

FIRST REGULAR SESSION

HOUSE BILL NO. 1177

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE POGUE.

2065H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 188.010, 188.015, 188.020, 188.021, 188.023, 188.025, 188.027, 188.028, 188.030, 188.031, 188.035, 188.036, 188.037, 188.039, 188.043, 188.047, 188.052, 188.055, 188.060, 188.065, 188.070, 188.075, 188.080, 188.085, 188.100, 188.105, 188.110, 188.115, 188.120, 188.130, 188.200, 188.205, 188.210, 188.215, 188.220, 188.230, 188.250, 188.325, 188.335, 197.032, 197.200, 197.315, and 565.300, RSMo, and to enact in lieu thereof four new sections relating to abortion, with penalty provisions.

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

Section A. Sections 188.010, 188.015, 188.020, 188.021, 188.023, 188.025, 188.027, 2 188.028, 188.030, 188.031, 188.035, 188.036, 188.037, 188.039, 188.043, 188.047, 188.052, 3 188.055, 188.060, 188.065, 188.070, 188.075, 188.080, 188.085, 188.100, 188.105, 188.110, 4 188.115, 188.120, 188.130, 188.200, 188.205, 188.210, 188.215, 188.220, 188.230, 188.250, 5 188.325, 188.335, 197.032, 197.200, 197.315, and 565.300, RSMo, are repealed and four new 6 sections enacted in lieu thereof, to be known as sections 188.016, 197.200, 197.315, and 7 565.300, to read as follows:

188.016. No person in this state shall perform, procure, or attempt to perform an 2 abortion. Any individual who violates the provisions of this section shall be guilty of the 3 offense of murder in the first degree and shall be punished in accordance with the penalties 4 for that offense under the laws in effect on the effective date of this section.

197.200. As used in sections 197.200 to 197.240, unless the context clearly indicates 2 otherwise, the following terms mean:

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.

- 3 (1) "Ambulatory surgical center", any public or private establishment operated primarily
4 for the purpose of performing surgical procedures or primarily for the purpose of performing
5 childbirths, ~~[or any establishment operated for the purpose of performing or inducing any second~~
6 ~~or third trimester abortions or five or more first trimester abortions per month,]~~ and which does
7 not provide services or other accommodations for patients to stay more than twenty-three hours
8 within the establishment, provided, however, that nothing in this definition shall be construed
9 to include the offices of dentists currently licensed pursuant to chapter 332;
- 10 (2) "Dentist", any person currently licensed to practice dentistry pursuant to chapter 332;
- 11 (3) "Department", the department of health and senior services;
- 12 (4) "Governmental unit", any city, county or other political subdivision of this state, or
13 any department, division, board or other agency of any political subdivision of this state;
- 14 (5) "Person", any individual, firm, partnership, corporation, company, or association and
15 the legal successors thereof;
- 16 (6) "Physician", any person currently licensed to practice medicine pursuant to chapter
17 334;
- 18 (7) "Podiatrist", any person currently licensed to practice podiatry pursuant to chapter
19 330.

- 197.315. 1. Any person who proposes to develop or offer a new institutional health
2 service within the state must obtain a certificate of need from the committee prior to the time
3 such services are offered.
- 4 2. Only those new institutional health services which are found by the committee to be
5 needed shall be granted a certificate of need. Only those new institutional health services which
6 are granted certificates of need shall be offered or developed within the state. No expenditures
7 for new institutional health services in excess of the applicable expenditure minimum shall be
8 made by any person unless a certificate of need has been granted.
- 9 3. After October 1, 1980, no state agency charged by statute to license or certify health
10 care facilities shall issue a license to or certify any such facility, or distinct part of such facility,
11 that is developed without obtaining a certificate of need.
- 12 4. If any person proposes to develop any new institutional health care service without
13 a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the
14 attorney general, and he shall apply for an injunction or other appropriate legal action in any
15 court of this state against that person.
- 16 5. After October 1, 1980, no agency of state government may appropriate or grant funds
17 to or make payment of any funds to any person or health care facility which has not first obtained
18 every certificate of need required pursuant to sections 197.300 to 197.366.

19 6. A certificate of need shall be issued only for the premises and persons named in the
20 application and is not transferable except by consent of the committee.

21 7. Project cost increases, due to changes in the project application as approved or due
22 to project change orders, exceeding the initial estimate by more than ten percent shall not be
23 incurred without consent of the committee.

24 8. Periodic reports to the committee shall be required of any applicant who has been
25 granted a certificate of need until the project has been completed. The committee may order the
26 forfeiture of the certificate of need upon failure of the applicant to file any such report.

27 9. A certificate of need shall be subject to forfeiture for failure to incur a capital
28 expenditure on any approved project within six months after the date of the order. The applicant
29 may request an extension from the committee of not more than six additional months based upon
30 substantial expenditure made.

31 10. Each application for a certificate of need must be accompanied by an application fee.
32 The time of filing commences with the receipt of the application and the application fee. The
33 application fee is one thousand dollars, or one-tenth of one percent of the total cost of the
34 proposed project, whichever is greater. All application fees shall be deposited in the state
35 treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the
36 Missouri health facilities review committee.

37 11. In determining whether a certificate of need should be granted, no consideration shall
38 be given to the facilities or equipment of any other health care facility located more than a
39 fifteen-mile radius from the applying facility.

40 12. When a nursing facility shifts from a skilled to an intermediate level of nursing care,
41 it may return to the higher level of care if it meets the licensure requirements, without obtaining
42 a certificate of need.

43 13. ~~[In no event shall a certificate of need be denied because the applicant refuses to
44 provide abortion services or information.]~~

45 ~~14.]~~ A certificate of need shall not be required for the transfer of ownership of an
46 existing and operational health facility in its entirety.

47 ~~[15.]~~ 14. A certificate of need may be granted to a facility for an expansion, an addition
48 of services, a new institutional service, or for a new hospital facility which provides for
49 something less than that which was sought in the application.

50 ~~[16.]~~ 15. The provisions of this section shall not apply to facilities operated by the state,
51 and appropriation of funds to such facilities by the general assembly shall be deemed in
52 compliance with this section, and such facilities shall be deemed to have received an appropriate
53 certificate of need without payment of any fee or charge. The provisions of this subsection shall

54 not apply to hospitals operated by the state and licensed under this chapter, except for department
55 of mental health state-operated psychiatric hospitals.

56 ~~[17:]~~ 16. Notwithstanding other provisions of this section, a certificate of need may be
57 issued after July 1, 1983, for an intermediate care facility operated exclusively for the
58 intellectually disabled.

59 ~~[18:]~~ 17. To assure the safe, appropriate, and cost-effective transfer of new medical
60 technology throughout the state, a certificate of need shall not be required for the purchase and
61 operation of:

62 (1) Research equipment that is to be used in a clinical trial that has received written
63 approval from a duly constituted institutional review board of an accredited school of medicine
64 or osteopathy located in Missouri to establish its safety and efficacy and does not increase the
65 bed complement of the institution in which the equipment is to be located. After the clinical trial
66 has been completed, a certificate of need must be obtained for continued use in such facility; or

67 (2) Equipment that is to be used by an academic health center operated by the state in
68 furtherance of its research or teaching missions.

565.300. 1. This section shall be known and may be cited as the "Infant's Protection
2 Act".

3 2. As used in this section, and only in this section, the following terms shall mean:

4 (1) "Born", complete separation of an intact child from the mother regardless of whether
5 the umbilical cord is cut or the placenta detached;

6 (2) "Living infant", a human child, born or partially born, who is alive, as determined
7 in accordance with the usual and customary standards of medical practice and is not dead as
8 determined pursuant to section 194.005, relating to the determination of the occurrence of death,
9 and has not attained the age of thirty days post birth;

10 (3) "Partially born", partial separation of a child from the mother with the child's head
11 intact with the torso. If vaginally delivered, a child is partially separated from the mother when
12 the head in a cephalic presentation, or any part of the torso above the navel in a breech
13 presentation, is outside the mother's external cervical os. If delivered abdominally, a child is
14 partially separated from the mother when the child's head in a cephalic presentation, or any part
15 of the torso above the navel in a breech presentation, is outside the mother's external abdominal
16 wall.

17 3. A person commits the offense of infanticide if he or she causes the death of a living
18 infant with the purpose to cause said death by an overt act performed when the infant is partially
19 born or born.

20 4. The offense of infanticide is a class A felony.

21 5. A physician using procedures consistent with the usual and customary standards of
 22 medical practice to save the life of the mother during pregnancy or birth or to save the life of any
 23 unborn or partially born child of the same pregnancy shall not be criminally responsible under
 24 this section. In no event shall the mother be criminally responsible pursuant to this section for
 25 the acts of the physician if the physician is not held criminally responsible pursuant to this
 26 section.

