

SECOND REGULAR SESSION

HOUSE BILL NO. 1333

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PIETZMAN.

4539H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 188.015, 188.027, 188.028, 188.030, 188.031, 188.039, 188.055, and 188.250, RSMo, and to enact in lieu thereof five new sections relating to abortion, with penalty provisions and a contingent effective date.

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

Section A. Sections 188.015, 188.027, 188.028, 188.030, 188.031, 188.039, 188.055, and 188.250, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 188.012, 188.015, 188.027, 188.030, and 188.055, to read as follows:

188.012. Any person who performs or induces, or attempts to perform or induce, an abortion, except in the case of a medical emergency, is guilty of a class B felony.

188.015. As used in this chapter, the following terms mean:

- (1) "Abortion":
 - (a) The act of using or prescribing any instrument, device, medicine, drug, or any other means or substance with the intent to destroy the life of an embryo or fetus in his or her mother's womb; or
 - (b) The intentional termination of the pregnancy of a mother by using or prescribing any instrument, device, medicine, drug, or other means or substance with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child;
- (2) "Abortion facility", a clinic, physician's office, or any other place or facility in which abortions are performed or induced other than a hospital;
- (3) "Conception", the fertilization of the ovum of a female by a sperm of a male;
- (4) "Department", the department of health and senior services;

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.

13 (5) "Gestational age", length of pregnancy as measured from the first day of the woman's
14 last menstrual period;

15 (6) "Medical emergency", a condition which, based on reasonable medical judgment, so
16 complicates the medical condition of a pregnant woman as to necessitate the immediate abortion
17 of her pregnancy to avert the death of the pregnant woman or for which a delay will create a
18 serious risk of ~~[substantial and irreversible physical impairment of a major bodily function of the~~
19 ~~pregnant woman]~~ **death**;

20 (7) "Physician", any person licensed to practice medicine in this state by the state board
21 of registration for the healing arts;

22 (8) "Reasonable medical judgment", a medical judgment that would be made by a
23 reasonably prudent physician, knowledgeable about the case and the treatment possibilities with
24 respect to the medical conditions involved;

25 (9) "Unborn child", the offspring of human beings from the moment of conception until
26 birth and at every stage of its biological development, including the human conceptus, zygote,
27 morula, blastocyst, embryo, and fetus;

28 (10) "Viability" or "viable", that stage of fetal development when the life of the unborn
29 child may be continued indefinitely outside the womb by natural or artificial life-supportive
30 systems.

188.027. 1. Except in the case of medical emergency, no abortion shall be performed
2 or induced on a woman ~~[without her voluntary and informed consent, given freely and without~~
3 ~~coercion. Consent to an abortion is voluntary and informed and given freely and without~~
4 ~~coercion if, and only if, at least seventy-two hours prior to the abortion:~~

5 ~~—— (1) The physician who is to perform or induce the abortion, a qualified professional, or~~
6 ~~the referring physician has informed the woman orally, reduced to writing, and in person, of the~~
7 ~~following:~~

8 ~~—— (a) The name of the physician who will perform or induce the abortion;~~

9 ~~—— (b) Medically accurate information that a reasonable patient would consider material to~~
10 ~~the decision of whether or not to undergo the abortion, including:~~

11 ~~—— a. A description of the proposed abortion method;~~

12 ~~—— b. The immediate and long-term medical risks to the woman associated with the~~
13 ~~proposed abortion method including, but not limited to, infection, hemorrhage, cervical tear or~~
14 ~~uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to~~
15 ~~term, and possible adverse psychological effects associated with the abortion; and~~

16 ~~—— c. The immediate and long-term medical risks to the woman, in light of the anesthesia~~
17 ~~and medication that is to be administered, the unborn child's gestational age, and the woman's~~
18 ~~medical history and medical condition;~~

