they offer, and the
103 telephone numbers and addresses of the agencies; provided that such materials shall not
104 include any programs, services, organizations or affiliates of organizations that perform
105 or induce, or assist in the performing or inducing, of abortions or refer for abortions;

106 (b) Explain the Missouri alternatives to abortion services program under section
107 188.325, and any other programs and services available to pregnant women and mothers
108 of newborn children offered by public and private agencies which assist a woman in
109 carrying her unborn child to term and assist her in caring for her dependent child or
110 placing her child for adoption, including, but not limited to prenatal care; maternal health
111 care; newborn or infant care; mental health services; professional counseling services;
112 housing programs; utility assistance; transportation services; food, clothing, and supplies
113 related to pregnancy; parenting skills; educational programs; job training and placement
114 services; drug and alcohol testing and treatment; and adoption assistance;

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

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

124 (e) Prominently display the statement: "No one can coerce you to have an abortion.
125 It is against the law for a husband, a boyfriend, a parent, a friend, a medical care provider,
126 or any other person to coerce you in any way to have an abortion.";

127 (7) The physician who is to perform or induce the abortion or a qualified
128 professional has presented the woman, in person, printed materials provided by the
129 department or an informational video provided by the department explaining that the
130 father of the unborn child is liable to assist in the support of the child, even in instances
131 where he has offered to pay for the abortion. Such materials shall include information on
132 the legal duties and support obligations of the father of a child, including, but not limited
133 to, child support payments, and the fact that paternity may be established by the father's
134 name on a birth certificate or statement of paternity, or by court action. Such printed
135 materials or video shall also state that more information concerning paternity
136 establishment and child support services and enforcement may be obtained by calling the
137 family support division within the Missouri department of social services;

138 (8) The physician who is to perform or induce the abortion or a qualified
139 professional shall inform the woman that it is unlawful for any person to coerce a woman
140 to seek or obtain an abortion; and

141 (9) The physician who is to perform or induce the abortion or a qualified
142 professional shall inform the woman that she is free to withhold or withdraw her consent
143 to the abortion at any time without affecting her right to future care or treatment and
144 without the loss of any state or federally funded benefits to which she might otherwise be
145 entitled.

146 2. All information required to be provided to a woman considering abortion by
147 subsection 1 of this section shall be presented to the woman individually, in the physical
148 presence of the woman and in a private room, to protect her privacy, to maintain the
149 confidentiality of her decision, to ensure that the information focuses on her individual
150 circumstances, to ensure she has an adequate opportunity to ask questions, and to ensure
151 that she is not a victim of coerced abortion. Should a woman be unable to read materials
152 provided to her, they shall be read to her. Should a woman need an interpreter to
153 understand the information presented in written materials or informational videos, an
154 interpreter shall be provided to her. Should a woman ask questions concerning any of the
155 information or materials, answers shall be provided in a language she can understand.

156 3. No abortion shall be performed or induced unless and until the woman upon
157 whom the abortion is to be performed or induced certifies in writing on a checklist form
158 provided by the department that she has been presented all the information required in
159 subsection 1 of this section, that she has been provided the opportunity to view an active

160 **ultrasound image of the unborn child and hear the heartbeat of the unborn child if it is**
161 **audible, and that she further certifies that she gives her voluntary and informed consent,**
162 **freely and without coercion, to the abortion procedure.**

163 **4. No abortion shall be performed or induced on an unborn child of twenty-two**
164 **weeks of gestational age or older, unless and until the woman upon whom the abortion is**
165 **to be performed or induced has been provided the opportunity to choose to have an**
166 **anesthetic or analgesic administered to eliminate or alleviate pain to the unborn child**
167 **caused by the particular method of abortion to be performed or induced. The**
168 **administration of anesthesia or analgesics shall be performed in a manner consistent with**
169 **standard medical practice in the community.**

170 **5. No physician shall perform or induce an abortion unless and until the physician**
171 **has obtained from the woman her voluntary and informed consent given freely and**
172 **without coercion. If the physician has reason to believe that the woman is a victim of a**
173 **coerced abortion, the physician or qualified professional shall inform the woman that**
174 **services are available for victims of coerced abortion, and shall provide her with private**
175 **access to a telephone and information about such services, including but not limited to the**
176 **following:**

177 **(1) Rape crisis centers, as defined in section 455.003;**

178 **(2) Shelters for victims of domestic violence, as defined in section 455.200; and**

179 **(3) Orders of protection under chapter 455.**

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

183 **7. In the event of a medical emergency as provided by section 188.075, the physician**
184 **who performed or induced the abortion shall clearly certify in writing the nature and**
185 **circumstances of the medical emergency. This certification shall be signed by the physician**
186 **who performed or induced the abortion, and shall be maintained under section 188.060.**