27 6. ~~[This section shall not apply to any person who performs or attempts to perform a~~
 28 ~~legal abortion if the act that causes the death is performed prior to the child being partially born,~~
 29 ~~even though the death of the child occurs as a result of the abortion after the child is partially~~
 30 ~~born.]~~

31 ~~—————7.]~~ Only that person who performs the overt act required under subsection 3 of this
 32 section shall be culpable under this section, unless a person, with the purpose of committing
 33 infanticide, does any act which is a substantial step towards the commission of the offense which
 34 results in the death of the living infant. A "substantial step" is conduct which is strongly
 35 corroborative of the firmness of the actor's purpose to complete the commission of the offense.

36 ~~[8:]~~ 7. Nothing in this section shall be interpreted to exclude the defenses otherwise
 37 available to any person under the law including defenses provided pursuant to chapters 562 and
 38 563.

2 ~~[188.010. It is the intention of the general assembly of the state of~~
 3 ~~Missouri to — grant the right to life to all humans, born and unborn, and to~~
 4 ~~regulate abortion to the full — extent permitted by the Constitution of the United~~
 5 ~~States, decisions of the United States — Supreme Court, and federal~~
 6 ~~statutes.]~~

2 ~~[188.015. As used in this chapter, the following terms mean:~~

3 ~~—————(1) "Abortion":~~

4 ~~—————(a) The act of using or prescribing any instrument, device, medicine,~~
 5 ~~drug, or any other means or substance with the intent to destroy the life of an~~
 6 ~~embryo or fetus in his or her mother's womb; or~~

7 ~~—————(b) The intentional termination of the pregnancy of a mother by using or~~
 8 ~~prescribing any instrument, device, medicine, drug, or other means or substance~~
 9 ~~with an intention other than to increase the probability of a live birth or to remove~~
 10 ~~a dead or dying unborn child;~~

11 ~~—————(2) "Abortion facility", a clinic, physician's office, or any other place or~~
 12 ~~facility in which abortions are performed or induced other than a hospital;~~

13 ~~—————(3) "Conception", the fertilization of the ovum of a female by a sperm of~~
 14 ~~a male;~~

15 ~~—————(4) "Department", the department of health and senior services;~~

16 ~~—————(5) "Gestational age", length of pregnancy as measured from the first day~~
 17 ~~of the woman's last menstrual period;~~

17 ~~————— (6) "Medical emergency", a condition which, based on reasonable~~
 18 ~~medical judgment, so complicates the medical condition of a pregnant woman as~~
 19 ~~to necessitate the immediate abortion of her pregnancy to avert the death of the~~
 20 ~~pregnant woman or for which a delay will create a serious risk of substantial and~~
 21 ~~irreversible physical impairment of a major bodily function of the pregnant~~
 22 ~~woman;~~

23 ~~————— (7) "Physician", any person licensed to practice medicine in this state by~~
 24 ~~the state board of registration for the healing arts;~~

25 ~~————— (8) "Reasonable medical judgment", a medical judgment that would be~~
 26 ~~made by a reasonably prudent physician, knowledgeable about the case and the~~
 27 ~~treatment possibilities with respect to the medical conditions involved;~~

28 ~~————— (9) "Unborn child", the offspring of human beings from the moment of~~
 29 ~~conception until birth and at every stage of its biological development, including~~
 30 ~~the human conceptus, zygote, morula, blastocyst, embryo, and fetus;~~

31 ~~————— (10) "Viability" or "viable", that stage of fetal development when the life~~
 32 ~~of the unborn child may be continued indefinitely outside the womb by natural~~
 33 ~~or artificial life-supportive systems.}]~~

2 ~~[188.020. No person shall perform or induce an abortion except a~~
~~physician.]~~

2 ~~[188.021. When RU-486 (mifepristone) or any drug or chemical is used~~
 3 ~~for the purpose of inducing an abortion, the initial dose of the drug or chemical~~
 4 ~~shall be administered in the same room and in the physical presence of the~~
 5 ~~physician who prescribed, dispensed, or otherwise provided the drug or chemical~~
 6 ~~to the patient. The physician inducing the abortion, or a person acting on such~~
 7 ~~physician's behalf, shall make all reasonable efforts to ensure that the patient~~
 8 ~~returns after the administration or use of RU-486 or any drug or chemical for a~~
 9 ~~follow-up visit unless such termination of the pregnancy has already been~~
 10 ~~confirmed and the patient's medical condition has been assessed by a licensed~~
~~physician prior to discharge.]~~

2 ~~[188.023. Any licensed health care professional who delivers a baby or~~
 3 ~~performs an abortion, who has prima facie evidence that a patient has been the~~
 4 ~~victim of statutory rape in the first degree or statutory rape in the second degree,~~
 5 ~~or if the patient is under the age of eighteen, that he or she has been a victim of~~
 6 ~~sexual abuse, including rape in the first or second degree, or incest, shall be~~
 7 ~~required to report such offenses in the same manner as provided for by section~~
~~210.115.]~~

2 ~~[188.025. Every abortion performed at sixteen weeks gestational age or~~
~~later shall be performed in a hospital.]~~

2 ~~[188.027. 1. Except in the case of medical emergency, no abortion shall~~
 3 ~~be performed or induced on a woman without her voluntary and informed~~
 4 ~~consent, given freely and without coercion. Consent to an abortion is voluntary~~
 5 ~~and informed and given freely and without coercion if, and only if, at least~~
~~seventy-two hours prior to the abortion.]~~

- 6 ~~_____ (1) The physician who is to perform or induce the abortion or a qualified~~
7 ~~professional has informed the woman orally, reduced to writing, and in person,~~
8 ~~of the following:-~~
- 9 ~~_____ (a) The name of the physician who will perform or induce the abortion;~~
10 ~~_____ (b) Medically accurate information that a reasonable patient would~~
11 ~~consider material to the decision of whether or not to undergo the abortion,~~
12 ~~including:-~~
- 13 ~~_____ a. A description of the proposed abortion method;-~~
14 ~~_____ b. The immediate and long-term medical risks to the woman associated~~
15 ~~with the proposed abortion method including, but not limited to, infection,~~
16 ~~hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies~~
17 ~~or the ability to carry a subsequent child to term, and possible adverse~~
18 ~~psychological effects associated with the abortion; and-~~
19 ~~_____ c. The immediate and long-term medical risks to the woman, in light of~~
20 ~~the anesthesia and medication that is to be administered, the unborn child's~~
21 ~~gestational age, and the woman's medical history and medical condition;-~~
22 ~~_____ (c) Alternatives to the abortion which shall include making the woman~~
23 ~~aware that information and materials shall be provided to her detailing such~~
24 ~~alternatives to the abortion;-~~
25 ~~_____ (d) A statement that the physician performing or inducing the abortion~~
26 ~~is available for any questions concerning the abortion, together with the~~
27 ~~telephone number that the physician may be later reached to answer any questions~~
28 ~~that the woman may have;-~~
29 ~~_____ (e) The location of the hospital that offers obstetrical or gynecological~~
30 ~~care located within thirty miles of the location where the abortion is performed~~
31 ~~or induced and at which the physician performing or inducing the abortion has~~
32 ~~clinical privileges and where the woman may receive follow-up care by the~~
33 ~~physician if complications arise;-~~
34 ~~_____ (f) The gestational age of the unborn child at the time the abortion is to~~
35 ~~be performed or induced; and-~~
36 ~~_____ (g) The anatomical and physiological characteristics of the unborn child~~
37 ~~at the time the abortion is to be performed or induced;-~~
- 38 ~~_____ (2) The physician who is to perform or induce the abortion or a qualified~~
39 ~~professional has presented the woman, in person, printed materials provided by~~
40 ~~the department, which describe the probable anatomical and physiological~~
41 ~~characteristics of the unborn child at two-week gestational increments from~~
42 ~~conception to full term, including color photographs or images of the developing~~
43 ~~unborn child at two-week gestational increments. Such descriptions shall include~~
44 ~~information about brain and heart functions, the presence of external members~~
45 ~~and internal organs during the applicable stages of development and information~~
46 ~~on when the unborn child is viable. The printed materials shall prominently~~
47 ~~display the following statement: "The life of each human being begins at~~

48 conception. Abortion will terminate the life of a separate, unique, living human
49 being.";

50 ~~————— (3) The physician who is to perform or induce the abortion or a qualified~~
51 ~~professional has presented the woman, in person, printed materials provided by~~
52 ~~the department, which describe the various surgical and drug-induced methods~~
53 ~~of abortion relevant to the stage of pregnancy, as well as the immediate and~~
54 ~~long-term medical risks commonly associated with each abortion method~~
55 ~~including, but not limited to, infection, hemorrhage, cervical tear or uterine~~
56 ~~perforation, harm to subsequent pregnancies or the ability to carry a subsequent~~
57 ~~child to term, and the possible adverse psychological effects associated with an~~
58 ~~abortion;~~