- 19 ~~—— (c) Alternatives to the abortion which shall include making the woman aware that~~
20 ~~information and materials shall be provided to her detailing such alternatives to the abortion;~~
- 21 ~~—— (d) A statement that the physician performing or inducing the abortion is available for~~
22 ~~any questions concerning the abortion, together with the telephone number that the physician~~
23 ~~may be later reached to answer any questions that the woman may have;~~
- 24 ~~—— (e) The location of the hospital that offers obstetrical or gynecological care located~~
25 ~~within thirty miles of the location where the abortion is performed or induced and at which the~~
26 ~~physician performing or inducing the abortion has clinical privileges and where the woman may~~
27 ~~receive follow-up care by the physician if complications arise;~~
- 28 ~~—— (f) The gestational age of the unborn child at the time the abortion is to be performed or~~
29 ~~induced; and~~
- 30 ~~—— (g) The anatomical and physiological characteristics of the unborn child at the time the~~
31 ~~abortion is to be performed or induced;~~
- 32 ~~—— (2) The physician who is to perform or induce the abortion or a qualified professional~~
33 ~~has presented the woman, in person, printed materials provided by the department, which~~
34 ~~describe the probable anatomical and physiological characteristics of the unborn child at~~
35 ~~two-week gestational increments from conception to full term, including color photographs or~~
36 ~~images of the developing unborn child at two-week gestational increments. Such descriptions~~
37 ~~shall include information about brain and heart functions, the presence of external members and~~
38 ~~internal organs during the applicable stages of development and information on when the unborn~~
39 ~~child is viable. The printed materials shall prominently display the following statement: "The~~
40 ~~life of each human being begins at conception. Abortion will terminate the life of a separate,~~
41 ~~unique, living human being.";~~
- 42 ~~—— (3) The physician who is to perform or induce the abortion, a qualified professional, or~~
43 ~~the referring physician has presented the woman, in person, printed materials provided by the~~
44 ~~department, which describe the various surgical and drug-induced methods of abortion relevant~~
45 ~~to the stage of pregnancy, as well as the immediate and long-term medical risks commonly~~
46 ~~associated with each abortion method including, but not limited to, infection, hemorrhage,~~
47 ~~cervical tear or uterine perforation, harm to subsequent pregnancies or the ability to carry a~~
48 ~~subsequent child to term, and the possible adverse psychological effects associated with an~~
49 ~~abortion;~~
- 50 ~~—— (4) The physician who is to perform or induce the abortion or a qualified professional~~
51 ~~shall provide the woman with the opportunity to view at least seventy-two hours prior to the~~
52 ~~abortion an active ultrasound of the unborn child and hear the heartbeat of the unborn child if~~
53 ~~the heartbeat is audible. The woman shall be provided with a geographically indexed list~~
54 ~~maintained by the department of health care providers, facilities, and clinics that perform~~

~~55 ultrasounds, including those that offer ultrasound services free of charge. Such materials shall
56 provide contact information for each provider, facility, or clinic including telephone numbers
57 and, if available, website addresses. Should the woman decide to obtain an ultrasound from a
58 provider, facility, or clinic other than the abortion facility, the woman shall be offered a
59 reasonable time to obtain the ultrasound examination before the date and time set for performing
60 or inducing an abortion. The person conducting the ultrasound shall ensure that the active
61 ultrasound image is of a quality consistent with standard medical practice in the community;
62 contains the dimensions of the unborn child, and accurately portrays the presence of external
63 members and internal organs, if present or viewable, of the unborn child. The auscultation of
64 fetal heart tone must also be of a quality consistent with standard medical practice in the
65 community. If the woman chooses to view the ultrasound or hear the heartbeat or both at the
66 abortion facility, the viewing or hearing or both shall be provided to her at the abortion facility
67 at least seventy-two hours prior to the abortion being performed or induced;~~

~~68 (5) Prior to an abortion being performed or induced on an unborn child of twenty-two
69 weeks gestational age or older, the physician who is to perform or induce the abortion or a
70 qualified professional has presented the woman, in person, printed materials provided by the
71 department that offer information on the possibility of the abortion causing pain to the unborn
72 child. This information shall include, but need not be limited to, the following:~~

~~73 (a) At least by twenty-two weeks of gestational age, the unborn child possesses all the
74 anatomical structures, including pain receptors, spinal cord, nerve tracts, thalamus, and cortex;
75 that are necessary in order to feel pain;~~

~~76 (b) A description of the actual steps in the abortion procedure to be performed or
77 induced, and at which steps the abortion procedure could be painful to the unborn child;~~

~~78 (c) There is evidence that by twenty-two weeks of gestational age, unborn children seek
79 to evade certain stimuli in a manner that in an infant or an adult would be interpreted as a
80 response to pain;~~

~~81 (d) Anesthesia is given to unborn children who are twenty-two weeks or more gestational
82 age who undergo prenatal surgery;~~

~~83 (e) Anesthesia is given to premature children who are twenty-two weeks or more
84 gestational age who undergo surgery;~~

~~85 (f) Anesthesia or an analgesic is available in order to minimize or alleviate the pain to
86 the unborn child;~~

~~87 (6) The physician who is to perform or induce the abortion or a qualified professional
88 has presented the woman, in person, printed materials provided by the department explaining to
89 the woman alternatives to abortion she may wish to consider. Such materials shall:~~

