

HCS HB 46 & 434 -- 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. 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 that describes the proposed abortion method, 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 describes the anatomical and physiological characteristics of the unborn child's brain and heart functions, extremities, various methods of abortion, risks associated with each method, 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, 2009, 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 with an opportunity to view an ultrasound and hear the heartbeat of the unborn child at a local health facility that offers these services free of charge at least 24 hours prior to the abortion;
- (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 anytime 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 more 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 or her family;

(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) 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 either a class B or class C misdemeanor or an infraction.

It is not a defense to the crime of coercing an abortion that the woman seeks or obtains an abortion or that the coercion involved a woman who mistakenly believed she was pregnant. 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. 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 family or household member, the abortion provider must give the woman information about orders of protection.

FISCAL NOTE: Estimated Cost on General Revenue Fund could exceed \$891,264 in FY 2010, could exceed \$1,047,063 in FY 2011, and could exceed \$1,072,476 in FY 2012. No impact on Other State Funds in FY 2010, FY 2011, and FY 2012.

PROPOSERS: Supporters say that the bills do not take away a woman's right to choose to have an abortion but that the choice should be made without coercion. The bills do not prevent a woman's support network from having discussions with her about the pros and cons of having an abortion. The number of abortions performed will be reduced in this state and a woman having an abortion will be doing so on her own free will. The bills encourage a woman to seek out information and guidance before choosing to have an abortion and require more information to be provided so that a woman can be well informed about fetal development, abortion procedures, and coercion.

Testifying for the bills were Representatives Davis and Pratt; Terra Guittar; Marisol Pfaff; Connie Eller, Missouri Blacks for Life; Amy Knudsen; Royale Lorraine Barnett; Cindy Evans; Missouri Family Network; Americans United for Life; Missouri Baptist Convention, Christian Life Commission; Campaign Life Missouri; Missouri Right to Life; Missouri Family Policy Council; Missouri Catholic Conference; and Zina Hackworth.

OPPOSERS: Those who oppose the bills say that they have negative consequences for a woman and will make it a crime for a parent of a child who becomes pregnant as a result of incest to encourage the child to terminate the pregnancy. They do not address situations for a woman in need who chooses not to have an abortion but cannot care for the child. The larger public policy goal should be to protect the woman and provide preventive services. A woman who has been raped is considered to be a victim of a crime that has an element of coercion, which means that under the bills, the woman could not receive an abortion. Requiring ultrasounds in statute is risky due to technology advancements. Establishing standard medical practice in statute

is not good public policy. The bills are not constitutional because of poor definitions and interferences with religious rights. Requiring signs to be posted is placing judgment on the person's decision to have an abortion. There is already an informed consent law, a 24-hour waiting period, and a woman already signs papers and verbally confirms that she is seeking an abortion of her free will. Additional counseling is provided to a woman who is unsure about having an abortion. It is important that a woman's treating physician, not the abortion provider, is included in the list of persons who can obtain informed consent.

Testifying against the bills were NARAL Pro-Choice Missouri; Reverend Rebecca Turner, Faith Aloud; Planned Parenthood Affiliates in Missouri; American Civil Liberties Union of Eastern Missouri; Missouri Coalition Against Domestic and Sexual Violence; and Marlene Hammerman.