

SECOND REGULAR SESSION

# HOUSE BILL NO. 1786

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HENKE (Sponsor), WAGNER, HARRIS (110), McGHEE,  
SANDER, MEADOWS AND CUNNINGHAM (86) (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

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### AN ACT

To repeal sections 188.015, 188.029, 188.030, 188.039, and 188.055, RSMo, and to enact in lieu thereof five new sections relating to abortion, with a penalty provision and a contingent effective date.

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

Section A. Sections 188.015, 188.029, 188.030, 188.039, and 188.055, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 188.012, 188.015,  
3 188.029, 188.030, and 188.055, to read as follows:

**188.012. 1. Any person who performs or induces, or attempts to perform or induce,  
2 an abortion on another is guilty of a class B felony.  
3 2. The provisions of subsection 1 of this section shall not apply to a medical  
4 emergency.**

188.015. Unless the language or context clearly indicates a different meaning is intended,  
2 the following words or phrases for the purposes of sections 188.010 to 188.130 shall be given  
3 the meaning ascribed to them:

4 (1) "Abortion", the intentional destruction of the life of an embryo or fetus in his or her  
5 mother's womb or the intentional termination of the pregnancy of a mother with an intention  
6 other than to increase the probability of a live birth or to remove a dead or dying unborn child;  
7 (2) "Abortion facility", a clinic, physician's office, or any other place or facility in which  
8 abortions are performed other than a hospital;

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.

9 (3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

10 (4) "Gestational age", length of pregnancy as measured from the first day of the woman's  
11 last menstrual period;

12 (5) "**Medical emergency**", a condition which, on the basis of the physician's good  
13 **faith clinical judgment, so complicates the medical condition of a pregnant woman as to**  
14 **necessitate the immediate abortion of her pregnancy to avert her death or for which a**  
15 **delay will create a serious risk of death;**

16 (6) "Physician", any person licensed to practice medicine in this state by the state board  
17 of registration of the healing arts;

18 [(6)] (7) "Unborn child", the offspring of human beings from the moment of conception  
19 until birth and at every stage of its biological development, including the human conceptus,  
20 zygote, morula, blastocyst, embryo, and fetus;

21 [(7)] (8) "Viability", that stage of fetal development when the life of the unborn child  
22 may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

188.029. Before a physician performs an abortion **in a medical emergency under**  
2 **section 188.039** on a woman [he] **the physician** has reason to believe is carrying an unborn child  
3 of twenty or more weeks gestational age, the physician shall first determine if the unborn child  
4 is viable by using and exercising that degree of care, skill, and proficiency commonly exercised  
5 by the ordinarily skillful, careful, and prudent physician engaged in similar practice under the  
6 same or similar conditions. In making this determination of viability, the physician shall perform  
7 or cause to be performed such medical examinations and tests as are necessary to make a finding  
8 of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings  
9 and determination of viability in the medical record of the mother.

188.030. 1. No abortion of [a viable] **an** unborn child shall be performed **in this state**  
2 unless necessary to preserve the life [or health] of the woman. Before a physician may perform  
3 an abortion upon a pregnant woman [after such time as her unborn child has become viable],  
4 such physician shall first certify in writing that the abortion is necessary to preserve the life [or  
5 health] of the woman and shall further certify in writing the medical indications for such abortion  
6 and the probable health consequences.

7 2. Any physician who performs an abortion upon a woman carrying a viable unborn child  
8 shall utilize the available method or technique of abortion most likely to preserve the life and  
9 health of the unborn child. In cases where the method or technique of abortion which would  
10 most likely preserve the life and health of the unborn child would present a greater risk to the life  
11 and health of the woman than another available method or technique, the physician may utilize  
12 such other method or technique. In all cases where the physician performs an abortion upon [a

13 viable] **an** unborn child, the physician shall certify in writing the available method or techniques  
14 considered and the reasons for choosing the method or technique employed.

15 3. An abortion of a viable unborn child shall be performed or induced only when there  
16 is in attendance a physician other than the physician performing or inducing the abortion who  
17 shall take control of and provide immediate medical care for a child born as a result of the  
18 abortion. During the performance of the abortion, the physician performing it, and subsequent  
19 to the abortion, the physician required by this section to be in attendance, shall take all  
20 reasonable steps in keeping with good medical practice, consistent with the procedure used, to  
21 preserve the life and health of the viable unborn child; provided that it does not pose an increased  
22 risk to the life or health of the woman.

188.055. 1. Every abortion facility, hospital, and physician shall be supplied with forms  
2 by the department of health and senior services for use in regards to the consents and reports  
3 required by sections 188.010 to 188.085. A purpose and function of such consents and reports  
4 shall be the preservation of maternal [health and] life by adding to the sum of medical knowledge  
5 through the compilation of relevant maternal [health and] life data and to monitor all abortions  
6 performed to assure that they are done only under and in accordance with the provisions of the  
7 law.

8 2. All information obtained by physician, hospital, or abortion facility from a patient for  
9 the purpose of preparing reports to the department of health and senior services under sections  
10 188.010 to 188.085 or reports received by the division of health shall be confidential and shall  
11 be used only for statistical purposes. Such records, however, may be inspected and health data  
12 acquired by local, state, or national public health officers.

[188.039. 1. For purposes of this section, "medical emergency" means  
2 a condition which, on the basis of the physician's good faith clinical judgment,  
3 so complicates the medical condition of a pregnant woman as to necessitate the  
4 immediate abortion of her pregnancy to avert her death or for which a delay will  
5 create a serious risk of substantial and irreversible impairment of a major bodily  
6 function.

7 2. Except in the case of medical emergency, no person shall perform or  
8 induce an abortion unless at least twenty-four hours prior thereto a treating  
9 physician has conferred with the patient and discussed with her the indicators and  
10 contraindicators, and risk factors including any physical, psychological, or  
11 situational factors for the proposed procedure and the use of medications,  
12 including but not limited to mifepristone, in light of her medical history and  
13 medical condition. For an abortion performed or an abortion induced by a drug  
14 or drugs, such conference shall take place at least twenty-four hours prior to the  
15 writing or communication of the first prescription for such drug or drugs in  
16 connection with inducing an abortion. Only one such conference shall be  
17 required for each abortion.

18                   3. The patient shall be evaluated by a treating physician during the  
19 conference for indicators and contraindicators, risk factors including any  
20 physical, psychological, or situational factors which would predispose the patient  
21 to or increase the risk of experiencing one or more adverse physical, emotional,  
22 or other health reactions to the proposed procedure or drug or drugs in either the  
23 short or long term as compared with women who do not possess such risk factors.

24                   4. At the end of the conference, and if the woman chooses to proceed  
25 with the abortion, a treating physician shall sign and shall cause the patient to  
26 sign a written statement that the woman gave her informed consent freely and  
27 without coercion after the physician had discussed with her the indicators and  
28 contraindicators, and risk factors, including any physical, psychological, or  
29 situational factors. All such executed statements shall be maintained as part of  
30 the patient's medical file, subject to the confidentiality laws and rules of this state.

31                   5. The director of the department of health and senior services shall  
32 disseminate a model form that physicians may use as the written statement  
33 required by this section, but any lack or unavailability of such a model form shall  
34 not affect the duties of the physician set forth in subsections 2 to 4 of this  
35 section.]

Section B. Section A of this act shall become effective on the effective date of any  
2 decision by the United States Supreme Court reversing the decision in **Roe. v. Wade**, 410 U.S.  
3 113 (1973) or otherwise negating any constitutional basis for abortion on demand, or enactment  
4 of a federal law by the United States Congress prohibiting abortion on demand in the United  
5 States.

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