

COMMITTEE OF ORIGIN: Standing Committee on Children and Families

This bill specifies that it is the intent of the General Assembly of the state of Missouri to defend the right to life of all humans, born and unborn and declares that Missouri and any political subdivision in the state are a "sanctuary of life" that protects pregnant women and their unborn children (Section 188.010, RSMo).

The bill creates the "Right to Life of the Unborn Child Act" and specifies that anyone who knowingly performs or induces an abortion of an unborn child in violation of these provisions, except in the case of a medical emergency, is guilty of a class B felony and is subject to suspension of his or her professional license. Any woman whom an abortion is performed or induced in violation of these provisions shall not be prosecuted for conspiracy for violating these provisions (Section 188.017).

This bill requires, except in cases of medical emergency, that the physician must first determine if there is a detectable heartbeat or brain function of the unborn child prior to performing or inducing an abortion. The physician must record the estimated gestational age of the unborn child, the method used to test for a heartbeat or brain function, the date and time of the test, and record the results in the women's medical record (Section 188.020).

The bill creates the "Missouri Stands for the Unborn Act." This bill specifies that if there is in any change in federal law or court decisions that allow it, it is the intent of the state of Missouri that abortion shall not be permitted in the state under any circumstances. If a total ban is not possible, abortions shall be limited to women who are less than eight weeks gestational age, with a required fetal heartbeat or brain function test. Except in cases of medical emergency, a physician shall not perform or induce an abortion if a fetal heartbeat is detected and shall inform the woman, in writing, that such abortion cannot be performed or induced.

If a fetal heartbeat is not detected, an abortion may be performed or induced, in accordance with applicable law, so long as the abortion is performed or induced within 96 hours of the fetal heartbeat detection test. If more than 96 hours has passed since the fetal heartbeat detection test, the physician shall perform a new test prior to an abortion.

The physician shall record the estimated gestational age of the unborn child as well as the time, date, method, and results of the fetal heartbeat detection test in the woman's medical record and in

the abortion report submitted to the Department of Health and Senior Services.

Any physician who fails to perform a fetal heartbeat detection test prior to the performance or inducement of an abortion shall be subject to having his or her medical license rejected, revoked, or suspended for six months and shall pay a \$1,000 fine. Any physician who performs or induces an abortion following the detection of a fetal heartbeat shall have his or her license revoked and any future license application denied.

If the state is prohibited from adopting the fetal heartbeat standard, abortions shall be limited to women less than 14 weeks gestational age. And, if that is not possible, Missouri will adopt a Pain-Capable standard and abortions will not be permitted past 18 weeks gestational age (Sections 188.026 and 188.027).

The bill further prohibits selective abortions due to sex, race, or a diagnosis or potential diagnosis of Down Syndrome. It requires that for a minor to obtain an abortion, she must have consent of one parent and the physician must make a reasonable effort to notify the other custodial parent prior to performing the procedure. And, it requires that any referral for an abortion from a provider out-of-state be accompanied by all Missouri informed consent materials, either presented in person, or mailed in a timely manner (Sections 188.028, 188.033, 188.038, and 188.052).

Currently, an abortion provider must have medical malpractice insurance with a minimum coverage amount of \$500,000. This bill increases the minimum amount to \$1 million per occurrence and \$3 million in the annual aggregate.

The bill requires any physician that induces an abortion using a drug and/or chemical that carries a warning that it may cause birth defects in a child who survives an abortion must also carry tail insurance with coverage amounts of at least \$1 million per occurrence and \$3 million in the annual aggregate for personal injury to or death of a child that survives the abortion.

"Tail insurance" is defined in the bill as covering the legal liability of the provider once his or her medical malpractice insurance policy is canceled, not renewed, or terminated, and covers claims for acts occurring during the period the prior medical malpractice insurance was in effect (Sections 188.043 and 188.044).

This bill creates the "Late-Term Pain-Capable Unborn Child Protection Act." A "late-term pain-capable unborn child" is defined as an unborn child at 20 weeks since the first day of the

woman's last menstrual period.

The bill specifies that, except in cases of medical emergency, anyone who knowingly performs an abortion of a late-term pain-capable unborn child is guilty of a class B felony and subject to suspension or revocation of his or her professional license.

A physician who performs or induces an abortion due to a medical emergency on a woman carrying a late-term pain-capable unborn child, shall utilize the available method or technique that is safest for the woman and the most likely to preserve the life or health of the unborn child. The bill also requires that a physician must be present to provide immediate medical care for the child born as a result of the abortion.

Any physician who knowingly violates these provisions shall be guilty of a class D felony and subject to suspension or revocation of his or her professional license. Any woman upon whom an abortion is performed or induced in violation of these provisions shall not be prosecuted for a conspiracy to violate these provisions (Section 188.375).

The enactment of Section 188.017 of this bill shall only become effective by an opinion by the Attorney General, a proclamation by the Governor, or the adoption of a concurrent resolution by the General Assembly.