

SECOND REGULAR SESSION

# HOUSE BILL NO. 2272

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES NANCE (Sponsor), HUBBARD, CHAPPELLE-NADAL, LAMPE, TALBOY, ZWEIFEL, PAGE, DONNELLY, LOWE (44), ZIMMERMAN, McCLANAHAN, GEORGE, BROWN (50), EL-AMIN, OXFORD, BLAND, NORR, KOMO, DAUS, HUGHES, WALTON, NASHEED, VOGT, WILDBERGER, AULL, DOUGHERTY, CORCORAN, JOHNSON, LOW (39), STORCH, WALLACE, HARRIS (23), BAKER (25), GUEST, CURLS, FARES, DARROUGH, FRAME, HAYWOOD, MEINERS, YOUNG, BURNETT, HOLSMAN, HOSKINS, MARSH, WALSH, SKAGGS AND RUCKER (Co-sponsors).

Read 1st time February 27, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5054L.011

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### AN ACT

To repeal section 170.015, RSMo, and to enact in lieu thereof seven new sections relating to reducing the number of abortions in the state through the prevention first act, with penalty provisions.

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

Section A. Section 170.015, RSMo, is repealed and seven new sections enacted in lieu thereof, to be known as sections 170.015, 191.717, 191.718, 191.720, 192.970, 338.012, and 338.014, to read as follows:

170.015. 1. Any course materials and instruction relating to human sexuality and sexually transmitted diseases shall be medically and factually accurate, **be based on peer reviewed projects that have been demonstrated to influence healthy behavior**, and shall:

(1) Present abstinence from sexual activity as the preferred choice of behavior in relation to all sexual activity [for unmarried pupils because it is the only method that is one hundred percent effective in preventing pregnancy, sexually transmitted diseases and the emotional trauma associated with adolescent sexual activity, and advise students that teenage sexual activity places them at a higher risk of dropping out of school because of the consequences of

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.

9 sexually transmitted diseases and unplanned pregnancy] **as the only sure way to avoid**  
10 **pregnancy or sexually transmitted infection;**

11 (2) Stress that sexually transmitted [diseases] **infections** are serious, possible, health  
12 hazards of sexual activity. Pupils shall be provided with the latest medical information regarding  
13 exposure to human immunodeficiency virus (**HIV**), acquired immune deficiency syndrome  
14 (**AIDS**), human papilloma virus, hepatitis and other sexually transmitted diseases;

15 (3) Present students with the latest medically factual information [regarding both the  
16 possible side effects and health benefits of all forms of contraception, including the success and  
17 failure rates for the prevention of pregnancy and sexually transmitted diseases; or shall present  
18 students with information on contraceptives and pregnancy in a manner consistent with the  
19 provisions of the federal abstinence education law, 42 U.S.C. Section 710] **about the health**  
20 **benefits and side effects of all contraceptives and barrier methods as a means to prevent**  
21 **pregnancy and to reduce the risk of contracting sexually transmitted infections, HIV/AIDS**  
22 **and other diseases;**

23 (4) [Include a discussion of the possible emotional and psychological consequences of  
24 preadolescent and adolescent sexual activity and the consequences of adolescent pregnancy, as  
25 well as the advantages of adoption, including the adoption of special needs children, and the  
26 processes involved in making an adoption plan] **Provide information about the vaccine for**  
27 **human papilloma virus, which may prevent cervical cancer, genital warts, infertility, and**  
28 **other reproductive health problems, when administered prior to becoming sexually active;**

29 (5) **Encourage family communication between parents and children about**  
30 **sexuality;**

31 (6) **Help young people gain knowledge about the physical, biological, and hormonal**  
32 **changes of adolescence and subsequent states of human maturation and the skills to make**  
33 **responsible decisions about sexuality, including how alcohol and drug use can affect that**  
34 **decision making;**

35 [(5)] (7) Teach skills of conflict management, personal responsibility and positive  
36 self-esteem through discussion and role-playing at appropriate grade levels to emphasize that the  
37 pupil has the power to control personal behavior. Pupils shall be encouraged to base their actions  
38 on reasoning, self-discipline, sense of responsibility, self-control, and ethical considerations,  
39 such as respect for one's self and others. Pupils shall be taught not to make unwanted physical  
40 and verbal sexual advances or otherwise exploit another person. Pupils shall be taught to resist  
41 unwanted sexual advances and other negative peer pressure;

42 [(6)] (8) Advise pupils of the laws pertaining to their financial responsibility to children  
43 born in and out of wedlock and advise pupils of the provisions of chapter 566, RSMo, pertaining  
44 to statutory rape.