90 ~~—— (a) Identify on a geographical basis public and private agencies available to assist a~~
91 ~~woman in carrying her unborn child to term, and to assist her in caring for her dependent child~~
92 ~~or placing her child for adoption, including agencies commonly known and generally referred~~
93 ~~to as pregnancy resource centers, crisis pregnancy centers, maternity homes, and adoption~~
94 ~~agencies. Such materials shall provide a comprehensive list by geographical area of the agencies,~~
95 ~~a description of the services they offer, and the telephone numbers and addresses of the agencies,~~
96 ~~provided that such materials shall not include any programs, services, organizations, or affiliates~~
97 ~~of organizations that perform or induce, or assist in the performing or inducing of, abortions or~~
98 ~~that refer for abortions;~~

99 ~~—— (b) Explain the Missouri alternatives to abortion services program under section 188.325,~~
100 ~~and any other programs and services available to pregnant women and mothers of newborn~~
101 ~~children offered by public or private agencies which assist a woman in carrying her unborn child~~
102 ~~to term and assist her in caring for her dependent child or placing her child for adoption,~~
103 ~~including but not limited to prenatal care; maternal health care; newborn or infant care; mental~~
104 ~~health services; professional counseling services; housing programs; utility assistance;~~
105 ~~transportation services; food, clothing, and supplies related to pregnancy; parenting skills;~~
106 ~~educational programs; job training and placement services; drug and alcohol testing and~~
107 ~~treatment; and adoption assistance;~~

108 ~~—— (c) Identify the state website for the Missouri alternatives to abortion services program~~
109 ~~under section 188.325, and any toll-free number established by the state operated in conjunction~~
110 ~~with the program;~~

111 ~~—— (d) Prominently display the statement: "There are public and private agencies willing~~
112 ~~and able to help you carry your child to term, and to assist you and your child after your child is~~
113 ~~born, whether you choose to keep your child or place him or her for adoption. The state of~~
114 ~~Missouri encourages you to contact those agencies before making a final decision about abortion.~~
115 ~~State law requires that your physician or a qualified professional give you the opportunity to call~~
116 ~~agencies like these before you undergo an abortion.";~~

117 ~~—— (7) The physician who is to perform or induce the abortion or a qualified professional~~
118 ~~has presented the woman, in person, printed materials provided by the department explaining that~~
119 ~~the father of the unborn child is liable to assist in the support of the child, even in instances~~
120 ~~where he has offered to pay for the abortion. Such materials shall include information on the~~
121 ~~legal duties and support obligations of the father of a child, including, but not limited to, child~~
122 ~~support payments, and the fact that paternity may be established by the father's name on a birth~~
123 ~~certificate or statement of paternity, or by court action. Such printed materials shall also state~~
124 ~~that more information concerning paternity establishment and child support services and~~

125 enforcement may be obtained by calling the family support division within the Missouri
126 department of social services; and

127 ~~—— (8) The physician who is to perform or induce the abortion or a qualified professional~~
128 ~~shall inform the woman that she is free to withhold or withdraw her consent to the abortion at~~
129 ~~any time without affecting her right to future care or treatment and without the loss of any state~~
130 ~~or federally funded benefits to which she might otherwise be entitled.~~

131 ~~—— 2. All information required to be provided to a woman considering abortion by~~
132 ~~subsection 1 of this section shall be presented to the woman individually, in the physical~~
133 ~~presence of the woman and in a private room, to protect her privacy, to maintain the~~
134 ~~confidentiality of her decision, to ensure that the information focuses on her individual~~
135 ~~circumstances, to ensure she has an adequate opportunity to ask questions, and to ensure that she~~
136 ~~is not a victim of coerced abortion. Should a woman be unable to read materials provided to her,~~
137 ~~they shall be read to her. Should a woman need an interpreter to understand the information~~
138 ~~presented in the written materials, an interpreter shall be provided to her. Should a woman ask~~
139 ~~questions concerning any of the information or materials, answers shall be provided in a~~
140 ~~language she can understand.~~

141 ~~—— 3. No abortion shall be performed or induced unless and until the woman upon whom~~
142 ~~the abortion is to be performed or induced certifies in writing on a checklist form provided by~~
143 ~~the department that she has been presented all the information required in subsection 1 of this~~
144 ~~section, that she has been provided the opportunity to view an active ultrasound image of the~~
145 ~~unborn child and hear the heartbeat of the unborn child if it is audible, and that she further~~
146 ~~certifies that she gives her voluntary and informed consent, freely and without coercion, to the~~
147 ~~abortion procedure.~~

