

FIRST REGULAR SESSION

HOUSE BILL NO. 386

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MCCAHERTY (Sponsor), JONES (110), WIELAND, HIGDON, SMITH (120), HURST, KORMAN, WALKER, PIKE, KOENIG, WOOD, BROWN, MCGAUGH, LAUER, HAMPTON, LEARA, CROSS, HOUGHTON, CRAWFORD, BERNSKOETTER, CIERPIOT, TORPEY, WILSON, LOVE, BURLISON, DUGGER, HOSKINS, LANT, SHUMAKE, LICHTENEGGER, THOMSON, GOSEN, ROWLAND, ELMER, BAHR, ENGLER, CONWAY (104), SCHATZ, FITZWATER, BARNES, FREDERICK AND HINSON (Co-sponsors).

1187H.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 188, RSMo, by adding thereto nine new sections relating to a ban on abortions for sex selection and genetic abnormalities, with penalty provisions.

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

Section A. Chapter 188, RSMo, is amended by adding thereto nine new sections, to be
2 known as sections 188.275, 188.278, 188.281, 188.284, 188.287, 188.290, 188.293, 188.296,
3 and 188.299, to read as follows:

188.275. Sections 188.275 to 188.299 shall be known and may be cited as the
2 **"Abortion Ban for Sex Selection and Genetic Abnormalities Act of 2013".**

188.278. As used in sections 188.275 to 188.299 only, the following terms shall
2 **mean:**

3 **(1) "Down syndrome" refers to a chromosome disorder associated either with an**
4 **extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.**
5 **Down syndrome is sometimes referred to as trisomy 21 syndrome;**

6 **(2) "Genetic abnormality", any defect, disease, or disorder that is inherited**
7 **genetically. Genetic abnormality includes, but is not limited to, any physical disability, any**
8 **mental disability or retardation, any physical disfigurement, scoliosis, dwarfism, Down**
9 **syndrome, albinism, Amelia, or any other type of physical or mental abnormality or**
10 **disease;**

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.

11 (3) "Incompetent", any person who has been adjudged a disabled person and has
12 had a guardian appointed for him or her under chapters 471 to 475;

13 (4) "Minor", any person under the age of eighteen who is not and has not been
14 married and has not been legally emancipated;

15 (5) "Physician", any person licensed to practice medicine in this state. Physician
16 includes medical doctors and doctors of osteopathy;

17 (6) "Pregnant woman", any female, including those who have not reached the age
18 of eighteen, who is in the reproductive condition of having an unborn child in the woman's
19 uterus;

20 (7) "Sex-selective abortion", an abortion performed solely on account of the sex of
21 the unborn child;

22 (8) "Unborn child", the offspring of human beings from conception until birth.

188.281. 1. No person shall intentionally perform or attempt to perform an
2 abortion with the knowledge that the pregnant woman is seeking the abortion solely on
3 account of the sex of the unborn child.

4 2. If this section is held invalid as applied to the period of pregnancy prior to
5 viability, it shall remain applicable to the period of pregnancy subsequent to viability.

188.284. 1. No person shall intentionally perform or attempt to perform an
2 abortion with knowledge that the pregnant woman is seeking the abortion solely because
3 the unborn child has been diagnosed with either Down syndrome or a potential for Down
4 syndrome.

5 2. If this section is held invalid as applied to the period of pregnancy prior to
6 viability, it shall remain applicable to the period of pregnancy subsequent to viability.

188.287. 1. No person shall intentionally perform or attempt to perform an
2 abortion with knowledge that the pregnant woman is seeking the abortion solely because
3 the unborn child has been diagnosed with either a genetic abnormality or a potential for
4 a genetic abnormality.

5 2. If this section is held invalid as applied to the period of pregnancy prior to
6 viability, it shall remain applicable to the period of pregnancy subsequent to viability.