59 ~~————— (4) The physician who is to perform or induce the abortion or a qualified~~
60 ~~professional shall provide the woman with the opportunity to view at least~~
61 ~~seventy-two hours prior to the abortion an active ultrasound of the unborn child~~
62 ~~and hear the heartbeat of the unborn child if the heartbeat is audible. The woman~~
63 ~~shall be provided with a geographically indexed list maintained by the~~
64 ~~department of health care providers, facilities, and clinics that perform~~
65 ~~ultrasounds, including those that offer ultrasound services free of charge. Such~~
66 ~~materials shall provide contact information for each provider, facility, or clinic~~
67 ~~including telephone numbers and, if available, website addresses. Should the~~
68 ~~woman decide to obtain an ultrasound from a provider, facility, or clinic other~~
69 ~~than the abortion facility, the woman shall be offered a reasonable time to obtain~~
70 ~~the ultrasound examination before the date and time set for performing or~~
71 ~~inducing an abortion. The person conducting the ultrasound shall ensure that the~~
72 ~~active ultrasound image is of a quality consistent with standard medical practice~~
73 ~~in the community, contains the dimensions of the unborn child, and accurately~~
74 ~~portrays the presence of external members and internal organs, if present or~~
75 ~~viewable, of the unborn child. The auscultation of fetal heart tone must also be~~
76 ~~of a quality consistent with standard medical practice in the community. If the~~
77 ~~woman chooses to view the ultrasound or hear the heartbeat or both at the~~
78 ~~abortion facility, the viewing or hearing or both shall be provided to her at the~~
79 ~~abortion facility at least seventy-two hours prior to the abortion being performed~~
80 ~~or induced;~~

81 ~~————— (5) Prior to an abortion being performed or induced on an unborn child~~
82 ~~of twenty-two weeks gestational age or older, the physician who is to perform or~~
83 ~~induce the abortion or a qualified professional has presented the woman, in~~
84 ~~person, printed materials provided by the department that offer information on~~
85 ~~the possibility of the abortion causing pain to the unborn child. This information~~
86 ~~shall include, but need not be limited to, the following:~~

87 ~~————— (a) At least by twenty-two weeks of gestational age, the unborn child~~
88 ~~possesses all the anatomical structures, including pain receptors, spinal cord,~~
89 ~~nerve tracts, thalamus, and cortex, that are necessary in order to feel pain;~~

90 ~~_____ (b) A description of the actual steps in the abortion procedure to be~~
91 ~~performed or induced, and at which steps the abortion procedure could be painful~~
92 ~~to the unborn child;~~

93 ~~_____ (c) There is evidence that by twenty-two weeks of gestational age, unborn~~
94 ~~children seek to evade certain stimuli in a manner that in an infant or an adult~~
95 ~~would be interpreted as a response to pain;~~

96 ~~_____ (d) Anesthesia is given to unborn children who are twenty-two weeks or~~
97 ~~more gestational age who undergo prenatal surgery;~~

98 ~~_____ (e) Anesthesia is given to premature children who are twenty-two weeks~~
99 ~~or more gestational age who undergo surgery;~~

100 ~~_____ (f) Anesthesia or an analgesic is available in order to minimize or~~
101 ~~alleviate the pain to the unborn child;~~

102 ~~_____ (6) The physician who is to perform or induce the abortion or a qualified~~
103 ~~professional has presented the woman, in person, printed materials provided by~~
104 ~~the department explaining to the woman alternatives to abortion she may wish to~~
105 ~~consider. Such materials shall:~~

106 ~~_____ (a) Identify on a geographical basis public and private agencies available~~
107 ~~to assist a woman in carrying her unborn child to term, and to assist her in caring~~
108 ~~for her dependent child or placing her child for adoption, including agencies~~
109 ~~commonly known and generally referred to as pregnancy resource centers, crisis~~
110 ~~pregnancy centers, maternity homes, and adoption agencies. Such materials shall~~
111 ~~provide a comprehensive list by geographical area of the agencies, a description~~
112 ~~of the services they offer, and the telephone numbers and addresses of the~~
113 ~~agencies; provided that such materials shall not include any programs, services,~~
114 ~~organizations, or affiliates of organizations that perform or induce, or assist in the~~
115 ~~performing or inducing of, abortions or that refer for abortions;~~

116 ~~_____ (b) Explain the Missouri alternatives to abortion services program under~~
117 ~~section 188.325, and any other programs and services available to pregnant~~
118 ~~women and mothers of newborn children offered by public or private agencies~~
119 ~~which assist a woman in carrying her unborn child to term and assist her in caring~~
120 ~~for her dependent child or placing her child for adoption, including but not~~
121 ~~limited to prenatal care; maternal health care; newborn or infant care; mental~~
122 ~~health services; professional counseling services; housing programs; utility~~
123 ~~assistance; transportation services; food, clothing, and supplies related to~~
124 ~~pregnancy; parenting skills; educational programs; job training and placement~~
125 ~~services; drug and alcohol testing and treatment; and adoption assistance;~~

126 ~~_____ (c) Identify the state website for the Missouri alternatives to abortion~~
127 ~~services program under section 188.325, and any toll-free number established by~~
128 ~~the state operated in conjunction with the program;~~

129 ~~_____ (d) Prominently display the statement: "There are public and private~~
130 ~~agencies willing and able to help you carry your child to term, and to assist you~~
131 ~~and your child after your child is born, whether you choose to keep your child or~~
132 ~~place him or her for adoption. The state of Missouri encourages you to contact~~

133 those agencies before making a final decision about abortion. State law requires
134 that your physician or a qualified professional give you the opportunity to call
135 agencies like these before you undergo an abortion."-

136 ~~————— (7) The physician who is to perform or induce the abortion or a qualified
137 professional has presented the woman, in person, printed materials provided by
138 the department explaining that the father of the unborn child is liable to assist in
139 the support of the child, even in instances where he has offered to pay for the
140 abortion. Such materials shall include information on the legal duties and
141 support obligations of the father of a child, including, but not limited to, child
142 support payments, and the fact that paternity may be established by the father's
143 name on a birth certificate or statement of paternity, or by court action. Such
144 printed materials shall also state that more information concerning paternity
145 establishment and child support services and enforcement may be obtained by
146 calling the family support division within the Missouri department of social
147 services; and~~

148 ~~————— (8) The physician who is to perform or induce the abortion or a qualified
149 professional shall inform the woman that she is free to withhold or withdraw her
150 consent to the abortion at any time without affecting her right to future care or
151 treatment and without the loss of any state or federally funded benefits to which
152 she might otherwise be entitled.-~~

153 ~~————— 2. All information required to be provided to a woman considering
154 abortion by subsection 1 of this section shall be presented to the woman
155 individually, in the physical presence of the woman and in a private room, to
156 protect her privacy, to maintain the confidentiality of her decision, to ensure that
157 the information focuses on her individual circumstances, to ensure she has an
158 adequate opportunity to ask questions, and to ensure that she is not a victim of
159 coerced abortion. Should a woman be unable to read materials provided to her,
160 they shall be read to her. Should a woman need an interpreter to understand the
161 information presented in the written materials, an interpreter shall be provided to
162 her. Should a woman ask questions concerning any of the information or
163 materials, answers shall be provided in a language she can understand.-~~

164 ~~————— 3. No abortion shall be performed or induced unless and until the woman
165 upon whom the abortion is to be performed or induced certifies in writing on a
166 checklist form provided by the department that she has been presented all the
167 information required in subsection 1 of this section, that she has been provided
168 the opportunity to view an active ultrasound image of the unborn child and hear
169 the heartbeat of the unborn child if it is audible, and that she further certifies that
170 she gives her voluntary and informed consent, freely and without coercion, to the
171 abortion procedure.-~~

172 ~~————— 4. No abortion shall be performed or induced on an unborn child of
173 twenty-two weeks gestational age or older unless and until the woman upon
174 whom the abortion is to be performed or induced has been provided the
175 opportunity to choose to have an anesthetic or analgesic administered to eliminate~~

176 or alleviate pain to the unborn child caused by the particular method of abortion
177 to be performed or induced. The administration of anesthesia or analgesics shall
178 be performed in a manner consistent with standard medical practice in the
179 community.