45           2. Policies concerning referrals and parental notification regarding contraception shall  
46 be determined by local school boards or charter schools, consistent with the provisions of section  
47 167.611, RSMo.

48           3. A school district or charter school which provides human sexuality instruction may  
49 separate students according to gender for instructional purposes.

50           4. The board of a school district or charter school shall determine the specific content  
51 of the district's or school's instruction in human sexuality, in accordance with subsections 1 to  
52 3 of this section, and shall ensure that all instruction in human sexuality is appropriate to the age  
53 of the students receiving such instruction.

54           5. A school district or charter school shall notify the parent or legal guardian of each  
55 student enrolled in the district or school of:

56           (1) The basic content of the district's or school's human sexuality instruction to be  
57 provided to the student; and

58           (2) The parent's right to remove the student from any part of the district's or school's  
59 human sexuality instruction.

60           6. A school district or charter school shall make all curriculum materials **and names and**  
61 **affiliations of presenters** used in the district's or school's human sexuality instruction available  
62 for public inspection pursuant to chapter 610, RSMo, prior to the use of such materials in actual  
63 instruction.

64           [7. No school district or charter school, or its personnel or agents, shall provide abortion  
65 services, or permit a person or entity to offer, sponsor, or furnish in any manner any course  
66 materials or instruction relating to human sexuality or sexually transmitted diseases to its  
67 students if such person or entity is a provider of abortion services.

68           8. As used in this section, the following terms mean:

69           (1) "Abortion", the same meaning as such term is defined in section 188.015, RSMo;

70           (2) "Abortion services":

71           (a) Performing, inducing, or assisting in the performance or inducing of an abortion  
72 which is not necessary to save the life of the mother;

73           (b) Encouraging a patient to have an abortion or referring a patient for an abortion, which  
74 is not necessary to save the life of the mother; or

75           (c) Developing or dispensing drugs, chemicals, or devices intended to be used to induce  
76 an abortion which is not necessary to save the life of the mother.]

**191.717. 1. Sections 191.717 and 191.718 may be cited as the "Compassionate  
2 Assistance for Rape Emergencies (CARE) Act".**

**3           2. As used in sections 191.717 to 191.718, unless the context clearly indicates  
4 otherwise, the following terms shall mean:**

- 5           (1) "Emergency care to sexual assault victims", medical examinations, procedures,  
6 or services provided at a hospital to a sexual assault victim following an alleged rape;  
7           (2) "Emergency contraception", any drug or device approved by the Food and  
8 Drug Administration that prevents pregnancy after sexual intercourse;  
9           (3) "Health care facility", any urgent care center or facility that offers treatment  
10 for patients during normal business, after-business, or weekend hours and that is affiliated  
11 with a licensed hospital;  
12           (4) "Medically and factually accurate and objective", verified or supported by the  
13 weight of research conducted in compliance with accepted scientific methods and is  
14 published in peer-reviewed journals where applicable; or comprising information that  
15 leading professional organizations and agencies with relevant expertise in the field, such  
16 as the American College of Obstetricians and Gynecologists, recognize as accurate and  
17 objective;  
18           (5) "Sexual assault", as defined in section 566.040, RSMo;  
19           (6) "Sexual assault victim", a female who is alleged to have been raped and is  
20 presented as a patient.

