

2-21-05
JB 473

Amendments to Senate Bill No. 473
1st Reading copy

Requested by Senator Jerry O'Neil

For the Senate Judiciary Committee

Prepared by: _____
February 21, 2005 (_____ am)

1. Title, line 5.

Following: "AN ABORTION"

Strike: "PERFORMED ON A MINOR"

Insert: "OBSTETRICS, GYNECOLOGY, FERTILITY, AND REPRODUCTIVE
MEDICINE GENERALLY"

2. Title, line 5 through line 6.

Following: "DAMAGES" on line 5

Strike: "UNLESS THE PARENTAL NOTICE OF ABORTION ACT WAS COMPLIED
WITH"

3. Page 1, line 11.

Following: "ABORTION"

Strike: "ON MINOR"

4. Page 1, line 11.

Following: "ABORTION"

Insert: ", OBSTETRICS, GYNECOLOGY, FERTILITY, OR REPRODUCTIVE
MEDICINE GENERALLY,"

5. Page 1, line 12.

Following: "MEDICAL PROVIDER"

Strike: "RESULTING FROM AN"

Insert: "INVOLVING"

6. Page 1, line 12.

Following: "ABORTION"

Inset: ", OBSTETRICS, GYNECOLOGY, FERTILITY, OR REPRODUCTIVE
MEDICINE GENERALLY,"

7. Page 1, line 13.

Following: "DO NOT APPLY"

Strike: "UNLESS THE PROVISIONS OF TITLE 50, CHAPTER 20, PART 2,
WERE COMPLIED WITH PRIOR TO PERFORMING THE ABORTION."

SENATE BILL NO. 473
INTRODUCED BY J. O'NEIL

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING AN ACTION FOR A MALPRACTICE CLAIM INVOLVING AN ABORTION, OBSTETRICS, GYNECOLOGY, FERTILITY, AND REPRODUCTIVE MEDICINE ~~GENERALLY PERFORMED ON A MINOR~~ FROM LIMITS ON PUNITIVE DAMAGES ~~UNLESS THE PARENTAL NOTICE OF ABORTION ACT WAS COMPLIED WITH~~; AMENDING SECTION 27-1-220, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Malpractice action -- abortion, gynecology, fertility, and reproductive medicine generally on minor -- damage limit inapplicable. In an action against a medical provider ~~resulting from involving an abortion, obstetrics, gynecology, fertility, or reproductive medicine generally, performed on a minor,~~ the limits in 27-1-220 do not apply, ~~unless the provisions of Title 50, chapter 20, part 2, were complied with prior to performing the abortion.~~

Section 2. Section 27-1-220, MCA, is amended to read:

"27-1-220. Punitive damages -- when allowed -- limitation. (1) Except as otherwise expressly provided by statute and subject to subsection (3), a judge or jury may award, in addition to compensatory damages, punitive damages for the sake of example and for the purpose of punishing a defendant.

(2) (a) Unless otherwise expressly provided by statute, punitive damages may not be recovered in any action arising from:

- (i) contract; or
- (ii) breach of contract.

(b) Subsection (2)(a) does not prohibit recovery of punitive damages in a products liability action or an action arising under 33-18-201.

(3) ~~An~~ Subject to [section 1], an award for punitive damages may not exceed \$10 million or 3% of a defendant's net worth, whichever is less. This subsection does not limit punitive damages that may be awarded in class action lawsuits."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 27, chapter 1, part 2, and the provisions of Title 27, chapter 1, part 2, apply to [section 1].

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 5. Applicability. [This act] applies to causes of action arising on or after [the effective date of this act].

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