180 ~~5. No physician shall perform or induce an abortion unless and until the~~
181 ~~physician has obtained from the woman her voluntary and informed consent~~
182 ~~given freely and without coercion. If the physician has reason to believe that the~~
183 ~~woman is being coerced into having an abortion, the physician or qualified~~
184 ~~professional shall inform the woman that services are available for her and shall~~
185 ~~provide her with private access to a telephone and information about such~~
186 ~~services, including but not limited to the following:~~

187 ~~(1) Rape crisis centers, as defined in section 455.003;~~

188 ~~(2) Shelters for victims of domestic violence, as defined in section~~
189 ~~455.200; and~~

190 ~~(3) Orders of protection, pursuant to chapter 455.~~

191 ~~6. No physician shall perform or induce an abortion unless and until the~~
192 ~~physician has received and signed a copy of the form prescribed in subsection 3~~
193 ~~of this section. The physician shall retain a copy of the form in the patient's~~
194 ~~medical record.~~

195 ~~7. In the event of a medical emergency as provided by section 188.039,~~
196 ~~the physician who performed or induced the abortion shall clearly certify in~~
197 ~~writing the nature and circumstances of the medical emergency. This~~
198 ~~certification shall be signed by the physician who performed or induced the~~
199 ~~abortion, and shall be maintained under section 188.060.~~

200 ~~8. No person or entity shall require, obtain, or accept payment for an~~
201 ~~abortion from or on behalf of a patient until at least seventy-two hours have~~
202 ~~passed since the time that the information required by subsection 1 of this section~~
203 ~~has been provided to the patient. Nothing in this subsection shall prohibit a~~
204 ~~person or entity from notifying the patient that payment for the abortion will be~~
205 ~~required after the seventy-two-hour period has expired if she voluntarily chooses~~
206 ~~to have the abortion.~~

207 ~~9. The term "qualified professional" as used in this section shall refer to~~
208 ~~a physician, physician assistant, registered nurse, licensed practical nurse,~~
209 ~~psychologist, licensed professional counselor, or licensed social worker, licensed~~
210 ~~or registered under chapter 334, 335, or 337, acting under the supervision of the~~
211 ~~physician performing or inducing the abortion, and acting within the course and~~
212 ~~scope of his or her authority provided by law. The provisions of this section shall~~
213 ~~not be construed to in any way expand the authority otherwise provided by law~~
214 ~~relating to the licensure, registration, or scope of practice of any such qualified~~
215 ~~professional.~~

216 ~~10. By November 30, 2010, the department shall produce the written~~
217 ~~materials and forms described in this section. Any written materials produced~~
218 ~~shall be printed in a typeface large enough to be clearly legible. All information~~

219 shall be presented in an objective, unbiased manner designed to convey only
 220 accurate scientific and medical information. The department shall furnish the
 221 written materials and forms at no cost and in sufficient quantity to any person
 222 who performs or induces abortions, or to any hospital or facility that provides
 223 abortions. The department shall make all information required by subsection 1
 224 of this section available to the public through its department website. The
 225 department shall maintain a toll-free, twenty-four-hour hotline telephone number
 226 where a caller can obtain information on a regional basis concerning the agencies
 227 and services described in subsection 1 of this section. No identifying information
 228 regarding persons who use the website shall be collected or maintained. The
 229 department shall monitor the website on a regular basis to prevent tampering and
 230 correct any operational deficiencies.

231 ~~11. In order to preserve the compelling interest of the state to ensure that~~
 232 ~~the choice to consent to an abortion is voluntary and informed, and given freely~~
 233 ~~and without coercion, the department shall use the procedures for adoption of~~
 234 ~~emergency rules under section 536.025 in order to promulgate all necessary rules,~~
 235 ~~forms, and other necessary material to implement this section by November 30,~~
 236 ~~2010.~~

237 ~~12. If the provisions in subsections 1 and 8 of this section requiring a~~
 238 ~~seventy-two-hour waiting period for an abortion are ever temporarily or~~
 239 ~~permanently restrained or enjoined by judicial order, then the waiting period for~~
 240 ~~an abortion shall be twenty-four hours, provided, however, that if such temporary~~
 241 ~~or permanent restraining order or injunction is stayed or dissolved, or otherwise~~
 242 ~~ceases to have effect, the waiting period for an abortion shall be seventy-two~~
 243 ~~hours.]~~

2 [188.028. 1. No person shall knowingly perform an abortion upon a
 3 pregnant woman under the age of eighteen years unless:

4 ~~(1) The attending physician has secured the informed written consent of~~
 5 ~~the minor and one parent or guardian; or~~

6 ~~(2) The minor is emancipated and the attending physician has received~~
 7 ~~the informed written consent of the minor; or~~

8 ~~(3) The minor has been granted the right to self-consent to the abortion~~
 9 ~~by court order pursuant to subsection 2 of this section, and the attending~~
 10 ~~physician has received the informed written consent of the minor; or~~

11 ~~(4) The minor has been granted consent to the abortion by court order,~~
 12 ~~and the court has given its informed written consent in accordance with~~
 13 ~~subsection 2 of this section, and the minor is having the abortion willingly, in~~
 14 ~~compliance with subsection 3 of this section.~~

15 ~~2. The right of a minor to self-consent to an abortion under subdivision~~
 16 ~~(3) of subsection 1 of this section or court consent under subdivision (4) of~~
 17 ~~subsection 1 of this section may be granted by a court pursuant to the following~~
~~procedures:~~

- 18 ~~————— (1) The minor or next friend shall make an application to the juvenile~~
19 ~~court which shall assist the minor or next friend in preparing the petition and~~
20 ~~notices required pursuant to this section. The minor or the next friend of the~~
21 ~~minor shall thereafter file a petition setting forth the initials of the minor; the age~~
22 ~~of the minor; the names and addresses of each parent, guardian, or, if the minor's~~
23 ~~parents are deceased and no guardian has been appointed, any other person~~
24 ~~standing in loco parentis of the minor; that the minor has been fully informed of~~
25 ~~the risks and consequences of the abortion; that the minor is of sound mind and~~
26 ~~has sufficient intellectual capacity to consent to the abortion; that, if the court~~
27 ~~does not grant the minor majority rights for the purpose of consent to the~~
28 ~~abortion, the court should find that the abortion is in the best interest of the minor~~
29 ~~and give judicial consent to the abortion; that the court should appoint a guardian~~
30 ~~ad litem of the child; and if the minor does not have private counsel, that the~~
31 ~~court should appoint counsel. The petition shall be signed by the minor or the~~
32 ~~next friend;~~
- 33 ~~————— (2) A hearing on the merits of the petition, to be held on the record, shall~~
34 ~~be held as soon as possible within five days of the filing of the petition. If any~~
35 ~~party is unable to afford counsel, the court shall appoint counsel at least~~
36 ~~twenty-four hours before the time of the hearing. At the hearing, the court shall~~
37 ~~hear evidence relating to the emotional development, maturity, intellect and~~
38 ~~understanding of the minor; the nature, possible consequences, and alternatives~~
39 ~~to the abortion; and any other evidence that the court may find useful in~~
40 ~~determining whether the minor should be granted majority rights for the purpose~~
41 ~~of consenting to the abortion or whether the abortion is in the best interests of the~~
42 ~~minor;~~
- 43 ~~————— (3) In the decree, the court shall for good cause:~~
- 44 ~~————— (a) Grant the petition for majority rights for the purpose of consenting to~~
45 ~~the abortion; or~~
- 46 ~~————— (b) Find the abortion to be in the best interests of the minor and give~~
47 ~~judicial consent to the abortion, setting forth the grounds for so finding; or~~
- 48 ~~————— (c) Deny the petition, setting forth the grounds on which the petition is~~
49 ~~denied;~~
- 50 ~~————— (4) If the petition is allowed, the informed consent of the minor, pursuant~~
51 ~~to a court grant of majority rights, or the judicial consent, shall bar an action by~~
52 ~~the parents or guardian of the minor on the grounds of battery of the minor by~~
53 ~~those performing the abortion. The immunity granted shall only extend to the~~
54 ~~performance of the abortion in accordance herewith and any necessary~~
55 ~~accompanying services which are performed in a competent manner. The costs~~
56 ~~of the action shall be borne by the parties;~~
- 57 ~~————— (5) An appeal from an order issued under the provisions of this section~~
58 ~~may be taken to the court of appeals of this state by the minor or by a parent or~~
59 ~~guardian of the minor. The notice of intent to appeal shall be given within~~
60 ~~twenty-four hours from the date of issuance of the order. The record on appeal~~

61 shall be completed and the appeal shall be perfected within five days from the
62 filing of notice to appeal. Because time may be of the essence regarding the
63 performance of the abortion, the supreme court of this state shall, by court rule,
64 provide for expedited appellate review of cases appealed under this section.