191.718. 1. It shall be the standard of care for any hospital and any health care  
2 facility that provides emergency care to sexual assault victims to:

- 3           (1) Provide each sexual assault victim with medically and factually accurate and  
4 objective written and oral information about emergency contraception;  
5           (2) Orally inform each sexual assault victim of her option to be provided emergency  
6 contraception at the hospital;  
7           (3) Provide the complete regimen of emergency contraception immediately at the  
8 hospital or health care facility to each sexual assault victim who requests it; and  
9           (4) Follow the Department of Justice protocols on HIV/STI screening and  
10 prophylactic treatment.

11           2. Hospitals and health care facilities shall ensure that each person who provides  
12 care to sexual assault victims is provided with medically and factually accurate and  
13 objective information about emergency contraception.

14           3. The department of health and senior services shall develop, prepare, and  
15 produce informational materials relating to emergency contraception for the prevention  
16 of pregnancy for distribution in any hospital or health care facility in the state in quantities  
17 sufficient to comply with the requirements of this section. The director, in collaboration  
18 with community sexual assault programs, may also approve informational materials from  
19 other sources.

20           4. The information materials shall:

- 21           (1) Be medically and factually accurate and objective;
- 22           (2) Be clearly written and readily comprehensible in a culturally competent
- 23 manner, as the department deems necessary to inform victims of sexual assault; and
- 24           (3) Explain the nature of emergency contraception, including its use, safety,
- 25 efficacy, and availability, and that it does not cause abortion.

26           **5. The department of health and senior services shall respond to complaints and**

27 **shall periodically determine whether hospitals and health care facilities are complying with**

28 **the provisions of this section. The department may use all investigative tools available to**

29 **verify compliance. If the department determines that a hospital or health care facility is**

30 **not in compliance, the department shall:**

- 31           (1) Impose an administrative penalty of five thousand dollars per woman who is
- 32 denied medically and factually accurate and objective information about emergency
- 33 contraception or who is not offered or provided emergency contraception; and
- 34           (2) Impose an administrative penalty of five thousand dollars for failure to comply
- 35 with the provisions of this section and for every thirty days that a hospital or health care
- 36 facility is not in compliance, an additional penalty of five thousand dollars shall be
- 37 imposed.

38           **6. The department shall promulgate rules to implement the provisions of sections**

39 **191.717 to 191.718.**

40           **7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**

41 **that is created under the authority delegated in this section shall become effective only if**

42 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**

43 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**

44 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**

45 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**

46 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**

47 **adopted after August 28, 2008, shall be invalid and void.**

**191.720. 1. This section shall be known and may be cited as the "Birth Control**

2 **Protection Act".**

3           **2. The general assembly of this state finds that:**

- 4           (1) Citizens of this state have a protectable interest in freedom from unreasonable
- 5 government intrusions into their private lives;
- 6           (2) This interest in freedom from unreasonable government intrusions into the
- 7 private lives of citizens encompasses and protects the right of consenting individuals to
- 8 obtain and use safe and effective methods of contraception without interference by
- 9 governmental entities;

10           **(3) It is the public policy of this state that the interest in freedom from**  
11 **unreasonable government intrusions into the private lives of citizens, and specifically the**  
12 **right of consenting individuals to obtain and use safe and effective methods of**  
13 **contraception without interference by governmental entities, shall be safeguarded and that**  
14 **the laws of this state shall be interpreted and construed to recognize and protect these**  
15 **rights.**

16           **3. Notwithstanding any other provisions of law, no governmental actor or entity,**  
17 **whether state, county, municipal, or otherwise, within the state of Missouri, shall:**

18           **(1) Be authorized to act in any fashion so as to deprive consenting individuals of the**  
19 **right to obtain and use safe and effective methods of contraception; or**

20           **(2) Interfere with or discriminate against, in the regulation or provision of benefits,**  
21 **facilities, services, or information, the right of consenting individuals to obtain and use safe**  
22 **and effective methods of contraception.**

23           **4. Nothing in this section shall be interpreted to prevent implementation of laws,**  
24 **rules, ordinances, taxes, or regulations affecting the method and manner of sale or**  
25 **distribution of contraceptives, provided such laws, rules, ordinances, taxes, or regulations**  
26 **are reasonably designed to promote public health and safety, and do not have the effect of**  
27 **unreasonably hindering public access to contraceptives.**

