

HCS HB 213 -- ABORTIONS

SPONSOR: Sater (Jones, 89)

COMMITTEE ACTION: Voted "do pass" by the Committee on Health Care Policy by a vote of 9 to 1.

This substitute specifies that no abortion of a viable unborn child can be performed or induced except in the case of a medical emergency where the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, illness, or injury or when the continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Except in the case of a medical emergency, a physician must, prior to performing or inducing an abortion, determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards.

If a physician determines that the gestational age of the unborn child is 20 weeks or more, he or she must, prior to performing or inducing an abortion, determine if the unborn child is viable by performing medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and enter that information in the woman's medical record. If a physician determines the gestational age of the unborn child is 20 weeks or more and the unborn child is not viable and an abortion is performed or induced, the physician must report these findings and determinations and the reasons for the determinations to the health care facility in which the abortion is performed and to the State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration. The physician must also enter the determinations in the woman's medical records and in the individual abortion report submitted to the Department of Health and Senior Services.

A physician must certify in writing the medical threat posed to the life of the pregnant woman or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman before the physician can proceed with performing or inducing an abortion on a woman when it has been determined that the unborn child is viable.

Before a physician may perform or induce an abortion on a woman carrying an unborn child that has been determined to be viable, he or she must:

(1) Certify in writing and obtain the agreement of a second physician who has knowledge of accepted obstetrical and neonatal practices and standards that the abortion is necessary to preserve the life of the pregnant woman or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. The second physician cannot have any legal or financial affiliation or relationship with the physician performing or inducing the abortion;

(2) Use the available method or technique of abortion that is most likely to preserve the life or health of the unborn child; and

(3) Have in attendance at the abortion a second physician who is responsible for taking control of and providing immediate medical care for a child born as a result of the abortion.

Any person who knowingly performs or induces an abortion of an unborn child in violation of these provisions will be guilty of a class C felony and subject to imprisonment for not less than one year and a fine of not less than \$10,000 or more than \$50,000. Any physician licensed in this state who performs or induces an abortion of an unborn child in violation of these provisions will have his or her license suspended for three years. Any licensed hospital or ambulatory surgical center in which an abortion is performed or induced in violation of these provisions will be subject to the suspension or revocation of its license.

FISCAL NOTE: Estimated Net Cost on General Revenue Fund of Less than \$102,760 in FY 2012, Less than \$100,000 in FY 2013, and Less than \$100,000 in FY 2014. No impact on Other State Funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill is constitutionally defensible and supported by case law principles in an effort to ban late-term abortions. Current state law is vague and ineffective. The bill defines "viability" which is a new component and addresses health risks and a therapeutic abortion. Currently, case law in the state supports setting the viability cutoff at 20 weeks which has been upheld by a Supreme Court decision. Because of the advances in neonatal care, the bill is necessary. There are safeguards in the bill for a pregnant woman by requiring one doctor to care for her and one doctor to perform the abortion.

Testifying for the bill were Representative Jones (89); Missouri Family Policy Council; Missouri Right to Life; Campaign Life Missouri; Missouri Catholic Conference; Missouri Baptist Convention, Christian Life Commission; and Missouri Family

Network.

OPPONENTS: Those who oppose the bill say that determining viability at 20 weeks is unreasonable because no baby born prior to 21 weeks has ever survived. For fetuses delivered around 20 weeks, life is difficult and meaningless; and the Supreme Court has ruled that life should be meaningful outside the womb. The mother's mental health has never before been addressed. The punitive provisions in the bill are over-reaching by applying the penalty to an entire hospital. The bill does not enhance the protections for a pregnant woman in her treatment or health care. The bill is unconstitutional based on the Casey case, Roe v Wade, and others. The bill is so punitive that it only incites illegally performed abortions by limiting access to legally performed abortions by discouraging physicians to perform abortions due to liability and criminal charge concerns.

Testifying against the bill was NARAL Pro-Choice Missouri.