HB 100 -- ABORTION REGULATIONS

SPONSOR: Cunningham (86)

COMMITTEE ACTION: Voted "do pass" by the Committee on Children and Families by a vote of 8 to 1.

This bill adds the definitions of “department” and “medical emergency” to the laws regarding regulation of abortions. It specifies that the term “next friend” as it relates to consent to abortion for minors does not include another minor child or any person who has a financial interest or personal gain from a minor’s decision to have an abortion.

A penalty provision is revised pertaining to the performance of actions contrary to current law and the nonperformance of required actions under current law. It establishes the defense of performing or not performing an action because of a medical emergency. Currently, a physician who performs an abortion and does not have surgical privileges at a hospital that offers obstetrical or gynecological care is guilty of a class B felony. The bill specifies that a physician who performs an abortion and does not have clinical privileges to provide obstetrical or gynecological care at a hospital within 30 miles of the location where the abortion is performed is guilty of a class B felony.

The bill also prohibits a person from intentionally causing, aiding, or assisting a minor to obtain an abortion without consent from a parent or a judicial decree. Any person who is subject to the jurisdiction of the State of Missouri and violates this provision will be civilly liable to persons adversely affected by the action. If civil liability is established, a court may award damages, including compensation for emotional injury, attorney fees, and court costs to any person adversely affected. However, damages may not be awarded to any person who has committed rape or incest or has knowingly allowed rape or incest to be committed against a minor who obtains an abortion.

A person is not allowed to assert as a defense a claim that the abortion was performed in accordance with the required consent of the state or the place where the abortion was performed. The bill also prohibits an unemancipated minor from having the capacity to consent to any action in violation of the bill or Section 188.028, RSMo.

A court may enjoin conduct in violation of the bill upon a petition by the Attorney General, a prosecuting attorney, a circuit attorney, or a person adversely affected or who may be adversely affected. In order for a court to enjoin any violation, the bill requires that there must be a showing that

the conduct has occurred in the past and that it is not unreasonable to expect that it will be repeated or that it is reasonably anticipated to occur in the future.

An establishment that performs or induces second- or third-trimester abortions or five or more first-trimester abortions per month is added to the definition of "ambulatory surgical center" for the purpose of regulating these centers.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Less than $100,000 in FY 2006, FY 2007, and FY 2008. No impact on Other State Funds in FY 2006, FY 2007, and FY 2008.

PROPONENTS: Supporters say the bill will prohibit someone from providing assistance to a minor, without her parents' consent, in obtaining an abortion in Illinois. By some estimates, 400 or more Missouri teens annually obtain abortions in Illinois. The Hope Clinic in Granite City, Illinois, actively solicits underage Missouri girls to travel across state lines to obtain an abortion, where parental consent is not required.

Testifying for the bill were Representative Cunningham (86); Kathy Sparks; Mike Sparks; and Campaign Life Missouri.

OPPONENTS: Those who oppose the bill say that if the bill becomes law, many young girls would injure themselves in attempting a self-induced abortion. The bill will open the door to lawsuits by allowing parents and the minor to sue grandparents, clergy members, mentors, and health care providers. Instead of wasting taxpayers' money on lawsuits, Missouri would be better served by helping more women prevent unintended pregnancies.

Testifying against the bill were Missouri Religious Coalition for Reproductive Choice; Lise Saffran; Planned Parenthood St. Louis Region; and NARAL-Pro Choice Missouri.

Dominic Lackey, Legislative Analyst