**192.970. 1. Subject to appropriation, the department of health and senior services**  
2 **shall implement a women's health services program by July 1, 2009. Initial funding for the**  
3 **program shall be in the amount of five million dollars. Such program shall have the goal**  
4 **of reducing the number of unintended pregnancies in Missouri by providing women's**  
5 **health services through qualified health providers, as determined by the department.**

6           **2. For purposes of this section, women's health services shall include, but not be**  
7 **limited to:**

8           **(1) Breast and cervical cancer checks;**

9           **(2) Screening and treatment for sexually transmitted diseases;**

10          **(3) HIV screening;**

11          **(4) Voluntary choice of contraception, including natural family planning;**

12          **(5) Infertility treatment;**

13          **(6) Patient education and pre-pregnancy counseling on the dangers of smoking,**  
14 **alcohol, and drug use during pregnancy;**

15          **(7) Education on sexual coercion and violence in relationships; and**

16          **(8) Prenatal and other health care referrals.**

17          **3. Pursuant to section 23.253, RSMo, of the Missouri sunset act:**

18           (1) The provisions of the new program authorized under this section shall sunset  
19 automatically six years after the effective date of this section unless reauthorized by an act  
20 of the general assembly; and

21           (2) If such program is reauthorized, the program authorized under this section  
22 shall sunset automatically twelve years after the effective date of the reauthorization of this  
23 section; and

24           (3) This section shall terminate on September first of the calendar year immediately  
25 following the calendar year in which the program authorized under this section is sunset.

**338.012. 1.** Upon receipt of a valid and lawful prescription, a licensed pharmacy  
2 shall dispense any prescribed drug or device in stock without delay, consistent with the  
3 normal time frame for filling any other prescription.

4           2. Nothing herein shall prohibit a licensed pharmacy from refusing to dispense a  
5 prescribed drug or device in accordance with standard pharmacy practice if:

6           (1) There is a valid medical concern that such drug or device will cause problems  
7 due to therapeutic duplications, drug-disease contraindications, drug interactions,  
8 including serious interactions with prescription or over-the-counter medications, incorrect  
9 dosage or duration of drug treatment, drug-allergy interactions, drug abuse, or drug  
10 misuse; or

11           (2) The customer is unable to pay for the drug or device.

12           3. When a customer requests a prescribed drug or device not in stock, the  
13 pharmacy shall offer the customer the following options:

14           (1) The pharmacy shall obtain the drug or device under standard procedures for  
15 expedited ordering of any prescription drug or device not in stock and promptly notify the  
16 customer when the pharmacy receives the drug or device; or

17           (2) The pharmacy shall locate a pharmacy of the customer's choice or the closest  
18 pharmacy that has the drug or device in stock and transfer the customer's prescription to  
19 that pharmacy under standard procedures for transferring prescriptions.

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21 The pharmacy shall perform the customer's chosen option in a timely fashion and return  
22 the prescription order to the customer upon request at any time prior to dispensing.

23           4. Every licensed pharmacy shall ensure that it does not intimidate, threaten, or  
24 harass its customers in the delivery of services.

**338.014. 1.** A licensed pharmacy shall fulfill all lawful requests for contraception  
2 approved for over-the-counter use in a timely fashion.

3           **2. Where a customer lawfully requests contraception approved for over-the-counter**  
4 **use, and that drug is not in stock, the pharmacy shall offer the customer the following**  
5 **options:**

6           **(1) The pharmacy will obtain the contraception under the pharmacy's standard**  
7 **procedures for expedited ordering of over-the-counter drugs not in stock and promptly**  
8 **notify the customer when the pharmacy receives the contraception; or**

9           **(2) The pharmacy will locate a pharmacy of the customer's choice or the closest**  
10 **pharmacy that has the contraception in stock and refer the customer to that pharmacy.**

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12 **The pharmacy shall perform the customer's chosen option in a timely fashion.**

13           **3. Every licensed pharmacy shall ensure that it does not intimidate, threaten, or**  
14 **harass its customers in the delivery of services.**

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