

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 36

93RD GENERAL ASSEMBLY

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Reported from the Committee on Children and Families March 16, 2005 with recommendation that House Committee Substitute for House Bill No. 36 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules March 31, 2005 with recommendation that House Committee Substitute for House Bill No. 36 Do Pass with no time limit for debate.

Taken up for Perfection April 19, 2005. House Committee Substitute for House Bill No. 36 ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

0181L.05P

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## AN ACT

To repeal section 334.010, RSMo, and to enact in lieu thereof two new sections relating to rights of pregnant women.

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

Section A. Section 334.010, is repealed and two new sections enacted in lieu thereof, to  
2 be known as sections 210.029 and 334.010, to read as follows:

**210.029. 1. Nothing in Missouri law shall encroach on a mother's right to give birth  
2 in the setting and with any caregiver of her choice; except that, if the setting is a hospital  
3 or other medical facility licensed in this state, any requirements and protocols of the  
4 hospital or medical facility which are in conflict with this section shall apply in lieu of the  
5 provisions of this section. A caregiver who assists the mother shall not be subject to  
6 prosecution under state law, if such caregiver exercises in good faith a reasonable degree  
7 of care or service. Every midwife shall maintain, explain, and present a written disclosure  
8 statement to all clients or prospective clients, which shall include but not be limited to the  
9 following information:**

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.

10           **(1) A complete description of all education and training in midwifery and any other**  
11 **related training or education;**

12           **(2) The number of years of experience as a midwife assisting women in childbirth;**

13           **(3) The number of women assisted in childbirth as a midwife;**

14           **(4) The possible risks associated with childbirth in the particular type of setting**  
15 **selected by the client or prospective client; and**

16           **(5) A plan and procedure specific to the client's or prospective client's particular**  
17 **situation to be implemented in the event that emergency circumstances require transfer to**  
18 **another health care provider.**

19           **2. For purposes of this section, a caregiver includes a person who provides**  
20 **midwifery services.**

21           **3. Notwithstanding any other provision of law, providing a service of midwifery is**  
22 **not the practice of medicine, nursing, nurse-midwifery, or any other medical or healing**  
23 **practice.**

          334.010. 1. It shall be unlawful for any person not now a registered physician within the  
2 meaning of the law to practice medicine or surgery in any of its departments, to engage in the  
3 practice of medicine across state lines or to profess to cure and attempt to treat the sick and  
4 others afflicted with bodily or mental infirmities, [or engage in the practice of midwifery in this  
5 state,] except as herein provided.

6           2. For the purposes of this chapter, the "practice of medicine across state lines" shall  
7 mean:

8           (1) The rendering of a written or otherwise documented medical opinion concerning the  
9 diagnosis or treatment of a patient within this state by a physician located outside this state as  
10 a result of transmission of individual patient data by electronic or other means from within this  
11 state to such physician or physician's agent; or

12           (2) The rendering of treatment to a patient within this state by a physician located outside  
13 this state as a result of transmission of individual patient data by electronic or other means from  
14 within this state to such physician or physician's agent.

15           3. A physician located outside of this state shall not be required to obtain a license when:

16           (1) In consultation with a physician licensed to practice medicine in this state; and

17           (2) The physician licensed in this state retains ultimate authority and responsibility for  
18 the diagnosis or diagnoses and treatment in the care of the patient located within this state; or

19           (3) Evaluating a patient or rendering an oral, written or otherwise documented medical  
20 opinion, or when providing testimony or records for the purpose of any civil or criminal action  
21 before any judicial or administrative proceeding of this state or other forum in this state; or

22           (4) Participating in a utilization review pursuant to section 376.1350, RSMo.

23           **4. No physician, certified nurse midwife, or hospital providing emergency medical**  
24 **care or treatment of a woman or infant arising during childbirth as a consequence of the**  
25 **care received by a midwife or caregiver under this section shall be liable for any civil**  
26 **damages for any act or omission resulting from the rendering of such services unless such**  
27 **act or omission was the result of gross negligence or willful misconduct.**