

FIRST REGULAR SESSION

# HOUSE BILL NO. 67

101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BILLINGTON.

0504H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

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

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*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Section A. Section 188.027, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 188.027, to read as follows: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 performed 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 seventy-two hours prior to the abortion:

(1) The physician who is to perform or induce the abortion, a qualified professional, or the referring physician 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.

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

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

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

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

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

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

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

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

50 (4) (a) The physician who is to perform or induce the abortion or a qualified  
51 professional shall ~~[provide the woman with the opportunity to view]~~, at least seventy-two hours

52 prior to the abortion, **perform** an active ultrasound of the unborn child and ~~[hear]~~ **auscultate** the  
53 heartbeat of the unborn child **so that the woman may hear the heartbeat of the unborn child**  
54 if the heartbeat is audible. The woman shall be provided with a geographically indexed list  
55 maintained by the department of health care providers, facilities, and clinics that perform  
56 ultrasounds, including those that offer ultrasound services free of charge. Such materials shall  
57 provide contact information for each provider, facility, or clinic, including telephone numbers  
58 and, if available, website addresses. Should the woman decide to obtain an **additional**  
59 ultrasound from ~~[a]~~ **another** provider, facility, or clinic ~~[other than the abortion facility]~~, the  
60 woman shall be offered a reasonable time to obtain the ultrasound examination before the date  
61 and time set for performing or inducing an abortion[-] ;

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

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

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

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

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

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

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

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

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

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

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

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

119 (d) Prominently display the statement: "There are public and private agencies willing  
120 and able to help you carry your child to term, and to assist you and your child after your child is  
121 born, whether you choose to keep your child or place him or her for adoption. The state of  
122 Missouri encourages you to contact those agencies before making a final decision about abortion.

123 State law requires that your physician or a qualified professional give you the opportunity to call  
124 agencies like these before you undergo an abortion.";

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

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

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

149 3. No abortion shall be performed or induced unless and until the woman upon whom  
150 the abortion is to be performed or induced certifies in writing on a checklist form provided by  
151 the department that she has been presented all the information required in subsection 1 of this  
152 section, that she has ~~been provided the opportunity to view~~ **viewed** an active ultrasound image  
153 of the unborn child and ~~hear~~ **heard** the heartbeat of the unborn child if it is audible, **or**  
154 **declined to do so**, and that she further certifies that she gives her voluntary and informed  
155 consent, freely and without coercion, to the abortion procedure.

156 4. No physician shall perform or induce an abortion unless and until the physician has  
157 obtained from the woman her voluntary and informed consent given freely and without coercion.  
158 If the physician has reason to believe that the woman is being coerced into having an abortion,

159 the physician or qualified professional shall inform the woman that services are available for her  
160 and shall provide her with private access to a telephone and information about such services,  
161 including but not limited to the following:

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

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

164 (3) Orders of protection, pursuant to chapter 455.

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

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

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

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

177 7. In the event of a medical emergency, the physician who performed or induced the  
178 abortion shall clearly certify in writing the nature and circumstances of the medical emergency.  
179 This certification shall be signed by the physician who performed or induced the abortion, and  
180 shall be maintained under section 188.060.

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

187 9. The term "qualified professional" as used in this section shall refer to a physician,  
188 physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional  
189 counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting  
190 under the supervision of the physician performing or inducing the abortion, and acting within the  
191 course and scope of his or her authority provided by law. The provisions of this section shall not  
192 be construed to in any way expand the authority otherwise provided by law relating to the  
193 licensure, registration, or scope of practice of any such qualified professional.

194           10. By November 30, 2010, the department shall produce the written materials and forms  
195 described in this section. Any written materials produced shall be printed in a typeface large  
196 enough to be clearly legible. All information shall be presented in an objective, unbiased manner  
197 designed to convey only accurate scientific and medical information. The department shall  
198 furnish the written materials and forms at no cost and in sufficient quantity to any person who  
199 performs or induces abortions, or to any hospital or facility that provides abortions. The  
200 department shall make all information required by subsection 1 of this section available to the  
201 public through its department website. The department shall maintain a toll-free,  
202 twenty-four-hour hotline telephone number where a caller can obtain information on a regional  
203 basis concerning the agencies and services described in subsection 1 of this section. No  
204 identifying information regarding persons who use the website shall be collected or maintained.  
205 The department shall monitor the website on a regular basis to prevent tampering and correct any  
206 operational deficiencies.

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

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

218           **13. It is the intent of the general assembly that this section be severable as noted in**  
219 **section 1.140. In the event that any section, subsection, subdivision, paragraph, sentence,**  
220 **or clause of this section be declared invalid under the Constitution of the United States or**  
221 **the Constitution of the state of Missouri, it is the intent of the general assembly that the**  
222 **remaining provisions of this section remain in force and effect as far as capable of being**  
223 **carried into execution as intended by the general assembly.**

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