

HCS HB 1327 & 2000 -- ABORTIONS

SPONSOR: Davis (Pratt)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Children and Families by a vote of 7 to 5.

This substitute changes the laws regarding the consent requirements for obtaining an abortion and creates the crime of coercing 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 including a description of the proposed abortion method, the 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 physician performing or inducing the abortion or a qualified professional must:

- (1) Provide the pregnant woman with printed or video materials from the Department of Health and Senior Services that describe the anatomical and physiological characteristics of the unborn child's brain and heart functions, extremities and internal organs; various methods of abortion and the risks associated with each method; the 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 30, 2010, 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 will be provided. All information must be provided at least 24 hours before payment for an abortion can be accepted;
- (2) Provide the woman at least 24 hours prior to the abortion with a geographically indexed list maintained by the department of health care providers, facilities, and clinics where she would have an opportunity to view an ultrasound and hear the heartbeat

of the unborn child. The list is to indicate those that provide the 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 at any time 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 older 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.

Only licensed physicians can perform or induce an abortion. Anyone violating this provision will be guilty of a class B felony.

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, her family, or a household member;

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

(3) Forcibly or without her knowledge administering to or causing a woman to ingest any poison, drug, or other substance intended to cause an abortion or attempting or threatening to do so;

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

(5) Discharging, attempting to discharge, or threatening to discharge or changing, attempting to change, or threatening to change her employment compensation terms, conditions, or privileges of employment; or

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

A person will be guilty of 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. The offender will be subject to:

(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; or

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

Any person who performs or induces an abortion and knows that the pregnant woman has been coerced will be guilty of a class C felony, except in the case of a medical emergency. 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, a report of suspected abuse must be made to the Department of Social Services;

(2) A person in the care or custody of the Department of Mental Health, a report of suspected abuse must be made to 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 suspected abuse must be made to the Department of Health and Senior Services; or

(4) An adult who has been abused or stalked by a present or former family or household member, the abortion provider must give the woman information about orders of protection.

If an individual younger than 18 years of age who has not obtained a court-ordered consent to an abortion seeks to obtain an abortion, the facility or physician who would perform or induce the abortion must notify the prosecuting attorney for the county in which the abortion procedure is to be performed within one business day before the abortion. If an abortion is performed or induced, a tissue sample must be retained by the facility for DNA identification purposes.

FISCAL NOTE: Estimated Cost on General Revenue Fund Could exceed \$751,324 in FY 2011, Could exceed \$893,496 in FY 2012, and Could exceed \$917,301 in FY 2013. No impact on Other State Funds in FY 2011, FY 2012, and FY 2013.

PROPOSERS: Supporters of the bills say that abortion should be safe and legal. Women should be aware of the hazards, risks, and threats abortion imposes on their lives; and they should be aware of the long-term effects abortion can have on a woman's body. The bill will require a physician to give accurate information to the patient before the procedure, and this is the standard of care that should be used.

Testifying for the bills were Representatives Davis and Pratt; Missouri Right to Life; Campaign Life Missouri; Missouri Catholic Conference; Missouri Family Network; Missouri Family Policy Council; and Joanne Schrader.

OPPOSERS: Those who oppose the bills say that creating the crime of coercing an abortion will have a disparate impact on victims of domestic violence and will inhibit their ability to obtain an abortion. A physician may refuse to perform an abortion on a victim of domestic violence for fear of being

prosecuted. Women already have to provide consent, and it would be a violation of their right to privacy to report an abortion performed on women between the ages of 15 and 17 where there is no evidence of a crime. The bill attempts to coerce women out of free choice.

Testifying against the bills were Missouri Coalition Against Domestic Violence; NARAL Pro-Choice Missouri; Planned Parenthood Affiliates in Missouri; and Reverend Rebecca Turner, Faith Aloud.