65 ~~_____ 3. If a minor desires an abortion, then she shall be orally informed of and,
66 if possible, sign the written consent required by section 188.039 in the same
67 manner as an adult person. No abortion shall be performed on any minor against
68 her will, except that an abortion may be performed against the will of a minor
69 pursuant to a court order described in subdivision (4) of subsection 1 of this
70 section that the abortion is necessary to preserve the life of the minor.]~~

~~2 [188.030. 1. Except in the case of a medical emergency, no abortion of
3 a viable unborn child shall be performed or induced unless the abortion is
4 necessary to preserve the life of the pregnant woman whose life is endangered by
5 a physical disorder, physical illness, or physical injury, including a
6 life-endangering physical condition caused by or arising from the pregnancy
7 itself, or when continuation of the pregnancy will create a serious risk of
8 substantial and irreversible physical impairment of a major bodily function of the
9 pregnant woman. For purposes of this section, "major bodily function" includes,
10 but is not limited to, functions of the immune system, normal cell growth,
11 digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine,
12 and reproductive functions.~~

~~13 _____ 2. Except in the case of a medical emergency:~~

~~14 _____ (1) Prior to performing or inducing an abortion upon a woman, the
15 physician shall determine the gestational age of the unborn child in a manner
16 consistent with accepted obstetrical and neonatal practices and standards. In
17 making such determination, the physician shall make such inquiries of the
18 pregnant woman and perform or cause to be performed such medical
19 examinations, imaging studies, and tests as a reasonably prudent physician,
20 knowledgeable about the medical facts and conditions of both the woman and the
21 unborn child involved, would consider necessary to perform and consider in
22 making an accurate diagnosis with respect to gestational age;~~

~~23 _____ (2) If the physician determines that the gestational age of the unborn
24 child is twenty weeks or more, prior to performing or inducing an abortion upon
25 the woman, the physician shall determine if the unborn child is viable by using
26 and exercising that degree of care, skill, and proficiency commonly exercised by
27 a skillful, careful, and prudent physician. In making this determination of
28 viability, the physician shall perform or cause to be performed such medical
29 examinations and tests as are necessary to make a finding of the gestational age,
30 weight, and lung maturity of the unborn child and shall enter such findings and
31 determination of viability in the medical record of the woman;~~

~~32 _____ (3) If the physician determines that the gestational age of the unborn
33 child is twenty weeks or more, and further determines that the unborn child is not
viable and performs or induces an abortion upon the woman, the physician shall~~

34 report such findings and determinations and the reasons for such determinations
35 to the health care facility in which the abortion is performed and to the state
36 board of registration for the healing arts, and shall enter such findings and
37 determinations in the medical records of the woman and in the individual
38 abortion report submitted to the department under section 188.052;

39 ~~————— (4) (a) If the physician determines that the unborn child is viable, the~~
40 ~~physician shall not perform or induce an abortion upon the woman unless the~~
41 ~~abortion is necessary to preserve the life of the pregnant woman or that a~~
42 ~~continuation of the pregnancy will create a serious risk of substantial and~~
43 ~~irreversible physical impairment of a major bodily function of the woman.~~

44 ~~————— (b) Before a physician may proceed with performing or inducing an~~
45 ~~abortion upon a woman when it has been determined that the unborn child is~~
46 ~~viable, the physician shall first certify in writing the medical threat posed to the~~
47 ~~life of the pregnant woman, or the medical reasons that continuation of the~~
48 ~~pregnancy would cause a serious risk of substantial and irreversible physical~~
49 ~~impairment of a major bodily function of the pregnant woman. Upon completion~~
50 ~~of the abortion, the physician shall report the reasons and determinations for the~~
51 ~~abortion of a viable unborn child to the health care facility in which the abortion~~
52 ~~is performed and to the state board of registration for the healing arts, and shall~~
53 ~~enter such findings and determinations in the medical record of the woman and~~
54 ~~in the individual abortion report submitted to the department under section~~
55 ~~188.052.~~

56 ~~————— (c) Before a physician may proceed with performing or inducing an~~
57 ~~abortion upon a woman when it has been determined that the unborn child is~~
58 ~~viable, the physician who is to perform the abortion shall obtain the agreement~~
59 ~~of a second physician with knowledge of accepted obstetrical and neonatal~~
60 ~~practices and standards who shall concur that the abortion is necessary to~~
61 ~~preserve the life of the pregnant woman, or that continuation of the pregnancy~~
62 ~~would cause a serious risk of substantial and irreversible physical impairment of~~
63 ~~a major bodily function of the pregnant woman. This second physician shall also~~
64 ~~report such reasons and determinations to the health care facility in which the~~
65 ~~abortion is to be performed and to the state board of registration for the healing~~
66 ~~arts, and shall enter such findings and determinations in the medical record of the~~
67 ~~woman and the individual abortion report submitted to the department under~~
68 ~~section 188.052. The second physician shall not have any legal or financial~~
69 ~~affiliation or relationship with the physician performing or inducing the abortion,~~
70 ~~except that such prohibition shall not apply to physicians whose legal or financial~~
71 ~~affiliation or relationship is a result of being employed by or having staff~~
72 ~~privileges at the same hospital as the term "hospital" is defined in section~~
73 ~~197.020.~~

74 ~~————— (d) Any physician who performs or induces an abortion upon a woman~~
75 ~~when it has been determined that the unborn child is viable shall utilize the~~
76 ~~available method or technique of abortion most likely to preserve the life or~~

77 health of the unborn child. In cases where the method or technique of abortion
78 most likely to preserve the life or health of the unborn child would present a
79 greater risk to the life or health of the woman than another legally permitted and
80 available method or technique, the physician may utilize such other method or
81 technique. In all cases where the physician performs an abortion upon a viable
82 unborn child, the physician shall certify in writing the available method or
83 techniques considered and the reasons for choosing the method or technique
84 employed.

85 ~~————— (c) No physician shall perform or induce an abortion upon a woman
86 when it has been determined that the unborn child is viable unless there is in
87 attendance a physician other than the physician performing or inducing the
88 abortion who shall take control of and provide immediate medical care for a child
89 born as a result of the abortion. During the performance of the abortion, the
90 physician performing it, and subsequent to the abortion, the physician required
91 to be in attendance, shall take all reasonable steps in keeping with good medical
92 practice, consistent with the procedure used, to preserve the life or health of the
93 viable unborn child; provided that it does not pose an increased risk to the life of
94 the woman or does not pose an increased risk of substantial and irreversible
95 physical impairment of a major bodily function of the woman.~~

96 ~~————— 3. Any person who knowingly performs or induces an abortion of an
97 unborn child in violation of the provisions of this section is guilty of a class D
98 felony, and, upon a finding of guilt or plea of guilty, shall be imprisoned for a
99 term of not less than one year, and, notwithstanding the provisions of section
100 558.002, shall be fined not less than ten thousand nor more than fifty thousand
101 dollars.~~

102 ~~————— 4. Any physician who pleads guilty to or is found guilty of performing
103 or inducing an abortion of an unborn child in violation of this section shall be
104 subject to suspension or revocation of his or her license to practice medicine in
105 the state of Missouri by the state board of registration for the healing arts under
106 the provisions of sections 334.100 and 334.103.~~

107 ~~————— 5. Any hospital licensed in the state of Missouri that knowingly allows
108 an abortion of an unborn child to be performed or induced in violation of this
109 section may be subject to suspension or revocation of its license under the
110 provisions of section 197.070.~~

111 ~~————— 6. Any ambulatory surgical center licensed in the state of Missouri that
112 knowingly allows an abortion of an unborn child to be performed or induced in
113 violation of this section may be subject to suspension or revocation of its license
114 under the provisions of section 197.220.~~

115 ~~————— 7. A woman upon whom an abortion is performed or induced in violation
116 of this section shall not be prosecuted for a conspiracy to violate the provisions
117 of this section.~~

118 ~~8. Nothing in this section shall be construed as creating or recognizing~~
119 ~~a right to abortion, nor is it the intention of this section to make lawful any~~
120 ~~abortion that is currently unlawful.~~

121 ~~9. It is the intent of the legislature that this section be severable as noted~~
122 ~~in section 1.140. In the event that any section, subsection, subdivision,~~
123 ~~paragraph, sentence, or clause of this section be declared invalid under the~~
124 ~~Constitution of the United States or the Constitution of the State of Missouri, it~~
125 ~~is the intent of the legislature that the remaining provisions of this section remain~~
126 ~~in force and effect as far as capable of being carried into execution as intended~~
127 ~~by the legislature.~~

128 ~~10. The general assembly may, by concurrent resolution, appoint one or~~
129 ~~more of its members who sponsored or co-sponsored this act in his or her official~~
130 ~~capacity to intervene as a matter of right in any case in which the constitutionality~~
131 ~~of this law is challenged.]~~

2 ~~[188.031. For purposes of section 188.028, the term "next friend" shall~~
3 ~~not include another minor child, or any entity or person in an individual or~~
4 ~~representative capacity that has a financial interest or potential gain from the~~
5 ~~proposed abortion, or any employee of or volunteer for such entity or person.]~~

2 ~~[188.035. Whoever, with intent to do so, shall take the life of a child~~
3 ~~aborted alive, shall be guilty of murder of the second degree.]~~

2 ~~[188.036. 1. No physician shall perform an abortion on a woman if the~~
3 ~~physician knows that the woman conceived the unborn child for the purpose of~~
4 ~~providing fetal organs or tissue for medical transplantation to herself or another,~~
5 ~~and the physician knows that the woman intends to procure the abortion to utilize~~
6 ~~those organs or tissue for such use for herself or another.~~

6 ~~2. No person shall utilize the fetal organs or tissue resulting from an~~
7 ~~abortion for medical transplantation, if the person knows that the abortion was~~
8 ~~procured for the purpose of utilizing those organs or tissue for such use.~~

9 ~~3. No person shall offer any inducement, monetary or otherwise, to a~~
10 ~~woman or a prospective father of an unborn child for the purpose of conceiving~~
11 ~~an unborn child for the medical, scientific, experimental or therapeutic use of the~~
12 ~~fetal organs or tissue.~~

13 ~~4. No person shall offer any inducement, monetary or otherwise, to the~~
14 ~~mother or father of an unborn child for the purpose of procuring an abortion for~~
15 ~~the medical, scientific, experimental or therapeutic use of the fetal organs or~~
16 ~~tissue.~~

17 ~~5. No person shall knowingly offer or receive any valuable consideration~~
18 ~~for the fetal organs or tissue resulting from an abortion, provided that nothing in~~
19 ~~this subsection shall prohibit payment for burial or other final disposition of the~~
20 ~~fetal remains, or payment for a pathological examination, autopsy or postmortem~~
21 ~~examination of the fetal remains.~~

22 ~~6. If any provision in this section or the application thereof to any person,~~
23 ~~circumstance or period of gestation is held invalid, such invalidity shall not affect~~

24 the provisions or applications which can be given effect without the invalid
25 provision or application, and to this end the provisions of this section are
26 declared severable.]