148 ~~—— 4. No abortion shall be performed or induced on an unborn child of twenty-two weeks~~
149 ~~gestational age or older unless and until the woman upon whom the abortion is to be performed~~
150 ~~or induced has been provided the opportunity to choose to have an anesthetic or analgesic~~
151 ~~administered to eliminate or alleviate pain to the unborn child caused by the particular method~~
152 ~~of abortion to be performed or induced. The administration of anesthesia or analgesics shall be~~
153 ~~performed in a manner consistent with standard medical practice in the community.~~

154 ~~—— 5. No physician shall perform or induce an abortion unless and until the physician has~~
155 ~~obtained from the woman her voluntary and informed consent given freely and without coercion.~~
156 ~~If the physician has reason to believe that the woman is being coerced into having an abortion,~~
157 ~~the physician or qualified professional shall inform the woman that services are available for her~~
158 ~~and shall provide her with private access to a telephone and information about such services,~~
159 ~~including but not limited to the following:~~

160 ~~—— (1) Rape crisis centers, as defined in section 455.003;~~

161 ~~—— (2) Shelters for victims of domestic violence, as defined in section 455.200; and~~
162 ~~—— (3) Orders of protection, pursuant to chapter 455.~~
163 ~~—— 6. The physician who is to perform or induce the abortion shall, at least seventy-two~~
164 ~~hours prior to such procedure, inform the woman orally and in person of:~~
165 ~~—— (1) The immediate and long-term medical risks to the woman associated with the~~
166 ~~proposed abortion method including, but not limited to, infection, hemorrhage, cervical tear or~~
167 ~~uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to~~
168 ~~term, and possible adverse psychological effects associated with the abortion; and~~
169 ~~—— (2) The immediate and long-term medical risks to the woman, in light of the anesthesia~~
170 ~~and medication that is to be administered, the unborn child's gestational age, and the woman's~~
171 ~~medical history and medical conditions.~~
172 ~~—— 7. No physician shall perform or induce an abortion unless and until the physician has~~
173 ~~received and signed a copy of the form prescribed in subsection 3 of this section. The physician~~
174 ~~shall retain a copy of the form in the patient's medical record.~~
175 ~~—— 8. In the event of a medical emergency as provided by section 188.039, the physician~~
176 ~~who performed or induced the abortion shall clearly certify in writing the nature and~~
177 ~~circumstances of the medical emergency. This certification shall be signed by the physician who~~
178 ~~performed or induced the abortion, and shall be maintained under section 188.060.~~
179 ~~—— 9. No person or entity shall require, obtain, or accept payment for an abortion from or~~
180 ~~on behalf of a patient until at least seventy-two hours have passed since the time that the~~
181 ~~information required by subsection 1 of this section has been provided to the patient. Nothing~~
182 ~~in this subsection shall prohibit a person or entity from notifying the patient that payment for the~~
183 ~~abortion will be required after the seventy-two-hour period has expired if she voluntarily chooses~~
184 ~~to have the abortion.~~
185 ~~—— 10. The term "qualified professional" as used in this section shall refer to a physician;~~
186 ~~physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional~~
187 ~~counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting~~
188 ~~under the supervision of the physician performing or inducing the abortion, and acting within the~~
189 ~~course and scope of his or her authority provided by law. The provisions of this section shall not~~
190 ~~be construed to in any way expand the authority otherwise provided by law relating to the~~
191 ~~licensure, registration, or scope of practice of any such qualified professional.~~
192 ~~—— 11. By November 30, 2010, the department shall produce the written materials and forms~~
193 ~~described in this section. Any written materials produced shall be printed in a typeface large~~
194 ~~enough to be clearly legible. All information shall be presented in an objective, unbiased manner~~
195 ~~designed to convey only accurate scientific and medical information. The department shall~~
196 ~~furnish the written materials and forms at no cost and in sufficient quantity to any person who~~

197 ~~performs or induces abortions, or to any hospital or facility that provides abortions. The~~
198 ~~department shall make all information required by subsection 1 of this section available to the~~
199 ~~public through its department website. The department shall maintain a toll-free,~~
200 ~~twenty-four-hour hotline telephone number where a caller can obtain information on a regional~~
201 ~~basis concerning the agencies and services described in subsection 1 of this section. No~~
202 ~~identifying information regarding persons who use the website shall be collected or maintained.~~
203 ~~The department shall monitor the website on a regular basis to prevent tampering and correct any~~
204 ~~operational deficiencies.~~

