

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Bill No. 126, Page 1, Section A, Line 3, by inserting after said section and line the  
2 following:

3  
4 "188.020. No person shall perform or induce an abortion except a physician. Except in cases  
5 of medical emergency, no physician shall perform or induce an abortion upon a woman presumed to  
6 be pregnant unless such physician first determines whether there is a detectable heartbeat or brain  
7 function of the unborn child. The method of determining the presence of a heartbeat shall be  
8 consistent with such physician's good faith understanding of standard medical practice. Such  
9 physician shall record in the woman's medical record the estimated gestational age of the unborn  
10 child if she is found to be pregnant, the method used to test for the presence or absence of a  
11 heartbeat, or brain function the date and time of the test, and the results of the test."; and

12  
13 Further amend said bill and page, Section 188.026, Lines 1-3 by deleting all of said lines and  
14 inserting in lieu thereof the following:

15  
16 188.026. 1. This section shall be known and may be cited as the "Missouri Stands for the  
17 Unborn Act".

18 2. In Roe v. Wade, 410 U.S. 113 (1973), certain information about the development of the  
19 unborn child, human pregnancy, and the effects of abortion was either not part of the record or was  
20 not available at the time. Since 1973, advances in medical and scientific technology have greatly  
21 expanded our knowledge of prenatal life and the effects of abortion on women. The general  
22 assembly of this state finds that:

23 (1) During the fifth week of gestational age an unborn child's heart starts beating;

24 (2) Depending on the ultrasound equipment being used, the unborn child's heartbeat can be  
25 visually detected as early as six to eight weeks gestational age;

26 (3) Confirmation of pregnancy can be indicated through the detection of the unborn child's  
27 heartbeat, while the absence of the unborn child's heartbeat can be an indicator of the death of the  
28 unborn child if the child has reached that point of development;

29 (4) The unborn child's heartbeat can be consistently made audible by about eight weeks  
30 gestational age, through the use of a handheld Doppler fetal heart rate device;

31 (5) The detection of a heartbeat in an unborn child is a key indicator that he or she will  
32 likely reach viability and live birth;

33 (6) Heart rate monitoring during pregnancy and labor is used to measure the heart rate and  
34 rhythm of the unborn child, at an average rate between 110 and 160 beats per minute, and helps  
35 determine the health of the unborn child;

36 (7) The placenta begins developing during the early first trimester of pregnancy, and later in

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1 the first trimester and throughout the second and third trimesters of pregnancy performs a  
2 respiratory function making oxygen supply to and carbon dioxide removal from the unborn child  
3 possible;

4 (8) By the fifth week of gestation, the development of the brain of the unborn child is  
5 underway; brainwaves have been measured and recorded during the eighth week of gestation;

6 (9) It has been established under section 1.205 that the life of each human being begins at  
7 conception. Missouri law also identifies the presence of circulation, respiration and brain function  
8 and brain function as indicia of life under section 194.005 (legal definition of death), as the presence  
9 of circulation, respiration, and brain function indicates that such person is not legally dead, but is  
10 legally alive;

11 (10) Vital Statistics Annual Report includes the annual statistical report on abortions  
12 performed for that year as required by Section 188.052.5, RSMo. Missouri Vital Statistics Annual  
13 Reports from 2017 include annual abortion statistics; sixty-five abortions took place after twenty-  
14 one weeks gestation (as defined by last menstrual date; fifty-four abortions took place during the  
15 twentieth week; one hundred ninety three abortions took place between seventeen and nineteen  
16 weeks gestation; one hundred eighty two abortions took place between thirteen and fourteen weeks  
17 gestation; four hundred ninety two abortions took place between weeks eleven and twelve gestation;  
18 nine hundred and fifty seven abortions took place between weeks nine and ten gestation; one  
19 thousand six hundred and seventy three abortions took place prior to week nine of gestation;