2 [188.037. No person shall use any fetus or child aborted alive for any
3 type of scientific, research, laboratory or other kind of experimentation either
4 prior to or subsequent to any abortion procedure except as necessary to protect
or preserve the life and health of such fetus or child aborted alive.]

2 [188.039. 1. For purposes of this section, "medical emergency" means
3 a condition which, on the basis of the physician's good faith clinical judgment,
4 so complicates the medical condition of a pregnant woman as to necessitate the
5 immediate abortion of her pregnancy to avert her death or for which a delay will
6 create a serious risk of substantial and irreversible impairment of a major bodily
function.]

7 2. Except in the case of medical emergency, no person shall perform or
8 induce an abortion unless at least seventy-two hours prior thereto the physician
9 who is to perform or induce the abortion or a qualified professional has conferred
10 with the patient and discussed with her the indicators and contraindicators, and
11 risk factors including any physical, psychological, or situational factors for the
12 proposed procedure and the use of medications, including but not limited to
13 mifepristone, in light of her medical history and medical condition. For an
14 abortion performed or an abortion induced by a drug or drugs, such conference
15 shall take place at least seventy-two hours prior to the writing or communication
16 of the first prescription for such drug or drugs in connection with inducing an
17 abortion. Only one such conference shall be required for each abortion.

18 3. The patient shall be evaluated by the physician who is to perform or
19 induce the abortion or a qualified professional during the conference for
20 indicators and contraindicators, risk factors including any physical,
21 psychological, or situational factors which would predispose the patient to or
22 increase the risk of experiencing one or more adverse physical, emotional, or
23 other health reactions to the proposed procedure or drug or drugs in either the
24 short or long term as compared with women who do not possess such risk factors.

25 4. At the end of the conference, and if the woman chooses to proceed
26 with the abortion, the physician who is to perform or induce the abortion or a
27 qualified professional shall sign and shall cause the patient to sign a written
28 statement that the woman gave her informed consent freely and without coercion
29 after the physician or qualified professional had discussed with her the indicators
30 and contraindicators, and risk factors, including any physical, psychological, or
31 situational factors. All such executed statements shall be maintained as part of
32 the patient's medical file, subject to the confidentiality laws and rules of this state.

33 5. The director of the department of health and senior services shall
34 disseminate a model form that physicians or qualified professionals may use as
35 the written statement required by this section, but any lack or unavailability of

36 such a model form shall not affect the duties of the physician or qualified
 37 professional set forth in subsections 2 to 4 of this section.

38 ~~6. As used in this section, the term "qualified professional" shall refer to~~
 39 ~~a physician, physician assistant, registered nurse, licensed practical nurse,~~
 40 ~~psychologist, licensed professional counselor, or licensed social worker, licensed~~
 41 ~~or registered under chapter 334, 335, or 337, acting under the supervision of the~~
 42 ~~physician performing or inducing the abortion, and acting within the course and~~
 43 ~~scope of his or her authority provided by law. The provisions of this section shall~~
 44 ~~not be construed to in any way expand the authority otherwise provided by law~~
 45 ~~relating to the licensure, registration, or scope of practice of any such qualified~~
 46 ~~professional.~~

47 ~~7. If the provisions in subsection 2 of this section requiring a~~
 48 ~~seventy-two-hour waiting period for an abortion are ever temporarily or~~
 49 ~~permanently restrained or enjoined by judicial order, then the waiting period for~~
 50 ~~an abortion shall be twenty-four hours; provided, however, that if such temporary~~
 51 ~~or permanent restraining order or injunction is stayed or dissolved, or otherwise~~
 52 ~~ceases to have effect, the waiting period for an abortion shall be seventy-two~~
 53 ~~hours.]~~

2 ~~[188.043. 1. No person shall perform or induce a surgical or medical~~
 3 ~~abortion unless such person has proof of medical malpractice insurance with~~
 4 ~~coverage amounts of at least five hundred thousand dollars.~~

5 ~~2. For the purpose of this section, "medical malpractice insurance" means~~
 6 ~~insurance coverage against the legal liability of the insured and against loss,~~
 7 ~~damage, or expense incident to a claim arising out of the death or injury of any~~
 8 ~~person as a result of the negligence or malpractice in rendering professional~~
 9 ~~service by any health care provider.~~

10 ~~3. No abortion facility or hospital shall employ or engage the services of~~
 11 ~~a person to perform one or more abortions if the person does not have proof of~~
 12 ~~medical malpractice insurance pursuant to this section, except the abortion~~
 13 ~~facility or hospital may provide medical malpractice insurance for the services~~
 14 ~~of persons employed or engaged by such facility or hospital.~~

15 ~~4. Notwithstanding the provisions of section 334.100, failure of a person~~
 16 ~~to maintain the medical malpractice insurance required by this section shall be~~
 17 ~~an additional ground for sanctioning of a person's license, certificate, or permit.]~~

2 ~~[188.047. A representative sample of tissue removed at the time of~~
 3 ~~abortion shall be submitted to a board eligible or certified pathologist, who shall~~
 4 ~~file a copy of the tissue report with the state department of health and senior~~
 5 ~~services, and who shall provide a copy of the report to the abortion facility or~~
 6 ~~hospital in which the abortion was performed or induced and the pathologist's~~
 7 ~~report shall be made a part of the patient's permanent record.]~~

2 ~~[188.052. 1. An individual abortion report for each abortion performed~~
 3 ~~or induced upon a woman shall be completed by her attending physician.~~

3 ~~2. An individual complication report for any post-abortion care~~
 4 ~~performed upon a woman shall be completed by the physician providing such~~
 5 ~~post-abortion care. This report shall include:~~
 6 ~~(1) The date of the abortion;~~
 7 ~~(2) The name and address of the abortion facility or hospital where the~~
 8 ~~abortion was performed;~~
 9 ~~(3) The nature of the abortion complication diagnosed or treated.~~
 10 ~~3. All abortion reports shall be signed by the attending physician, and~~
 11 ~~submitted to the state department of health and senior services within forty-five~~
 12 ~~days from the date of the abortion. All complication reports shall be signed by~~
 13 ~~the physician providing the post-abortion care and submitted to the department~~
 14 ~~of health and senior services within forty-five days from the date of the~~
 15 ~~post-abortion care.~~
 16 ~~4. A copy of the abortion report shall be made a part of the medical~~
 17 ~~record of the patient of the facility or hospital in which the abortion was~~
 18 ~~performed.~~
 19 ~~5. The state department of health and senior services shall be responsible~~
 20 ~~for collecting all abortion reports and complication reports and collating and~~
 21 ~~evaluating all data gathered therefrom and shall annually publish a statistical~~
 22 ~~report based on such data from abortions performed in the previous calendar~~
 23 ~~year.]~~

2 ~~[188.055. 1. Every abortion facility, hospital, and physician shall be~~
 3 ~~supplied with forms by the department of health and senior services for use in~~
 4 ~~regards to the consents and reports required by sections 188.010 to 188.085. A~~
 5 ~~purpose and function of such consents and reports shall be the preservation of~~
 6 ~~maternal health and life by adding to the sum of medical knowledge through the~~
 7 ~~compilation of relevant maternal health and life data and to monitor all abortions~~
 8 ~~performed to assure that they are done only under and in accordance with the~~
 9 ~~provisions of the law.]~~

10 ~~2. All information obtained by physician, hospital, or abortion facility~~
 11 ~~from a patient for the purpose of preparing reports to the department of health~~
 12 ~~and senior services under sections 188.010 to 188.085 or reports received by the~~
 13 ~~division of health shall be confidential and shall be used only for statistical~~
 14 ~~purposes. Such records, however, may be inspected and health data acquired by~~
~~local, state, or national public health officers.]~~

2 ~~[188.060. All medical records, reports, and other documents required to~~
 3 ~~be kept under sections 188.010 to 188.085 shall be maintained in the permanent~~
 4 ~~files of the abortion facility or hospital in which the abortion was performed for~~
~~a period of seven years.]~~

2 ~~[188.065. Any practitioner of medicine, surgery, or nursing, or other~~
 3 ~~health personnel who shall willfully and knowingly do or assist any action made~~
 4 ~~unlawful by sections 188.010 to 188.085 shall be subject to having his license,~~
~~application for license, or authority to practice his profession as a physician,~~

5 surgeon, or nurse in the state of Missouri rejected or revoked by the appropriate
6 state licensing board.]