205 ~~———— 12. In order to preserve the compelling interest of the state to ensure that the choice to~~
206 ~~consent to an abortion is voluntary and informed, and given freely and without coercion, the~~
207 ~~department shall use the procedures for adoption of emergency rules under section 536.025 in~~
208 ~~order to promulgate all necessary rules, forms, and other necessary material to implement this~~
209 ~~section by November 30, 2010.~~

210 ~~———— 13. If the provisions in subsections 1 and 9 of this section requiring a seventy-two-hour~~
211 ~~waiting period for an abortion are ever temporarily or permanently restrained or enjoined by~~
212 ~~judicial order, then the waiting period for an abortion shall be twenty-four hours; provided,~~
213 ~~however, that if such temporary or permanent restraining order or injunction is stayed or~~
214 ~~dissolved, or otherwise ceases to have effect, the waiting period for an abortion shall be~~
215 ~~seventy-two hours].~~

188.030. 1. Except in the case of a medical emergency, no abortion of ~~[a viable] an~~
2 unborn child shall be performed or induced unless the abortion is necessary to preserve the life
3 of the pregnant woman whose life is endangered by a physical disorder, physical illness, or
4 physical injury, including a life-endangering physical condition caused by or arising from the
5 pregnancy itself, or when continuation of the pregnancy will create a serious risk of ~~[substantial~~
6 ~~and irreversible physical impairment of a major bodily function of the pregnant woman] death.~~
7 ~~[For purposes of this section, "major bodily function" includes, but is not limited to, functions~~
8 ~~of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain,~~
9 ~~respiratory, circulatory, endocrine, and reproductive functions.~~

10 ~~———— 2. Except in the case of a medical emergency:~~

11 ~~———— (1) Prior to performing or inducing an abortion upon a woman, the physician shall~~
12 ~~determine the gestational age of the unborn child in a manner consistent with accepted obstetrical~~
13 ~~and neonatal practices and standards. In making such determination, the physician shall make~~
14 ~~such inquiries of the pregnant woman and perform or cause to be performed such medical~~
15 ~~examinations, imaging studies, and tests as a reasonably prudent physician, knowledgeable about~~
16 ~~the medical facts and conditions of both the woman and the unborn child involved, would~~

17 ~~consider necessary to perform and consider in making an accurate diagnosis with respect to~~
18 ~~gestational age;~~

19 ~~———(2) If the physician determines that the gestational age of the unborn child is twenty~~
20 ~~weeks or more, prior to performing or inducing an abortion upon the woman, the physician shall~~
21 ~~determine if the unborn child is viable by using and exercising that degree of care, skill, and~~
22 ~~proficiency commonly exercised by a skillful, careful, and prudent physician. In making this~~
23 ~~determination of viability, the physician shall perform or cause to be performed such medical~~
24 ~~examinations and tests as are necessary to make a finding of the gestational age, weight, and lung~~
25 ~~maturity of the unborn child and shall enter such findings and determination of viability in the~~
26 ~~medical record of the woman;~~

27 ~~———(3) If the physician determines that the gestational age of the unborn child is twenty~~
28 ~~weeks or more, and further determines that the unborn child is not viable and performs or~~
29 ~~induces an abortion upon the woman, the physician shall report such findings and determinations~~
30 ~~and the reasons for such determinations to the health care facility in which the abortion is~~
31 ~~performed and to the state board of registration for the healing arts, and shall enter such findings~~
32 ~~and determinations in the medical records of the woman and in the individual abortion report~~
33 ~~submitted to the department under section 188.052;~~

34 ~~———(4) (a) If the physician determines that the unborn child is viable, the physician shall not~~
35 ~~perform or induce an abortion upon the woman unless the abortion is necessary to preserve the~~
36 ~~life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of~~
37 ~~substantial and irreversible physical impairment of a major bodily function of the woman.~~

38 ~~———(b) Before a physician may proceed with performing or inducing an abortion upon a~~
39 ~~woman when it has been determined that the unborn child is viable, the physician shall first~~
40 ~~certify in writing the medical threat posed to the life of the pregnant woman, or the medical~~
41 ~~reasons that continuation of the pregnancy would cause a serious risk of substantial and~~
42 ~~irreversible physical impairment of a major bodily function of the pregnant woman. Upon~~
43 ~~completion of the abortion, the physician shall report the reasons and determinations for the~~
44 ~~abortion of a viable unborn child to the health care facility in which the abortion is performed~~
45 ~~and to the state board of registration for the healing arts, and shall enter such findings and~~
46 ~~determinations in the medical record of the woman and in the individual abortion report~~
47 ~~submitted to the department under section 188.052.~~