20 (11) In Webster v. Reproductive Health Services, 492 U.S. 490 (1989), the Supreme Court  
21 noted in upholding a Missouri statute, "that there may be a 4-week error in estimating gestational  
22 age". Thus, an unborn child thought to be fourteen weeks gestational age might in fact be eighteen  
23 weeks gestational age, when the unborn child is considerably more developed;

24 (12)A motor response in the unborn child can first be seen as a whole-body movement away  
25 from a stimulus and observed on ultrasound from as early as seven and a half weeks gestational age.  
26 The perioral area is the first part of the unborn child's body to respond to touch at about eight weeks  
27 gestational age, but by fourteen weeks gestational age, most of the unborn child's body is responsive  
28 to touch;

29 (13) Peripheral cutaneous sensory receptors, the receptors that feel pain, develop early in the  
30 unborn child. They appear in the perioral cutaneous area at around seven to eight weeks gestational  
31 age, and later in the palmar regions at ten to ten and a half weeks gestational age, the abdominal  
32 wall at fifteen weeks gestational age, and then over all of the unborn child's body at sixteen weeks  
33 gestational age;

34 (14) Substance P, a peptide that functions as a neurotransmitter, especially in the  
35 transmission of pain, is present in the dorsal horn of the spinal cord of the unborn child at eight to  
36 ten weeks gestational age. Enkephalins, peptides that play a role in neurotransmission and pain  
37 modulation, are present in the dorsal horn of the spinal cord of the unborn child at twelve to fourteen  
38 weeks gestational age;

39 (15) For most women, by fourteen weeks gestational age their chance of miscarriage is less  
40 than one percent when a strong heartbeat is detected in the unborn child;

41 (16) When intrauterine needling is performed on an unborn child at sixteen weeks  
42 gestational age and older, the reaction to this invasive stimulus is blood flow redistribution to the  
43 brain. Increased blood flow to the brain is the same type of stress response seen in a born child and  
44 an adult;

45 (17) From sixteen weeks gestational age, pain transmission from a peripheral receptor to the  
46 cortex is possible in the unborn child;

47 (18) Physicians are providing anesthesia during in utero treatment of unborn children as  
48 young as sixteen weeks gestational age, such as to correct fetal urinary tract obstruction. Anesthesia  
49 is administered by ultrasound-guided injection into the arm or leg of the unborn child;

1 (19) A leading textbook on prenatal development of the human brain states: "It may be  
2 concluded that, although nociperception (the actual perception of pain) awaits the appearance of  
3 consciousness, nociception (the experience of pain) is present some time before birth. In the  
4 absence of disproof, it is merely prudent to assume that pain can be experienced even early in  
5 prenatal life (Dr. J. Wisser, Zürich): the fetus should be given the benefit of the doubt." O'Rahilly,  
6 Ronan & Müller, Fabiola. (2005). The Embryonic Human Brain: An Atlas of Developmental Stages,  
7 Third Edition;

8 (20) At around fourteen or fifteen weeks gestational age and later, the predominant  
9 abortion method in Missouri is dilation and evacuation (D & E). The D & E abortion method  
10 includes the dismemberment, disarticulation, and exsanguination of the unborn child, causing the  
11 unborn child's death;

12 (21) The D & E abortion method was found in Gonzales v. Carhart, 550 U.S. 124 (2007) to  
13 be "in some respects as brutal, if not more, than the intact D & E" partial birth abortion method  
14 banned by Congress and upheld as facially constitutional by the Supreme Court, even though the  
15 federal ban was applicable both before and after viability and had no exception for the health of the  
16 mother;

17 (22) Missouri's ban on the partial birth abortion method, section 565.300, is in effect  
18 because of Gonzales v. Carhart and the Supreme Court's subsequent decision in Nixon v.  
19 Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc., 550 U.S. 901  
20 (2007) to vacate and remand to the appeals court the prior invalidation of section 565.300. Since  
21 section 565.300, like the congressional ban on partial birth abortion, is applicable both before and  
22 after viability, there is ample precedent for the general assembly to constitutionally prohibit the  
23 brutal D & E abortion method at fourteen weeks gestational age and later, even before the unborn  
24 child is viable, with a medical emergency exception;

25 (23) In Roper v. Simmons, 543 U.S. 551 (2005), the Supreme Court determined that  
26 "evolving standards of decency" dictated that a Missouri statute allowing the death penalty for a  
27 conviction of murder in the first degree of a person under eighteen years of age when the crime was  
28 committed, was unconstitutional under the Eighth and Fourteenth Amendments to the United  
29 States Constitution, in that it violated the prohibition against "cruel and unusual punishments".