187 **8. No person or entity shall require, obtain, or accept payment for an abortion from**
188 **or on behalf of a patient until at least twenty-four hours has passed since the time that the**
189 **information required by subsection 1 has been provided to the patient. Nothing in this**
190 **subsection shall prohibit a person or entity from notifying the patient that payment for the**
191 **abortion will be required after the twenty-four-hour period has expired if she voluntarily**
192 **chooses to have the abortion.**

193 **9. The term "qualified professional" as used in this section shall refer to a**
194 **physician, physician assistant, registered nurse, licensed practical nurse, psychologist,**
195 **licensed professional counselor, or licensed clinical social worker, licensed or registered**

196 under chapter 334, 335, or 337 acting under the supervision of the physician performing
197 or inducing the abortion, and acting within the course and scope of his or her authority
198 provided by law. The provisions of this section shall not be construed to in any way
199 expand the authority otherwise provided by law relating to the licensure, registration, or
200 scope of practice of any such qualified professional.

201 **10. Every abortion facility shall display signs that contain exclusively the following**
202 **words: "NOTICE: No one can coerce you to have an abortion. It is against the law for**
203 **a husband, a boyfriend, a parent, a friend, a medical care provider, or any other person**
204 **to coerce you in any way to have an abortion."'. The signs shall be printed in seventy-two**
205 **point font or larger and designed and located so that such signs can be easily read and**
206 **ensure maximum visibility to women who enter the abortion facility considering whether**
207 **to have an abortion; to women at the abortion facility receiving the information required**
208 **by this section; and to women at the time that they give their consent to an abortion. The**
209 **location of such signs in abortion facilities shall be specified by rules promulgated by the**
210 **department and shall be a condition of licensure of any abortion facility under chapter 197.**
211 **The display of signs under this subsection does not discharge the duty to conduct an**
212 **individual private consultation with a woman considering abortion under subsection 2 of**
213 **this section.**

214 **11. By November 30, 2010, the department shall produce the written materials,**
215 **signs, informational videos and forms described in this section. Any written materials**
216 **produced shall be printed in a typeface large enough to be clearly legible. All information**
217 **shall be presented in an objective, unbiased manner designed to convey only accurate**
218 **scientific and medical information. The department shall furnish the written materials,**
219 **signs, informational videos, and forms at no cost and in sufficient quantity to any person**
220 **who performs or induces abortions, or to any hospital or facility that provides abortions.**
221 **The department shall make all information required by subsection 1 of this section**
222 **available to the public through its department website. The department shall maintain a**
223 **toll-free, twenty-four-hour hotline telephone number where a caller can obtain information**
224 **on a regional basis concerning the agencies and services described in subsection 1 of this**
225 **section. No identifying information regarding persons who use the website shall be**
226 **collected or maintained. The department shall monitor the website on a regular basis to**
227 **prevent tampering and correct any operational deficiencies.**

228 **12. In order to preserve the compelling interest of the state to ensure that the choice**
229 **to consent to an abortion is voluntary and informed, and given freely and without coercion,**
230 **the department shall use the procedures for adoption of emergency rules under section**

231 **536.025 in order to promulgate all necessary rules, forms and other necessary material to**
232 **implement this section by November 30, 2010.**

188.108. It shall never be a bona fide occupational qualification that an employee
2 **or applicant for employment seek or obtain an abortion.**

334.245. 1. Notwithstanding any other provision of law to the contrary that may
2 **allow a person to provide services relating to pregnancy, including prenatal, delivery, and**
3 **postpartum services, no person other than a licensed physician is authorized to perform**
4 **or induce an abortion.**

5 **2. Any person who violates the provisions of this section is guilty of a class B felony.**

565.305. As used in sections 565.305 to 565.315, the following words and phrases
2 **shall mean:**

3 **(1) "Abortion", the intentional destruction of the life of an embryo or fetus in his**
4 **or her mother's womb or the intentional termination of the pregnancy of a mother with an**
5 **intention other than to increase the probability of a live birth or to remove a dead or dying**
6 **unborn child;**

7 **(2) "Abortion facility", a clinic, physician's office, or any other place or facility in**
8 **which abortions are performed or induced other than a hospital;**

9 **(3) "Coerces a woman to seek or obtain an abortion", performs an act intended to**
10 **cause a woman to seek or obtain an abortion against her will, or performs an act**
11 **conditioned upon or precipitated by a woman disregarding or refusing a demand that she**
12 **seek or obtain an abortion;**

13 **(4) "Family or household member", spouses, former spouses, persons related by**
14 **blood or marriage, adults who are presently residing together or have resided together in**
15 **the past, an adult who is or has been in a continuing social relationship of a romantic or**
16 **intimate nature with the victim, and adults who have a child in common regardless of**
17 **whether they have been married or have resided together at any time;**

18 **(5) "Unborn child", the offspring of human beings from the moment of conception**
19 **until birth and at every stage of his or her biological development, including the human**
20 **conceptus, zygote, morula, blastocyst, embryo, and fetus;**