48 ~~———(c) Before a physician may proceed with performing or inducing an abortion upon a~~
49 ~~woman when it has been determined that the unborn child is viable, the physician who is to~~
50 ~~perform the abortion shall obtain the agreement of a second physician with knowledge of~~
51 ~~accepted obstetrical and neonatal practices and standards who shall concur that the abortion is~~
52 ~~necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy~~

53 ~~would cause a serious risk of substantial and irreversible physical impairment of a major bodily~~
54 ~~function of the pregnant woman. This second physician shall also report such reasons and~~
55 ~~determinations to the health care facility in which the abortion is to be performed and to the state~~
56 ~~board of registration for the healing arts, and shall enter such findings and determinations in the~~
57 ~~medical record of the woman and the individual abortion report submitted to the department~~
58 ~~under section 188.052. The second physician shall not have any legal or financial affiliation or~~
59 ~~relationship with the physician performing or inducing the abortion, except that such prohibition~~
60 ~~shall not apply to physicians whose legal or financial affiliation or relationship is a result of~~
61 ~~being employed by or having staff privileges at the same hospital as the term "hospital" is~~
62 ~~defined in section 197.020.~~

63 ~~—— (d) Any physician who performs or induces an abortion upon a woman when it has been~~
64 ~~determined that the unborn child is viable shall utilize the available method or technique of~~
65 ~~abortion most likely to preserve the life or health of the unborn child. In cases where the method~~
66 ~~or technique of abortion most likely to preserve the life or health of the unborn child would~~
67 ~~present a greater risk to the life or health of the woman than another legally permitted and~~
68 ~~available method or technique, the physician may utilize such other method or technique. In all~~
69 ~~cases where the physician performs an abortion upon a viable unborn child, the physician shall~~
70 ~~certify in writing the available method or techniques considered and the reasons for choosing the~~
71 ~~method or technique employed.~~

72 ~~—— (e) No physician shall perform or induce an abortion upon a woman when it has been~~
73 ~~determined that the unborn child is viable unless there is in attendance a physician other than the~~
74 ~~physician performing or inducing the abortion who shall take control of and provide immediate~~
75 ~~medical care for a child born as a result of the abortion. During the performance of the abortion,~~
76 ~~the physician performing it, and subsequent to the abortion, the physician required to be in~~
77 ~~attendance, shall take all reasonable steps in keeping with good medical practice, consistent with~~
78 ~~the procedure used, to preserve the life or health of the viable unborn child, provided that it does~~
79 ~~not pose an increased risk to the life of the woman or does not pose an increased risk of~~
80 ~~substantial and irreversible physical impairment of a major bodily function of the woman.~~

81 ~~—— 3. Any person who knowingly performs or induces an abortion of an unborn child in~~
82 ~~violation of the provisions of this section is guilty of a class D felony, and, upon a finding of~~
83 ~~guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and,~~
84 ~~notwithstanding the provisions of section 558.002, shall be fined not less than ten thousand nor~~
85 ~~more than fifty thousand dollars.~~

86 ~~—— 4.] 2. Any physician who pleads guilty to or is found guilty of performing or inducing~~
87 ~~an abortion of an unborn child in violation of this section shall be subject to suspension or~~

88 revocation of his or her license to practice medicine in the state of Missouri by the state board
89 of registration for the healing arts under the provisions of sections 334.100 and 334.103.

90 ~~[5-]~~ 3. Any hospital licensed in the state of Missouri that knowingly allows an abortion
91 of an unborn child to be performed or induced in violation of this section may be subject to
92 suspension or revocation of its license under the provisions of section 197.070.

93 ~~[6-]~~ 4. Any abortion facility licensed in the state of Missouri that knowingly allows an
94 abortion of an unborn child to be performed or induced in violation of this section may be subject
95 to suspension or revocation of its license under the provisions of section 197.220.

96 ~~[7-]~~ 5. A woman upon whom an abortion is performed or induced in violation of this
97 section shall not be prosecuted for a conspiracy to violate the provisions of this section.

98 ~~[8-]~~ 6. Nothing in this section shall be construed as creating or recognizing a right to
99 abortion, nor is it the intention of this section to make lawful any abortion that is currently
100 unlawful.

101 ~~[9-]~~ 7. It is the intent of the legislature that this section be severable as noted in section
102 1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of
103 this section be declared invalid under the Constitution of the United States or the Constitution
104 of the State of Missouri, it is the intent of the legislature that the remaining provisions of this
105 section remain in force and effect as far as capable of being carried into execution as intended
106 by the legislature.

