

SECOND REGULAR SESSION

# HOUSE BILL NO. 1942

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES REYNOLDS, BURTON, O'CONNOR, GRATZ, GAMBARO, HOLT, LUETKENHAUS, CUNNINGHAM, REINHART (Co-sponsors), LIESE, PHILLIPS, TREADWAY, SHOEMYER (9), GREEN (15), HOPPE, BARRY, VOGEL, VILLA, McKENNA, KELLY (36), BARTLE, CRAWFORD, WAGNER, LUETKEMEYER AND HANAWAY.

Read 1<sup>st</sup> time February 14, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4553L.01H

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### AN ACT

To repeal sections 188.080 and 197.200, RSMo, and to enact in lieu thereof three new sections relating to protection of recipients of medical services.

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

Section A. Sections 188.080 and 197.200, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 188.041, 188.080 and 197.200, to read as  
3 follows:

**188.041. 1. Prior to performing an abortion, a physician shall inform the mother  
2 of the unborn child upon whom an abortion is to be performed of all reasonably  
3 foreseeable risks of potential harm to the mother of the unborn child that may be caused  
4 as a direct or indirect result of an abortion. The physician shall allow the mother sufficient  
5 time prior to performing the abortion to assimilate and consider the information provided  
6 by the physician and to make a decision to accept or not accept the risk of potential harm  
7 associated with the abortion.**

**2. Prior to the performance of an abortion, the mother and the physician shall both  
8 certify in writing that the physician informed the mother of all reasonably foreseeable risks  
9 of potential harm to the mother that may be caused as a direct or indirect result of the  
10 abortion, and that the mother accepts the risk of potential harm associated with the  
11 abortion.**

**3. A physician shall be civilly liable to the mother of an aborted child and any other  
12  
13**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14 **person sustaining loss or damages resulting for all losses caused by the failure to provide**  
15 **the information in the manner provided by this section, without regard to the provisions**  
16 **of chapter 538, RSMo.**

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

197.200. As used in sections 197.200 to 197.240, unless the context clearly indicates  
2 otherwise, the following terms mean:

3 (1) "Ambulatory surgical center", any public or private establishment operated primarily  
4 for the purpose of performing surgical procedures or primarily for the purpose of performing  
5 childbirths **or any establishment operated for the purpose of performing or inducing any**  
6 **second or third trimester abortions or five or more first trimester abortions per month**, and  
7 which does not provide services or other accommodations for patients to stay more than  
8 twenty-three hours within the establishment, provided, however, that nothing in this definition  
9 shall be construed to include the offices of dentists currently licensed pursuant to chapter 332,  
10 RSMo;

11 (2) "Dentist", any person currently licensed to practice dentistry pursuant to chapter 332,  
12 RSMo;

13 (3) "Department", the department of health and senior services;

14 (4) "Governmental unit", any city, county or other political subdivision of this state, or  
15 any department, division, board or other agency of any political subdivision of this state;

16 (5) "Person", any individual, firm, partnership, corporation, company, or association and  
17 the legal successors thereof;

18 (6) "Physician", any person currently licensed to practice medicine pursuant to chapter  
19 334, RSMo;

20 (7) "Podiatrist", any person currently licensed to practice podiatry pursuant to chapter  
21 330, RSMo.