

TESTIMONY OF MISSOURI RIGHT TO LIFE
IN SUPPORT OF S.B. 793

Missouri Right to Life gladly supports SB 793 and urges this committee to give it a “do pass” report to the full House of Representatives. It builds on the Women’s Right to Know law that was enacted by the General Assembly over the veto of then-Governor Holden in 2003 in several ways.

First, it makes specific certain types of disclosures to women about the abortion technique to be used, the risks associated with it, the stage of development of the unborn baby, and the existence and locations of alternatives to the abortion procedure. These are the types of information that the U. S. Supreme Court has held are important for a woman to know and proper for a state to require. As the Court said in *Planned Parenthood v. Casey* in 1992:

It cannot be questioned that psychological wellbeing is a facet of health. Nor can it be doubted that most women considering an abortion would deem the impact on the fetus relevant, if not dispositive, to the decision. In attempting to ensure that a woman apprehend the full consequences of her decision, the State furthers the legitimate purpose of reducing the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed. [*Planned Parenthood v. Casey*, 505 U.S. 833, 883 (1992).]

It may be objected here, as it was in the *Casey* decision, that the First Amendment rights of doctors are somehow being infringed by a mandate of what they are to tell patients. The Supreme Court overruled that objection in *Casey* in these words:

[A] requirement that a doctor give a woman certain information as part of obtaining her consent to an abortion is, for constitutional purposes, no different from a requirement that a doctor give certain specific information about any medical procedure. . . . [T]he physician's First Amendment rights not to speak are . . . part of the practice of medicine, subject to reasonable

licensing and regulation by the State. [Citation omitted.] We see no constitutional infirmity in the requirement that the physician provide the information mandated by the State here. [505 U.S. 833, 884.]

Therefore, there is no constitutional objection that is valid that can be mounted against the informed consent portions of the bill.

Second, a new subject for a woman to know about is the probability that in a late abortion, when the baby has developed for 20 weeks (which is 22 weeks of “gestational age” as doctors use the term, that is, the number of weeks after last menses of the woman), the baby will suffer pain from any abortion procedure. A review published in September 1999 in the British Journal of Obstetrics and Gynaecology (the leading ob-gyn journal in the UK) concluded: "Given the anatomical evidence, it is possible that the fetus can feel pain from 20 weeks and is caused distress by interventions from as early as 15 or 16 weeks." Dr. Kanwaljeet S. Anand, a pain researcher who holds tenured chairs in pediatrics, anesthesiology, pharmacology, and neurobiology at the University of Arkansas, said in a document accepted as expert by a federal court, "It is my opinion that the human fetus possesses the ability to experience pain from 20 weeks of gestation, if not earlier, and that pain perceived by a fetus is possibly more intense than that perceived by newborns or older children." A woman should know about this before engaging in an abortion.

Missouri Right to Life urges quick approval of SB 793 by the committee.