107 ~~[10- The general assembly may, by concurrent resolution, appoint one or more of its~~
108 ~~members who sponsored or co-sponsored this act in his or her official capacity to intervene as~~
109 ~~a matter of right in any case in which the constitutionality of this law is challenged.]~~

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

13

~~[188.028. 1. No person shall knowingly perform an abortion upon a pregnant woman under the age of eighteen years unless:~~

~~(1) The attending physician has secured the informed written consent of the minor and one parent or guardian; or~~

~~(2) The minor is emancipated and the attending physician has received the informed written consent of the minor; or~~

~~(3) The minor has been granted the right to self-consent to the abortion by court order pursuant to subsection 2 of this section, and the attending physician has received the informed written consent of the minor; or~~

~~(4) The minor has been granted consent to the abortion by court order, and the court has given its informed written consent in accordance with subsection 2 of this section, and the minor is having the abortion willingly, in compliance with subsection 3 of this section.~~

~~2. The right of a minor to self-consent to an abortion under subdivision (3) of subsection 1 of this section or court consent under subdivision (4) of subsection 1 of this section may be granted by a court pursuant to the following procedures:~~

~~(1) The minor or next friend shall make an application to the juvenile court which shall assist the minor or next friend in preparing the petition and notices required pursuant to this section. The minor or the next friend of the minor shall thereafter file a petition setting forth the initials of the minor; the age of the minor; the names and addresses of each parent, guardian, or, if the minor's parents are deceased and no guardian has been appointed, any other person standing in loco parentis of the minor; that the minor has been fully informed of the risks and consequences of the abortion; that the minor is of sound mind and has sufficient intellectual capacity to consent to the abortion; that, if the court does not grant the minor majority rights for the purpose of consent to the abortion, the court should find that the abortion is in the best interest of the minor and give judicial consent to the abortion; that the court should appoint a guardian ad litem of the child; and if the minor does not have private counsel, that the court should appoint counsel. The petition shall be signed by the minor or the next friend;~~

~~(2) A hearing on the merits of the petition, to be held on the record, shall be held as soon as possible within five days of the filing of the petition. If any party is unable to afford counsel, the court shall appoint counsel at least twenty-four hours before the time of the hearing. At the hearing, the court shall hear evidence relating to the emotional development, maturity, intellect and understanding of the minor; the nature, possible consequences, and alternatives to the abortion, and any other evidence that the court may find useful in determining whether the minor should be granted majority rights for the purpose of consenting to the abortion or whether the abortion is in the best interests of the minor;~~

~~(3) In the decree, the court shall for good cause:~~

- 44 ~~_____ (a) Grant the petition for majority rights for the purpose of consenting to~~
 45 ~~the abortion; or~~
- 46 ~~_____ (b) Find the abortion to be in the best interests of the minor and give~~
 47 ~~judicial consent to the abortion, setting forth the grounds for so finding; or~~
- 48 ~~_____ (c) Deny the petition, setting forth the grounds on which the petition is~~
 49 ~~denied;~~
- 50 ~~_____ (4) If the petition is allowed, the informed consent of the minor, pursuant~~
 51 ~~to a court grant of majority rights, or the judicial consent, shall bar an action by~~
 52 ~~the parents or guardian of the minor on the grounds of battery of the minor by~~
 53 ~~those performing the abortion. The immunity granted shall only extend to the~~
 54 ~~performance of the abortion in accordance herewith and any necessary~~
 55 ~~accompanying services which are performed in a competent manner. The costs~~
 56 ~~of the action shall be borne by the parties;~~
- 57 ~~_____ (5) An appeal from an order issued under the provisions of this section~~
 58 ~~may be taken to the court of appeals of this state by the minor or by a parent or~~
 59 ~~guardian of the minor. The notice of intent to appeal shall be given within~~
 60 ~~twenty-four hours from the date of issuance of the order. The record on appeal~~
 61 ~~shall be completed and the appeal shall be perfected within five days from the~~
 62 ~~filing of notice to appeal. Because time may be of the essence regarding the~~
 63 ~~performance of the abortion, the supreme court of this state shall, by court rule,~~
 64 ~~provide for expedited appellate review of cases appealed under this section.~~
- 65 ~~_____ 3. If a minor desires an abortion, then she shall be orally informed of and,~~
 66 ~~if possible, sign the written consent required by section 188.039 in the same~~
 67 ~~manner as an adult person. No abortion shall be performed on any minor against~~
 68 ~~her will, except that an abortion may be performed against the will of a minor~~
 69 ~~pursuant to a court order described in subdivision (4) of subsection 1 of this~~
 70 ~~section that the abortion is necessary to preserve the life of the minor.]~~