30 (24) Evolving standards of decency dictate that Missouri should prohibit the brutal and  
31 painful D & E, Laminaria, and curettage abortion method at fourteen weeks gestational age and  
32 later, with a medical emergency exception, because if a comparable method of killing was used on:

33 (a) A person convicted of murder in the first degree, it would be cruel and unusual  
34 punishment; and

35 (b) An animal, it would be unlawful under state law because it would not be a humane  
36 method, humane euthanasia, or humane killing of certain animals under chapters 273 and 578,  
37 RSMo;

38 (25) In Roper v. Simmons, the Court also found that "[i]t is proper that we acknowledge the  
39 overwhelming weight of international opinion against the juvenile death penalty ... The opinion of  
40 the world community, while not controlling our outcome, does provide respected and significant  
41 confirmation for our own conclusions." In its opinion, the Court was instructed by "international  
42 covenants prohibiting the juvenile death penalty", such as the International Covenant on Civil and  
43 Political Rights, 999 U.N.T.S. 171;

44 (26) The opinion of the world community, reflected in the laws of the United Nation's 193-  
45 member states and six other entities, is that in most countries, most abortions are prohibited at  
46 fourteen weeks gestational age and later;

47 (27) The opinion of the world community is also shared by most Americans, based on  
48 polling since 1996, that most abortions in the second and third trimesters of pregnancy should not be  
49 legal;

1 (28) Abortion procedures performed later in pregnancy have a higher medical risk for  
 2 women. Compared to an abortion at eight weeks gestational age or earlier, the relative risk  
 3 increases exponentially at higher gestational ages. The relative risk of death for a pregnant woman  
 4 who had an abortion performed or induced upon her at:

5 (a) Thirteen to fifteen weeks gestational age is almost fifteen times higher than an abortion  
 6 at eight weeks gestational age or earlier;

7 (b) Sixteen to twenty weeks gestational age is almost thirty times higher than an abortion at  
 8 eight weeks gestational age or earlier;

9 (c) Twenty-one weeks gestational age or later is more than seventy-five times higher than an  
 10 abortion at eight weeks gestational age or earlier;

11 (29) In addition to short-term risks from abortion, some studies find that the long-term  
 12 physical and psychological consequences of abortion for women include, but are not limited to, an  
 13 increased risk of preterm birth, low birthweight babies, and placenta previa in subsequent  
 14 pregnancies, as well as serious behavioral health issues. These risks increase as abortion is  
 15 performed or induced at later gestational ages. These consequences of abortion have a detrimental  
 16 effect on not only women, their children, and their families, but also on an already-burdened health  
 17 care system, taxpayers, and the workforce;

18 3. The state of Missouri is bound by Article VI, clause 2 of the Constitution of the United  
 19 States that "all treaties made, or which shall be made, under the authority of the United States, shall  
 20 be the supreme law of the land". One such treaty is the International Covenant on Civil and  
 21 Political Rights, 999 U.N.T.S. 171, (entered into force March 23, 1976, adopted by the United States  
 22 September 8, 1992). In ratifying the Covenant, the United States declared that while the provisions  
 23 of Articles 1 through 27 of the Covenant are not self-executing, the United States' understanding is  
 24 that state governments share responsibility with the federal government in implementing the  
 25 Covenant.

26 4. Article 6, paragraph 1, U.N.T.S. at 174, of the International Covenant on Civil and  
 27 Political Rights states: "Every human being has the inherent right to life. This right shall be  
 28 protected by law. No one shall be arbitrarily deprived of his life." The state of Missouri takes  
 29 seriously its obligation to comply with the Covenant and to implement this paragraph as it relates to:  
 30 the inherent right to life of unborn human beings; protecting the rights of unborn human beings by  
 31 law; and ensuring that such unborn human beings are not arbitrarily deprived of life. The state of  
 32 Missouri hereby implements Article 6, paragraph 1 of the Covenant by the regulation of abortion, as  
 33 provided herein.

34 5. A large percentage of women who have an abortion performed or induced upon them in  
 35 Missouri each year are at less than eight weeks gestational age. A prohibition on performing or  
 36 inducing an abortion at eight weeks gestational age and later, with a medical emergency exception,  
 37 does not amount to a substantial obstacle to a large fraction of women for whom the prohibition is  
 38 relevant, which is pregnant women in Missouri who are seeking an abortion while not experiencing  
 39 a medical emergency; and

40 (1) The burden that a prohibition on performing or inducing an abortion at eight weeks  
 41 gestational age and later, with a medical emergency exception, might impose on abortion access, is  
 42 outweighed by the benefits conferred on, including but not limited to:

43 (a) Women more advanced in pregnancy who are at greater risk of harm from abortion;

44 (b) Unborn children at later stages of development;

45 (c) The medical profession, by preserving its integrity and fulfilling it's commitment to do  
 46 no harm; and

47 (d) Society, by fostering respect for human life, born and unborn, at all stages of  
 48 development, and by lessening societal tolerance of violence against innocent human life.

49 6. The state of Missouri has interests that include, but are not limited to:

1 (1) Protecting unborn children throughout pregnancy, and preserving and promoting their  
2 lives from conception to birth;

3 (2) Encouraging childbirth over abortion;

4 (3) Ensuring respect for all human life from conception to natural death;

5 (4) Safeguarding an unborn child who is eight weeks gestational age or older from serious  
6 harm of pain by an abortion method which would cause the unborn child to experience pain while  
7 she or he was being killed;

8 (5) Preserving the integrity of the medical profession and regulating and restricting practices  
9 that might cause the medical profession or society as a whole to become insensitive, even disdainful,  
10 to life. This includes regulating and restricting abortion methods that are not only brutal and  
11 painful, but if allowed to continue, will further coarsen society to the humanity of not only unborn  
12 children, but all vulnerable and innocent human life, making it increasingly difficult to protect such  
13 life;

14 (6) Reducing the risks of harm to pregnant women who obtain abortions later in pregnancy;

15 (7) Avoiding burdens on the health care system, taxpayers, and the workforce because of  
16 increased preterm births, low birthweight babies, compromised pregnancies, extended postpartum  
17 recoveries, and behavioral health problems caused by the long-term effects of abortions performed  
18 or induced later in pregnancy; and

19 (8) Notwithstanding any other provision of law to the contrary, no abortion shall be  
20 performed or induced upon a woman at eight weeks gestational age or later, such gestational age as  
21 the unborn child has detectable heart beat or measurable brain function except in cases of medical  
22 emergency. Any person who knowingly performs or induces an abortion of an unborn child in  
23 violation of this subsection shall be guilty of a class B felony, as well as subject to suspension or  
24 revocation of his or her professional license by his or her professional licensing board. A woman  
25 upon whom an abortion is performed or induced in violation of this subsection shall not be  
26 prosecuted for a conspiracy to violate the provisions of this subsection.

27 7. It shall be an affirmative defense for any person alleged to have violated the provisions of  
28 subsection 6 of this section that the person performed or induced an abortion because of a medical  
29 emergency. The defendant shall have the burden of persuasion that the defense is more probably  
30 true than not.

31 8. If any one or more provisions, sections, subsections, sentences, clauses, phrases, or words  
32 of this section or the application thereof to any person, circumstance, or period of gestational age is  
33 found to be unconstitutional or invalid by a court of competent jurisdiction, the same is hereby  
34 declared to be severable and the balance of the section shall remain effective notwithstanding such  
35 unconstitutionality or invalidity. The general assembly hereby declares that it would have passed  
36 this section, and each provision, section, subsection, sentence, clause, phrase, or word thereof,  
37 irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses,  
38 phrases, or words of the section, or the application of the section to any person, circumstance, or  
39 period of gestational age, would be declared unconstitutional or invalid. If the prohibition on  
40 performing or inducing an abortion at eight weeks gestational age or later is declared  
41 unconstitutional or invalid, then the prohibition on performing or inducing an abortion shall be at  
42 fourteen weeks gestational age or later.

43 9. A large majority, more than eight-seven percent, of women who have an abortion  
44 performed or induced upon them in Missouri each year are at less than fourteen weeks gestational  
45 age. A prohibition on performing or inducing an abortion at fourteen weeks gestational age and  
46 later, with a medical emergency exception, does not amount to a substantial obstacle to a large  
47 fraction of women for whom the prohibition is relevant, which is pregnant women in Missouri who  
48 are seeking an abortion while not experiencing a medical emergency; and

49 (1) The burden that a prohibition on performing or inducing an abortion at fourteen weeks

1 gestational age and later, with a medical emergency exception, might impose on abortion access, is  
 2 outweighed by the benefits conferred on, including but not limited to:

3 (a) Women more advanced in pregnancy who are at greater risk of harm from abortion;

4 (b) Unborn children at later stages of development;

5 (c) The medical profession, by preserving its integrity and fulfilling it's commitment to do  
 6 no harm; and

7 (d) Society, by fostering respect for human life, born and unborn, at all stages of  
 8 development, and by lessening societal tolerance of violence against innocent human life.

9 10. The state of Missouri has interests that include, but are not limited to:

10 (1) Protecting unborn children throughout pregnancy, and preserving and promoting their  
 11 lives from conception to birth;

12 (2) Encouraging childbirth over abortion;

13 (3) Ensuring respect for all human life from conception to natural death;

14 (4) Safeguarding an unborn child who is fourteen weeks gestational age or older from  
 15 serious harm of pain by an abortion method which would cause the unborn child to experience pain  
 16 while she or he was being killed;

17 (5) Preserving the integrity of the medical profession and regulating and restricting practices  
 18 that might cause the medical profession or society as a whole to become insensitive, even disdainful,  
 19 to life. This includes regulating and restricting abortion methods that are not only brutal and  
 20 painful, but if allowed to continue, will further coarsen society to the humanity of not only unborn  
 21 children, but all vulnerable and innocent human life, making it increasingly difficult to protect such  
 22 life;

23 (6) Reducing the risks of harm to pregnant women who obtain abortions later in pregnancy;  
 24 and

25 (7) Avoiding burdens on the health care system, taxpayers, and the workforce because of  
 26 increased preterm births, low birthweight babies, compromised pregnancies, extended postpartum  
 27 recoveries, and behavioral health problems caused by the long-term effects of abortions performed  
 28 or induced later in pregnancy.

29 11. If any one or more provisions, sections, subsections, sentences, clauses, phrases, or  
 30 words of this section or the application thereof to any person, circumstance, or period of gestational  
 31 age is found to be unconstitutional or invalid by a court of competent jurisdiction, the same is  
 32 hereby declared to be severable and the balance of the section shall remain effective notwithstanding  
 33 such unconstitutionality or invalidity. The general assembly hereby declares that it would have  
 34 passed this section, and each provision, section, subsection, sentence, clause, phrase, or word  
 35 thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences,  
 36 clauses, phrases, or words of the section, or the application of the section to any person,  
 37 circumstance, or period of gestational age, would be declared unconstitutional or invalid. If the  
 38 prohibition on performing or inducing an abortion at fourteen weeks gestational age or later is  
 39 declared unconstitutional or invalid, then the prohibition on performing or inducing an abortion  
 40 shall be at eighteen weeks gestational age or later; then section 188.375 shall be in effect."; and

41  
 42 Further amend said bill, page, and section by renumbering subsequent subsections accordingly; and

43  
 44 Further amend said bill, page, and section, Lines 5, 6, 9, 12, 13, 14, and 16, by inserting in each line  
 45 after the words "fetal heartbeat" the words "or brain function"; and

46  
 47 Further amend said bill and section, Page 2, Lines 18, 22, 28, and 29, by inserting in each line, after  
 48 the words "fetal heartbeat" the words "or brain function"; and

49

1 Further amend said bill, page, and section, Line 31, by inserting after said line the following:

2  
3 "16. If any one or more provisions, sections, subsections, sentences, clauses, phrases, or  
4 words of this section or the application thereof to any person, circumstance, or period of gestational  
5 age is found to be unconstitutional or invalid by a court of competent jurisdiction, the same is  
6 hereby declared to be severable and the balance of the section shall remain effective notwithstanding  
7 such unconstitutionality or invalidity. The general assembly hereby declares that it would have  
8 passed this section, and each provision, section, subsection, sentence, clause, phrase, or word  
9 thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences,  
10 clauses, phrases, or words of the section, or the application of the section to any person,  
11 circumstance, or period of gestational age, would be declared unconstitutional or invalid. If the  
12 prohibition on performing or inducing an abortion at:

13 (1) Eight weeks gestational age or later is declared unconstitutional or invalid, then the  
14 prohibition on performing or inducing an abortion shall be at fourteen weeks gestational age or later;

15 (2) Fourteen weeks gestational age or later is declared unconstitutional or invalid, then the  
16 prohibition on performing or inducing an abortion shall be at eighteen weeks gestational age or  
17 later;

18 (3) Eighteen weeks gestational age or later is declared unconstitutional or invalid, then the  
19 prohibition on performing or inducing an abortion shall be at twenty-one weeks gestational age or  
20 later; then section 188.375 shall be in effect."; and

21  
22 Further amend said bill, page, and section by renumbering subsequent subsections accordingly; and

23  
24 Further amend said bill and page, Section 188.027, Line 1, by deleting the words "the case" and  
25 inserting in lieu thereof the word "[~~the case~~] cases"; and

26  
27 Further amend said bill, Pages 8-9, Section 188.052, Lines 1-21, by deleting all of said section and  
28 inserting in lieu thereof the following:

29  
30 "188.052. 1. An individual abortion report for each abortion performed or induced upon a  
31 woman shall be completed by [~~her attending~~] the physician who performed or induced the abortion.  
32 Abortion reports shall include, but not be limited to, the estimated gestational age of the unborn  
33 child, the method used to test for the presence of a heartbeat or brain function, the date and time of  
34 the test, and the results of the test performed prior to the abortion under section 188.020.

35 2. An individual complication report for any post-abortion care performed upon a woman  
36 shall be completed by the physician providing such post-abortion care. This report shall include:

37 (1) The date of the abortion;

38 (2) The name and address of the abortion facility or hospital where the abortion was  
39 performed or induced;

40 (3) The nature of the abortion complication diagnosed or treated.

41 3. All abortion reports shall be signed by the [~~attending~~] physician who performed or  
42 induced the abortion[;] and submitted to the [state] department [~~of health and senior services~~]  
43 within forty-five days from the date of the abortion. All complication reports shall be signed by the  
44 physician providing the post-abortion care and submitted to the department [~~of health and senior~~  
45 services] within forty-five days from the date of the post-abortion care.

46 4. A copy of the abortion report shall be made a part of the medical record of the patient of  
47 the abortion facility or hospital in which the abortion was performed or induced.

48 5. The [state] department [~~of health and senior services~~] shall be responsible for collecting  
49 all abortion reports and complication reports and collating and evaluating all data gathered

- 1 therefrom and shall annually publish a statistical report based on such data from abortions
- 2 performed or induced in the previous calendar year."; and
- 3
- 4 Further amend said bill by amending the title, enacting clause, and intersectional references
- 5 accordingly.