

HB 1846 -- ENFORCEMENT OF ABORTION LAWS

SPONSOR: Cox

Currently, any licensed health care professional who delivers a baby or performs an abortion and has prima facie evidence that a patient has been the victim of statutory rape in the first degree or statutory rape in the second degree or if the patient is under the age of eighteen, that the patient has been a victim of sexual abuse, including rape in the first or second degree, or incest, is required to report the offenses to the Children's Division within the Department of Social Services. This bill requires that, upon receipt of a report required by these provisions, the department must send a summary of the report made, including all of the facts reported, to the licensed health care professional who made the report. The licensed health care professional who made the report must include the summary as part of the patient's medical records.

Currently, a person or entity cannot require, obtain, or accept payment for an abortion from or on behalf of a patient until at least 24 hours have passed since the time that specified information has been provided to the patient. The bill requires that a woman must be deemed to be coerced into having an abortion if an abortion facility or any employee thereof requires, obtains, or accepts payment for an abortion from or on behalf of the woman in violation of these provisions.

Currently, specified written information must be provided to a woman considering an abortion. The bill requires, in order to ensure that the woman considering abortion has been provided with the specified written materials produced by the department, the department to stamp each copy of the written materials with a unique identification number. The woman must write, in her own handwriting, the unique identification number found on the written materials she has received on the required checklist form. The abortion facility must provide the woman with an exact duplicate copy of the signed checklist form. The department must review the checklist forms as part of its required annual inspection.

Any physician who performs or induces an abortion upon a woman without her voluntary and informed consent given freely and without coercion and any abortion facility in which such an abortion occurs must be liable to the woman for any damages incurred by the woman, including the cost of the abortion and medical expenses incurred as the result of the abortion, for punitive damages, and for any reasonable attorney fees incurred by the woman. There must be a rebuttable presumption that the actual damages incurred by the woman are not less than \$5,000.

An agent or employee of an abortion facility is prohibited from advising or referring a woman to go to a location outside of the State of Missouri for the purpose of obtaining an abortion without first providing the woman with specified information and obtaining the woman's signature on the checklist form.

Currently, except in the case of medical emergency, a person must not perform or induce an abortion unless at least 24 hours prior thereto the physician who is to perform or induce the abortion or a qualified professional has conferred with the patient and discussed with her specified medical information. The bill specifies that consent given prior to the conference must not be deemed to be given freely and without coercion.

Currently, a person is prohibited from performing or inducing a surgical or medical abortion unless the person has proof of medical malpractice insurance with coverage amounts of at least \$500,000. The bill increases the medical malpractice insurance coverage requirement to at least \$1,000,000.

Currently, any person who knowingly performs, induces, or aids in the performance or inducing of any abortion or knowingly fails to perform any action required by Sections 188.010 to 188.085, RSMo, must be guilty of a class A misdemeanor. The bill increases the penalty to a class D felony and specifies that a violation of the provisions of Sections 188.010 to 188.085 must be deemed to occur either in the county in which the woman upon whom the abortion was performed or induced resides or in the county in which the abortion occurs. The Attorney General may enforce these provisions in addition to county prosecutors. Any person who knowingly causes, aids, or assists a minor to obtain an abortion without the required consent will be guilty of a class D felony.

Every hospital in Missouri is required to publish and maintain a current list of all physicians holding clinical privileges with the hospital. This list must be reviewed and updated as necessary, but no less frequently than once per month. The publication of this list must be a requirement for the annual renewal of the license.

Currently, the Department of Health and Senior Services must inspect and investigate medical treatment facilities as it deems necessary and may delegate its powers and duties to investigate and inspect ambulatory surgical centers to an official of a specified political subdivision if the department deems the official to be qualified. The bill repeals these provisions and requires the department to annually inspect each ambulatory surgical center operated for the purpose of performing or inducing any second or third trimester abortions or five or more first trimester abortions per month and must make or cause to be made any other inspections

and investigations as it deems necessary. The department may delegate its powers and duties to investigate and inspect ambulatory surgical centers to an official of a political subdivision having a population of at least 450,000 individuals if the political subdivision is deemed qualified by the department to inspect and investigate ambulatory surgical centers. The official must submit a written report of his findings to the department and the department may accept the recommendations of the official if it determines that the facility inspected meets minimum standards established under Sections 197.200 to 197.240. In the case of any ambulatory surgical center operated for the purpose of performing or inducing any second or third trimester abortions or five or more first trimester abortions per month, the annual inspection conducted by the department must include a review of the medical records retained by the ambulatory surgical center to ensure compliance with Sections 188.023 and 188.027.