21 **(6) "Victim of coerced abortion", the victim of the crime of coercing an abortion,**
22 **whether or not the victim has reported the crime prior to seeking or obtaining an abortion.**

565.310. 1. A person commits the crime of coercing an abortion if the person
2 **knowingly coerces a woman to seek or obtain an abortion by:**

3 **(1) Committing, attempting to commit, or conspiring to commit:**

4 **(a) An offense defined by any other statute of this state against the woman or her**
5 **family or household member;**

- 6 (b) Assault as defined in section 565.050, 565.060, or 565.070;
- 7 (c) Domestic assault as defined in section 565.072, 565.073, or 565.074; or
- 8 (d) Stalking or aggravated stalking as defined in section 565.225;
- 9 (2) Forcibly or without her knowledge administering to or causing the woman to
- 10 ingest any poison, drug, or other substance intended to cause an abortion, or attempting
- 11 or threatening to do so;
- 12 (3) Discharging, attempting to discharge, or threatening to discharge the female
- 13 employee; or changing, attempting to change, or threatening to change her compensation,
- 14 terms, conditions, or privileges of employment; or
- 15 (4) Revoking, attempting to revoke, or threatening to revoke a scholarship awarded
- 16 to the woman by a public or private institution of higher education.
- 17 2. Coercing an abortion is classified as follows if it is done by the commission of any
- 18 of the acts specified in subsection 1 of this section and the act is otherwise an offense
- 19 defined by any other statute of this state:
- 20 (1) Class A felony in which the court may impose an additional term of
- 21 imprisonment not to exceed ten years, or an additional fine not to exceed ten thousand
- 22 dollars, or both, if the offense committed is a class A felony;
- 23 (2) Class A felony, if the offense committed is a class B felony;
- 24 (3) Class B felony, if the offense committed is a class C felony;
- 25 (4) Class C felony, if the offense committed is a class D felony;
- 26 (5) Class D felony, if the offense committed is a class A misdemeanor;
- 27 (6) Class A misdemeanor, if the offense committed is a class B or C misdemeanor
- 28 or an infraction.
- 29 3. Coercing an abortion is a class A misdemeanor if it is done by the commission
- 30 of any of the acts specified in subsection 1 of this section and the act is not otherwise an
- 31 offense defined by any other statute of this state.
- 32 4. This section shall not be construed as creating, expanding, or otherwise
- 33 endorsing a right to an abortion.

565.315. 1. Except in the case of a medical emergency as provided for in section
2 188.075, any person who knowingly performs or induces or assists in performing or
3 inducing an abortion on a woman, with knowledge that the predominant reason the
4 woman is seeking or obtaining the abortion is that the woman is a victim of coerced
5 abortion, is guilty of a class C felony.

6 2. Whenever a physician, abortion facility, hospital, or other health care provider
7 has reasonable cause to suspect that a woman is a victim of a coerced abortion and the
8 victim is:

9 (1) A child as defined in section 210.110, then a report of suspected abuse shall be
10 made to the department of social services under section 210.115;

11 (2) A vulnerable person as defined in section 630.005, then a report of a suspected
12 abuse shall be made to the department of mental health under sections 565.218 and
13 630.163;

14 (3) An adult with a disability as defined by "eligible adult" in section 660.250, then
15 a report of suspected abuse shall be made to the department of health and senior services
16 under sections 198.070, 565.188, and 660.255;

17 (4) An adult who has been subject to abuse by a present or former adult family or
18 household member, or who has been the victim of stalking, then the physician, abortion
19 facility, hospital, or other health care provider shall provide the woman with information
20 on orders of protection under sections 455.010 to 455.085.

21 3. Under the provisions of chapter 188 or any other provision of law requiring that
22 a woman give her consent freely and without coercion prior to an abortion, whenever a
23 physician knows that the predominant reason the woman is seeking or obtaining an
24 abortion is that the woman is a victim of coerced abortion, the physician shall certify that
25 the woman lacks the consent required by law.

 Section 1. If a minor who is less than eighteen years of age and who has not
2 obtained a court-ordered consent to an abortion under section 188.028 presents herself for
3 an abortion, the abortion facility to which she presents herself or the physician who would
4 or does perform or induce the abortion shall, as soon as practicable but at least one
5 business day before the physician performs such abortion, notify the prosecuting attorney
6 for the county in which the abortion would be or has been performed or induced and the
7 county of residence of such minor. Such notifications shall occur regardless of whether the
8 abortion is performed or induced. If an abortion is performed or induced on the minor,
9 a representative sample of the tissue removed at the time of the abortion shall be retained
10 by the abortion facility or hospital for purposes of DNA or other identification. Such
11 sample shall be in addition to the representative sample of tissue removed at the time of the
12 abortion and submitted to a board-eligible or board-certified pathologist under section
13 188.047.

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