71

2 ~~[188.031. For purposes of section 188.028, the term "next friend" shall~~
 3 ~~not include another minor child, or any entity or person in an individual or~~
 4 ~~representative capacity that has a financial interest or potential gain from the~~
 5 ~~proposed abortion, or any employee of or volunteer for such entity or person.]~~

5

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

7 ~~_____ 2. Except in the case of medical emergency, no person shall perform or~~
 8 ~~induce an abortion unless at least seventy-two hours prior thereto the physician~~
 9 ~~who is to perform or induce the abortion, a qualified professional, or the referring~~
 10 ~~physician has conferred with the patient and discussed with her the indicators and~~

11 ~~contraindicators, and risk factors including any physical, psychological, or~~
12 ~~situational factors for the proposed procedure and the use of medications,~~
13 ~~including but not limited to mifepristone, in light of her medical history and~~
14 ~~medical condition. For an abortion performed or an abortion induced by a drug~~
15 ~~or drugs, such conference shall take place at least seventy-two hours prior to the~~
16 ~~writing or communication of the first prescription for such drug or drugs in~~
17 ~~connection with inducing an abortion. Only one such conference shall be~~
18 ~~required for each abortion.~~

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

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

35 ~~5. The director of the department of health and senior services shall~~
36 ~~disseminate a model form that physicians or qualified professionals may use as~~
37 ~~the written statement required by this section, but any lack or unavailability of~~
38 ~~such a model form shall not affect the duties of the physician or qualified~~
39 ~~professional set forth in subsections 2 to 4 of this section.~~

40 ~~6. As used in this section, the term "qualified professional" shall refer to~~
41 ~~a physician, physician assistant, registered nurse, licensed practical nurse,~~
42 ~~psychologist, licensed professional counselor, or licensed social worker, licensed~~
43 ~~or registered under chapter 334, 335, or 337, acting under the supervision of the~~
44 ~~physician performing or inducing the abortion, and acting within the course and~~
45 ~~scope of his or her authority provided by law. The provisions of this section shall~~
46 ~~not be construed to in any way expand the authority otherwise provided by law~~
47 ~~relating to the licensure, registration, or scope of practice of any such qualified~~
48 ~~professional.~~

49 ~~7. If the provisions in subsection 2 of this section requiring a~~
50 ~~seventy-two-hour waiting period for an abortion are ever temporarily or~~
51 ~~permanently restrained or enjoined by judicial order, then the waiting period for~~
52 ~~an abortion shall be twenty-four hours; provided, however, that if such temporary~~
53 ~~or permanent restraining order or injunction is stayed or dissolved, or otherwise~~

54 ceases to have effect, the waiting period for an abortion shall be seventy-two
55 hours.]
56

2 ~~[188.250. 1. No person shall intentionally cause, aid, or assist a minor
3 to obtain an abortion without the consent or consents required by section
4 188.028.~~

5 ~~2. A person who violates subsection 1 of this section shall be civilly
6 liable to the minor and to the person or persons required to give the consent or
7 consents under section 188.028. A court may award damages to the person or
8 persons adversely affected by a violation of subsection 1 of this section, including
9 compensation for emotional injury without the need for personal presence at the
10 act or event, and the court may further award attorneys' fees, litigation costs, and
11 punitive damages. Any adult who engages in or consents to another person
12 engaging in a sex act with a minor in violation of the provisions of chapter 566,
13 567, 568, or 573 which results in the minor's pregnancy shall not be awarded
14 damages under this section.~~

15 ~~3. It shall not be a defense to a claim brought under this section that the
16 abortion was performed or induced pursuant to consent to the abortion given in
17 a manner that is otherwise lawful in the state or place where the abortion was
18 performed or induced.~~

19 ~~4. An unemancipated minor does not have capacity to consent to any
20 action in violation of this section or section 188.028.~~

21 ~~5. A court may enjoin conduct that would be in violation of this section
22 upon petition by the attorney general, a prosecuting or circuit attorney, or any
23 person adversely affected or who reasonably may be adversely affected by such
24 conduct, upon a showing that such conduct:~~

25 ~~(1) Is reasonably anticipated to occur in the future; or~~

26 ~~(2) Has occurred in the past, whether with the same minor or others, and
27 that it is not unreasonable to expect that such conduct will be repeated.]~~

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

✓