

HB 404 -- ABORTION

SPONSOR: Hubrecht

This bill changes the laws relating to abortion.

Currently, a physician who is to perform or induce an abortion must provide the woman with the opportunity to view an active ultrasound of the unborn child to hear the heartbeat of the unborn child if the heartbeat is audible. The bill limits the hearing of the heartbeat of the unborn child to when the unborn child is at least 10 weeks gestational age and requires the person conducting the ultrasound to provide a medical description of the ultrasound images of the unborn child's cardiac activity, if present and viewable. Nothing in these provisions must be construed to prevent a woman from closing or averting her eyes from the ultrasound images required to be displayed or from not listening to the heartbeat. It must not be considered a violation of these provisions if an attempt has been made, consistent with standard medical practice, to make the heartbeat of the unborn child audible for the woman, that attempt does not result in the heartbeat being made audible, and an offer to attempt to make the heartbeat audible at a subsequent date has been made.

Currently, in the event of a medical emergency, the physician who performed or induced the abortion must clearly certify in writing the nature and circumstances of the medical emergency and sign the certification. This bill adds that a physician who knowingly or recklessly falsifies a certification under these provisions is in violation of the provisions.

Any woman upon whom an abortion has been performed or induced in violation Chapter 188, RSMo, or the father of the unborn child who was the subject of such an abortion, may maintain an action against the person who performed or induced the abortion in intentional or reckless violation of the law for actual and punitive damages. Any woman upon whom an illegal abortion has been attempted may maintain an action against the person who attempted to perform or induce the abortion in an intentional or reckless violation of the law for actual and punitive damages.

A cause of action for injunctive relief against any person who has intentionally or recklessly violated the law may be maintained by the woman upon whom an illegal abortion is performed or induced; by any person who is the spouse, parent, sibling, or guardian of, or a current or former licensed health care provider of, the woman; by a prosecuting attorney with appropriate jurisdiction; or by the attorney general. The injunction must prevent the abortion provider from performing or inducing further illegal abortions in

this state.

If judgment is rendered in favor of the plaintiff in an action under these provisions, the court must also render judgment for reasonable attorney's fees in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court must render judgment for reasonable attorney's fees in favor of the defendant against the plaintiff.

In every civil or criminal proceeding or action brought under Chapter 188, the court must rule whether the anonymity of any woman upon whom an abortion has been performed or induced or attempted to be performed or induced must be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, must make such a ruling and, upon determining that her anonymity should be preserved, must issue orders to the parties, witnesses, and counsel and must direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order must be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists.