

HCS HB 1831 & 1472 -- ABORTIONS

SPONSOR: Cooper, 155 (Onder)

COMMITTEE ACTION: Voted "do pass" by the Committee on Health Care Policy by a vote of 7 to 2.

This substitute changes the laws regarding the consent requirements for obtaining an abortion. Abortions cannot be performed or induced without the voluntary, informed, and uncoerced consent of the woman at least 24 hours prior to the abortion. The physician performing or inducing the abortion must provide orally and in writing:

- (1) The physician's name;
- (2) Medically accurate information that describes the proposed abortion method, medical risks, alternatives to the abortion, and follow-up care information;
- (3) The gestational age of the unborn child; and
- (4) The anatomical and physiological characteristics of the unborn child.

The licensed physician performing or inducing the abortion must:

- (1) Provide the pregnant woman with printed or video materials from the Department of Health and Senior Services that describes the anatomical and physiological characteristics of the unborn child's brain and heart functions, extremities, various methods of abortion, risks associated with each method, possibility of causing pain to the unborn child, alternatives to abortion, and that the father of an unborn child is liable to provide child support, even if he has offered to pay for an abortion. The materials must be available from the department by November 26, 2008, and must be legible, objective, unbiased, and scientifically accurate. All information provided to the pregnant woman must be given to her in a private room to ensure privacy, confidentiality, and no fear of coercion. If needed, an interpreter can be used. All information must be provided at least 24 hours before payment for an abortion can be accepted;
- (2) Provide the woman with an opportunity to view an ultrasound and hear the heartbeat of the unborn child at a local health facility that offer these services free of charge;
- (3) Explain that coercing a pregnant woman to get an abortion is illegal and she is free to withhold or withdraw her consent to the abortion anytime without fear of losing treatment and

assistance benefits; and

(4) Prominently display statements encouraging a pregnant woman seeking an abortion to contact agencies that help women carry an unborn child to full term and that no one can coerce a person to have an abortion.

The woman must certify in writing on a checklist form provided by the department that she has received all of the required materials; had an opportunity to view an active ultrasound image of the unborn child and hear the heartbeat; and given her voluntary and informed consent, freely and without coercion, to the abortion procedure. No abortion will be performed or induced on an unborn child of 22 weeks gestational age or more unless the mother is given the opportunity to have a pain alleviating drug administered to the child. The physician must retain a copy of the form in the patient's medical record.

In the event of a medical emergency that results in an abortion, the physician must certify in writing the nature and circumstances of the emergency; and the certification must be kept in the abortion-performing facility's permanent file for seven years.

All abortion facilities must display a sign that notifies a pregnant woman that it is illegal to coerce a woman to have an abortion.

The department must maintain a toll-free, confidential, 24-hour hotline telephone number for callers to obtain regional information about abortions, risks, and alternatives to abortions and make the information available on the department's web site.

An employer cannot institute an occupational qualification that an employee or applicant seek or obtain an abortion.

A person commits the crime of coercing an abortion if the person knowingly coerces a woman to have an abortion by:

(1) Committing, attempting to commit, or conspiring to commit an unlawful act against her or her family;

(2) Abusing, stalking, or perpetrating an act of domestic violence against her;

(3) Terminating, attempting to terminate, or threatening to terminate her employment;

(4) Changing, attempting to change, or threatening to change her employment compensation terms, conditions, or privileges of

employment; or

(5) Revoking, attempting to revoke, or threatening to revoke a public or private college scholarship.

A person will be guilty of a class A misdemeanor for coercing an abortion if he or she performs a prohibited act designed to cause a woman to seek an abortion against her will or commits a prohibited act in retaliation for a woman's refusal to have an abortion. When coercing an abortion and another offense is committed, the penalty will be:

(1) A class A felony with a maximum prison term of 10 years, a fine of up to \$10,000, or both when the offense committed was a class A felony;

(2) A class A felony when the offense committed was a class B felony;

(3) A class B felony when the offense committed was a class C felony;

(4) A class C felony when the offense committed was a class D felony;

(5) A class D felony when the offense committed was a class A misdemeanor; and

(6) A class A misdemeanor when the offense committed was either a class B or class C misdemeanor.

It is not a defense to the crime of coercing an abortion that the woman seeks or obtains an abortion or that the coercion involved a woman who mistakenly believed she was pregnant. If the abortion provider has cause to believe that a woman has been a victim of a coerced abortion and the victim is:

(1) Younger than 18 years of age, the provider must notify the Department of Social Services;

(2) A person in the care or custody of the Department of Mental Health, a report of abuse must be filed with the department;

(3) A person 60 years of age or older who needs assistance to perform activities to meet his or her essential human needs, a report of abuse must be made to the Department of Health and Senior Services; or

(4) An adult who has been abused or stalked by a family or household member, the abortion provider must give the woman

information about orders of protection.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$114,500 to Unknown in FY 2009, \$117,922 to Unknown in FY 2010, and \$118,460 to Unknown in FY 2011. No impact on Other State Funds in FY 2009, FY 2010, and FY 2011.

PROPONENTS: Supporters of House Bill 1831 say that the bill is an expansion of a woman's right to know, ensures that women considering an abortion understand the risks involved and have complete information to make a decision, gives a concrete foundation to show when coercion has or has not occurred, and provides information to women who might be unsure of their decision. Women should not be coerced into having an abortion.

Supporters of House Bill 1472 say that the bill provides a basis for malpractice, disciplinary action, and wrongful death when there has been a failure to show an ultrasound.

Testifying for HB 1831 were Representative Onder; Kendra Mathewson; Lori Diggs; Americans United for Life; Missouri Catholic Conference, Christian Life Commission; Missouri Family Network; Missouri Baptist Convention, Christian Life Commission; Campaign Life Missouri; Connie Eller, Missouri Blacks for Life; Missouri Family Policy Council; Missouri Right to Life; Missouri Eagle Forum; and Concerned Women for America of Missouri.

Testifying for HB 1472 were Representative Cunningham (86); and Missouri Family Network.

OPPONENTS: Those who oppose House Bill 1831 say that the bill only deals with a small portion of the population of abused women, seems to prevent women from giving consent to perform an abortion, appears to criminalize filing for divorce, brings criminal courts into family situations, adds regulations to already occurring activities under existing standards of care, and criminalizes speech under the coercion provisions.

Opponents of House Bill 1472 say that it adds time to the 24-hour waiting period for abortions and puts up additional barriers. Ultrasounds are already performed before abortions as a standard practice of care.

Testifying against HB 1831 were Missouri Coalition Against Domestic Violence; Laura Underwood; American Civil Liberties Union of Eastern Missouri; Planned Parenthood Affiliates in Missouri; Planned Parenthood of the Saint Louis Region; and NARAL Pro-Choice Missouri.

Testifying against HB 1472 were Planned Parenthood Affiliates in

Missouri; and NARAL Pro-Choice Missouri.

OTHERS: Others testifying on House Bill 1472 say that they support mandatory ultrasound requirements.

Testifying on HB 1472 was Missouri Right to Life.