[188.070. Any physician or other person who fails to maintain the
2 confidentiality of any records or reports required under sections 188.010 to
3 188.085 is guilty of a misdemeanor and, upon conviction, shall be punished as
4 provided by law.]

[188.075. 1. Any person who contrary to the provisions of sections
2 188.010 to 188.085 knowingly performs, induces, or aids in the performance or
3 inducing of any abortion or knowingly fails to perform any action required by
4 sections 188.010 to 188.085 shall be guilty of a class A misdemeanor, unless a
5 different penalty is provided for in state law, and, upon conviction, shall be
6 punished as provided by law.]

7 ~~2. It shall be an affirmative defense for any person alleged to have~~
8 ~~violated any provision of this chapter that the person performed an action or did~~
9 ~~not perform an action because of a medical emergency. This affirmative defense~~
10 ~~shall be available in criminal, civil, and administrative actions or proceedings.~~
11 ~~The defendant shall have the burden of persuasion that the defense is more~~
12 ~~probably true than not.]~~

[188.080. Any person who is not a physician who performs or induces
2 or attempts to perform or induce an abortion on another is guilty of a class B
3 felony, and, upon conviction, shall be punished as provided by law. Any
4 physician performing or inducing an abortion who does not have clinical
5 privileges at a hospital which offers obstetrical or gynecological care located
6 within thirty miles of the location at which the abortion is performed or induced
7 shall be guilty of a class A misdemeanor, and, upon conviction shall be punished
8 as provided by law.]

[188.085. Nothing in sections 188.010 to 188.085 shall be construed to
2 exempt any person, firm, or corporation from civil liability for medical
3 malpractice for negligent acts or certification under sections 188.010 to 188.085.]

[188.100. Unless the language or context clearly indicates a different
2 meaning is intended, the following words or phrases for the purposes of sections
3 188.100 to 188.120 shall mean:

4 ~~(1) "Employer", the state, or any political or civil subdivision thereof, or~~
5 ~~any person employing two or more persons within the state, and any person~~
6 ~~acting as an agent of the employer;~~

7 ~~(2) "Participate in abortion", to perform, assist in, refer for, promote,~~
8 ~~procure, or counsel a woman to have an abortion not necessary to save the life of~~
9 ~~the mother, or to undergo an abortion;~~

10 ~~(3) "Person" includes one or more individuals, partnerships, associations,~~
11 ~~organizations, corporations, legal representatives, trustees, trustees in bankruptcy,~~
12 ~~receivers, or other organized groups of persons.]~~

[188.105. 1. It shall be unlawful:

2 ~~(1) For an employer:~~

- 3 ~~_____ (a) To fail or refuse to hire or to discharge any individual, or otherwise~~
4 ~~to discriminate against any individual with respect to his or her compensation;~~
5 ~~terms, conditions, or privileges of employment, because of such individual's~~
6 ~~refusal to participate in abortion;~~
- 7 ~~_____ (b) To limit, segregate, or classify his, her, or its employees or applicants~~
8 ~~for employment in any way which would deprive or tend to deprive any~~
9 ~~individual of employment opportunities or otherwise adversely affect his or her~~
10 ~~status as an employee, because of such individual's refusal to participate in~~
11 ~~abortion;~~
- 12 ~~_____ (c) To discharge, expel, or otherwise discriminate against any person~~
13 ~~because he or she has opposed any practices forbidden under sections 188.100 to~~
14 ~~188.120 or because he or she has filed a complaint, testified, or assisted in any~~
15 ~~legal proceeding under sections 188.100 to 188.120;~~
- 16 ~~_____ (2) For any person, whether an employer or employee, or not, to aid, abet,~~
17 ~~incite, compel, or coerce the doing of any of the acts forbidden under sections~~
18 ~~188.100 to 188.120, or to attempt to do so.~~
- 19 ~~_____ 2. Notwithstanding any other provision of sections 188.100 to 188.120,~~
20 ~~the acts proscribed in subsection 1 of this section shall not be unlawful if there~~
21 ~~can be demonstrated an inability to reasonably accommodate an individual's~~
22 ~~refusal to participate in abortion without undue hardship on the conduct of that~~
23 ~~particular business or enterprise, or in those certain instances where participation~~
24 ~~in abortion is a bona fide occupational qualification reasonably necessary to the~~
25 ~~normal operation of that particular business or enterprise.~~
- 26 ~~_____ 3. Nothing contained in sections 188.100 to 188.120 shall be interpreted~~
27 ~~to require any employer to grant preferential treatment to any individual because~~
28 ~~of such individual's refusal to participate in abortion.]~~
- 2 ~~[188.110. 1. No public or private college, university or hospital shall~~
discriminate against any person for refusal to participate in abortion.
- 3 ~~_____ 2. No applicant, student, teacher, or employee of any school shall be~~
4 ~~required to pay any fees that would in whole or in part fund an abortion for any~~
5 ~~other applicant, student, teacher, or employee of that school, if the individual~~
6 ~~required to pay the fee gives written notice to the proper school authorities that~~
7 ~~it would be in violation of his or her conscience or beliefs to pay for or fund~~
8 ~~abortions. The school may require the individual to pay that part of the fees not~~
9 ~~funding abortions, if the school makes reasonable precautions and gives~~
10 ~~reasonable assurance that the fees that are paid are segregated from any fund for~~
11 ~~the payment of abortions.]~~
- 2 ~~[188.115. If any provision of sections 188.100 to 188.120 is found by a~~
3 ~~court of competent jurisdiction to be invalid or unconstitutional as applied to a~~
4 ~~specific person or class of persons, the provisions of sections 188.100 to 188.120~~
5 ~~shall remain in full force and effect as to every other person or class of persons~~
who is otherwise covered under these sections.]

2 ~~[188.120. Any individual injured by any person, association, corporation,~~
 3 ~~or entity by reason of any action prohibited by sections 188.100 to 188.120, as~~
 4 ~~now or hereafter amended, may commence a civil cause of action against the~~
 5 ~~person, association, corporation, or entity who caused the injury, and shall~~
 6 ~~recover treble damages, including pain and suffering, sustained by such~~
~~individual, the costs of the suit and reasonable attorney's fees.]~~

2 ~~[188.130. 1. No person shall maintain a cause of action or receive an~~
 3 ~~award of damages on behalf of himself or herself based on the claim that but for~~
 4 ~~the negligent conduct of another, he or she would have been aborted.]~~

4 ~~2. No person shall maintain a cause of action or receive an award of~~
 5 ~~damages based on the claim that but for the negligent conduct of another, a child~~
 6 ~~would have been aborted.]~~

2 ~~[188.200. As used in sections 188.200 to 188.220, the following terms~~
 3 ~~mean:~~

3 ~~(1) "Public employee", any person employed by this state or any agency~~
 4 ~~or political subdivision thereof;~~

5 ~~(2) "Public facility", any public institution, public facility, public~~
 6 ~~equipment, or any physical asset owned, leased, or controlled by this state or any~~
 7 ~~agency or political subdivisions thereof;~~

8 ~~(3) "Public funds", any funds received or controlled by this state or any~~
 9 ~~agency or political subdivision thereof, including, but not limited to, funds~~
 10 ~~derived from federal, state or local taxes, gifts or grants from any source, public~~
 11 ~~or private, federal grants or payments, or intergovernmental transfers.]~~

2 ~~[188.205. It shall be unlawful for any public funds to be expended for the~~
 3 ~~purpose of performing or assisting an abortion, not necessary to save the life of~~
 4 ~~the mother, or for the purpose of encouraging or counseling a woman to have an~~
~~abortion not necessary to save her life.]~~

2 ~~[188.210. It shall be unlawful for any public employee within the scope~~
 3 ~~of his employment to perform or assist an abortion, not necessary to save the life~~
 4 ~~of the mother. It shall be unlawful for a doctor, nurse or other health care~~
 5 ~~personnel, a social worker, a counselor or persons of similar occupation who is~~
 6 ~~a public employee within the scope of his public employment to encourage or~~
~~counsel a woman to have an abortion not necessary to save her life.]~~

2 ~~[188.215. It shall be unlawful for any public facility to be used for the~~
 3 ~~purpose of performing or assisting an abortion not necessary to save the life of~~
 4 ~~the mother or for the purpose of encouraging or counseling a woman to have an~~
~~abortion not necessary to save her life.]~~

2 ~~[188.220. Any taxpayer of this state or its political subdivisions shall~~
 3 ~~have standing to bring suit in a circuit court of proper venue to enforce the~~
 4 ~~provisions of sections 188.200 to 188.215.]~~

2 ~~[188.230. Nothing in this act is intended to authorize anyone other than~~
 3 ~~a physician to perform an abortion.]~~