188.290. Any physician or other person who intentionally or knowingly performs
2 or attempts to perform an abortion prohibited by sections 188.275 to 188.299 is guilty of
3 a class A misdemeanor unless the person has previously pled guilty to or been convicted
4 of a violation of sections 188.275 to 188.299 in which case the person is guilty of a class D
5 felony.

188.293. 1. Any physician or person who intentionally or knowingly violates
2 sections 188.275 to 188.299 shall be liable for damages and shall, if applicable, have his or

3 her medical license suspended or revoked. He or she may also be enjoined from such acts
4 as provided in this section.

5 **2. A pregnant woman upon whom an abortion has been performed in violation of**
6 **sections 188.275 to 188.299, the parent or legal guardian of the woman if she is an**
7 **unemancipated minor, or the legal guardian or conservator of the woman if she has been**
8 **adjudged incompetent under chapter 475 may commence a civil action for any knowing**
9 **or reckless violation of sections 188.275 to 188.299 and may seek both actual and punitive**
10 **damages. Such damages shall include, but are not limited to:**

11 **(1) Money damages for all injuries, psychological and physical, occasioned by a**
12 **violation of sections 188.275 to 188.299; and**

13 **(2) Statutory damages equal to three times the cost of the abortion performed in**
14 **violation of sections 188.275 to 188.299.**

15 **3. Any physician who performs an abortion in violation of sections 188.275 to**
16 **188.299 shall be considered to have engaged in unprofessional conduct for which his or her**
17 **license to practice in this state shall be suspended or revoked by the state board of the**
18 **healing arts.**

19 **4. A cause of action for injunctive relief against any physician or other person who**
20 **had knowingly violated sections 188.275 to 188.299 may be maintained by the woman upon**
21 **whom the abortion was performed or attempted to be performed in violation of sections**
22 **188.275 to 188.299; any person who is the spouse, parent, guardian, conservator, or a**
23 **current or former licensed health care provider of the woman upon whom an abortion has**
24 **been performed or attempted to be performed in violation of sections 188.275 to 188.299;**
25 **by the Missouri attorney general's office; or by a prosecuting attorney with appropriate**
26 **jurisdiction. The injunction shall prevent the physician or person from performing further**
27 **abortions in violation of sections 188.275 to 188.299.**

28 **5. Any physician or other person who knowingly violates the terms of an injunction**
29 **issued in accordance with sections 188.275 to 188.299 shall be subject to civil contempt and**
30 **shall be fined not less than one thousand dollars.**

188.296. 1. Any woman upon whom an abortion in violation of sections 188.275 to
2 **188.299 is performed or attempted shall not be prosecuted under sections 188.275 to**
3 **188.299 for a conspiracy to violate sections 188.275 to 188.299 or otherwise held criminally**
4 **or civilly liable for any violation.**

5 **2. In any criminal proceeding or action brought under sections 188.275 to 188.299,**
6 **any woman upon whom an abortion in violation of sections 188.275 to 188.299 is**
7 **performed or attempted is entitled to all rights, protections, and notifications afforded to**
8 **crime victims under state law.**

9 **3. In every civil proceeding or action brought under sections 188.275 to 188.299, the**
10 **anonymity of any woman upon whom an abortion is performed or attempted shall be**
11 **preserved from public disclosure unless she gives her consent to such disclosure. A court**
12 **of competent jurisdiction, upon motion or sua sponte, shall issue orders to the parties,**
13 **witnesses, and counsel, and shall direct the sealing of the record and exclusion of**
14 **individuals from courtrooms or hearing rooms, to the extent necessary to safeguard her**
15 **identity from public disclosure. In the absence of written consent of the woman upon**
16 **whom an abortion has been performed or attempted, anyone who initiates a proceeding**
17 **or action under subsection 2 or 4 of section 188.293 shall do so under a pseudonym.**

188.299. 1. Nothing in sections 188.275 to 188.299 shall be construed as creating
2 **or recognizing a right to abortion.**

3 **2. It is not the intention of sections 188.275 to 188.299 to make lawful an abortion**
4 **that is currently unlawful.**

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