2 ~~[188.250. 1. No person shall intentionally cause, aid, or assist a minor~~
 3 ~~to obtain an abortion without the consent or consents required by section~~
 4 ~~188.028.—~~

5 ~~2. A person who violates subsection 1 of this section shall be civilly~~
 6 ~~liable to the minor and to the person or persons required to give the consent or~~
 7 ~~consents under section 188.028. A court may award damages to the person or~~
 8 ~~persons adversely affected by a violation of subsection 1 of this section, including~~
 9 ~~compensation for emotional injury without the need for personal presence at the~~
 10 ~~act or event, and the court may further award attorneys' fees, litigation costs, and~~
 11 ~~punitive damages. Any adult who engages in or consents to another person~~
 12 ~~engaging in a sex act with a minor in violation of the provisions of chapter 566,~~
 13 ~~567, 568, or 573 which results in the minor's pregnancy shall not be awarded~~
 14 ~~damages under this section.—~~

15 ~~3. It shall not be a defense to a claim brought under this section that the~~
 16 ~~abortion was performed or induced pursuant to consent to the abortion given in~~
 17 ~~a manner that is otherwise lawful in the state or place where the abortion was~~
 18 ~~performed or induced.—~~

19 ~~4. An unemancipated minor does not have capacity to consent to any~~
 20 ~~action in violation of this section or section 188.028.—~~

21 ~~5. A court may enjoin conduct that would be in violation of this section~~
 22 ~~upon petition by the attorney general, a prosecuting or circuit attorney, or any~~
 23 ~~person adversely affected or who reasonably may be adversely affected by such~~
 24 ~~conduct, upon a showing that such conduct:~~

- 25 ~~(1) Is reasonably anticipated to occur in the future; or~~
- 26 ~~(2) Has occurred in the past, whether with the same minor or others, and~~
~~that it is not unreasonable to expect that such conduct will be repeated.]~~

2 ~~[188.325. 1. There is hereby established the "Missouri Alternatives to~~
 3 ~~Abortion Services Program" which shall be administered by a state agency or~~
 4 ~~agencies, as designated by appropriations to such or each agency. The~~
 5 ~~alternatives to abortion services program shall consist of services or counseling~~
 6 ~~to pregnant women and continuing for one year after birth to assist women in~~
 7 ~~carrying their unborn children to term instead of having abortions, and to assist~~
 8 ~~women in caring for their dependent children or placing their children for~~
 9 ~~adoption.—~~

10 ~~2. Services provided under the alternatives to abortion program shall~~
 11 ~~include but not be limited to the following:—~~

- 12 ~~(1) Prenatal care;—~~
- 13 ~~(2) Medical and mental health care;—~~
- 14 ~~(3) Parenting skills;—~~
- 15 ~~(4) Drug and alcohol testing and treatment;—~~
- 16 ~~(5) Child care, and newborn and infant care;—~~
- 17 ~~(6) Housing and utilities;—~~
- ~~(7) Educational services;—~~

- 18 ~~_____ (8) Food, clothing, and supplies relating to pregnancy, newborn care, and~~
- 19 ~~parenting;~~
- 20 ~~_____ (9) Adoption assistance;~~
- 21 ~~_____ (10) Job training and placement;~~
- 22 ~~_____ (11) Establishing and promoting responsible paternity;~~
- 23 ~~_____ (12) Ultrasound services;~~
- 24 ~~_____ (13) Case management;~~
- 25 ~~_____ (14) Domestic abuse protection; and~~
- 26 ~~_____ (15) Transportation.~~

27 ~~_____ 3. Actual provision and delivery of services and counseling shall be~~
 28 ~~dependent on client needs and not otherwise prioritized by the agency or agencies~~
 29 ~~administering the program. Services and counseling shall be available only~~
 30 ~~during pregnancy and continuing for one year after birth, and shall exclude any~~
 31 ~~family planning services. The agency or agencies administering the program may~~
 32 ~~contract with other public or private agencies or entities to provide the services~~
 33 ~~or counseling on behalf of the agency or agencies administering the program.~~
 34 ~~Such other public or private agencies or entities may provide additional services~~
 35 ~~or counseling, or services or counseling for more than one year after birth, that~~
 36 ~~are not funded under the alternatives to abortion services program, as long as~~
 37 ~~such services or counseling are not inconsistent with the provisions of this~~
 38 ~~section. Contractors for the alternatives to abortion services program may also~~
 39 ~~be contractors for the alternatives to abortion public awareness program~~
 40 ~~established in section 188.335.~~

41 ~~_____ 4. The agency or agencies administering the program shall to the greatest~~
 42 ~~extent possible supplement and match moneys appropriated for the alternatives~~
 43 ~~to abortion services program with federal and other public moneys and with~~
 44 ~~private moneys. The agency or agencies administering the program shall~~
 45 ~~prioritize such additional federal, other public, and private moneys so that they~~
 46 ~~are used preferentially for the alternatives to abortion services program and the~~
 47 ~~alternatives to abortion public awareness program.~~

48 ~~_____ 5. The alternatives to abortion services program and the moneys~~
 49 ~~expended under this section shall not be used to perform or induce, assist in the~~
 50 ~~performing or inducing of or refer for abortions. Moneys expended under this~~
 51 ~~section shall not be granted to organizations or affiliates of organizations that~~
 52 ~~perform or induce, assist in the performing or inducing of or refer for abortions.]~~

2 ~~[188.335. 1. There is hereby established the "Missouri Alternatives to~~
 3 ~~Abortion Public Awareness Program" which shall be administered by a state~~
 4 ~~agency or agencies, as designated by appropriations to such or each agency.~~

4 ~~_____ 2. The purpose of the alternatives to abortion public awareness program~~
 5 ~~is to help pregnant women at risk for having abortions to be made aware of the~~
 6 ~~alternatives to abortion agencies located and alternatives to abortion services~~
 7 ~~available to them in their local communities. The alternatives to abortion public~~
 8 ~~awareness program shall include the development and promotion of a website~~

9 which provides a geographically indexed list of alternatives to abortion agencies
10 as well as contractors for the alternatives to abortion services program established
11 in section 188.325. As used in this section, "alternatives to abortion agencies"
12 means agencies exempt from income taxation pursuant to the United States
13 Internal Revenue Code that offer alternatives to abortion services as defined
14 within section 188.325, including but not limited to maternity homes, pregnancy
15 resource centers, and agencies commonly known and referred to as crisis
16 pregnancy centers. The alternatives to abortion public awareness program may
17 also include but need not be limited to the use of television, radio, outdoor
18 advertising, newspapers, magazines, and other print media, and the internet to
19 provide information on these alternatives to abortion agencies and services. The
20 state agency or agencies administering the alternatives to abortion public
21 awareness program are encouraged to give first preference to contracting with
22 private agencies or entities, which are exempt from income taxation pursuant to
23 the United States Internal Revenue Code, to conduct the alternatives to abortion
24 public awareness program. Contractors for the alternatives to abortion public
25 awareness program may also be contractors for the alternatives to abortion
26 services program established in section 188.325.

27 ~~3. The agency or agencies administering the program shall to the greatest~~
28 ~~extent possible supplement and match moneys appropriated for the alternatives~~
29 ~~to abortion public awareness program with federal and other public moneys and~~
30 ~~with private moneys. The agency or agencies administering the program shall~~
31 ~~prioritize such additional federal, other public, and private moneys so that they~~
32 ~~are used preferentially for the alternatives to abortion public awareness program~~
33 ~~and the alternatives to abortion services program.~~

34 ~~4. The alternatives to abortion public awareness program and the moneys~~
35 ~~expended under this section shall not be used to perform or induce, assist in the~~
36 ~~performing or inducing of or refer for abortions. Moneys expended under this~~
37 ~~section shall not be granted to organizations or affiliates of organizations that~~
38 ~~perform or induce, assist in the performing or inducing of or refer for abortions.]~~

[197.032. 1. No physician or surgeon, registered nurse, practical nurse,
2 midwife or hospital, public or private, shall be required to treat or admit for
3 treatment any woman for the purpose of abortion if such treatment or admission
4 for treatment is contrary to the established policy of, or the moral, ethical or
5 religious beliefs of, such physician, surgeon, registered nurse, midwife, practical
6 nurse or hospital. No cause of action shall accrue against any such physician,
7 surgeon, registered nurse, midwife, practical nurse or hospital on account of such
8 refusal to treat or admit for treatment any woman for abortion purposes.]

9 ~~2. No person or institution shall be denied or discriminated against in the~~
10 ~~reception of any public benefit, assistance or privilege whatsoever or in any~~
11 ~~employment, public or private, on the grounds that they refuse to undergo an~~
12 ~~abortion, to advise, consent to, assist in or perform an abortion.~~

13 ~~3. Any person who shall deny or discriminate against another for refusal~~
14 ~~to perform or participate in an abortion shall be liable to the party injured in an~~
15 ~~action at law, suit in equity or other redress.]~~

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