

SECOND REGULAR SESSION

HOUSE BILL NO. 1953

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SWAN.

5298H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 188.036, 188.047, 188.080, 197.215, and 197.230, RSMo, and to enact in lieu thereof five new sections relating to abortion.

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

Section A. Sections 188.036, 188.047, 188.080, 197.215, and 197.230, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 188.036, 188.047,
3 188.080, 197.215, and 197.230, to read as follows:

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

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

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

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

14 5. **No mother or father or any other person shall knowingly donate or make an**
15 **anatomical gift of the fetal organs or tissue resulting from an abortion to any person or**
16 **entity for medical, scientific, experimental, therapeutic, or any other use.**

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.

17 **6.** No person shall knowingly offer or receive any valuable consideration for the fetal
18 organs or tissue resulting from an abortion, provided that nothing in this subsection shall prohibit
19 payment for burial or other final disposition of the fetal remains **so long as the final disposition**
20 **does not include any donation or anatomical gift of fetal organs or tissue**, or payment for a
21 pathological examination, autopsy or postmortem examination of the fetal remains.

22 [6.] **7.** 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 the provisions
24 or applications which can be given effect without the invalid provision or application, and to this
25 end the provisions of this section are declared severable.

 188.047. [A representative sample of] **1.** All tissue removed at the time of abortion shall
2 be submitted to a board eligible or certified pathologist, who shall file a copy of the tissue report
3 with the state department of health and senior services, and who shall provide a copy of the
4 report to the abortion facility or hospital in which the abortion was performed or induced and the
5 pathologist's report shall be made a part of the patient's permanent record.

6 **2.** The tissue report shall contain a certification that all submitted tissue has been
7 disposed of in accordance with state law.

8 **3.** Beginning January 1, 2017, the department shall make an annual report to the
9 general assembly. The report shall include, but not be limited to, the following for each
10 abortion procedure reported to the department the previous calendar year:

11 **(1)** The termination procedure used with a clinical estimation of gestation;

12 **(2)** Whether the department received the tissue report for that abortion, along with
13 a certification of the disposal of the remains; and

14 **(3)** The existence and nature, if any, of any inconsistencies or concerns between the
15 abortion report submitted under section 188.052 and the tissue report submitted under
16 subsection 1 of this section.

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18 **The report shall not contain any personal patient information the disclosure of which is**
19 **prohibited by state and federal law.**

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

197.215. 1. Upon receipt of an application for a license, the department of health and senior services shall issue a license if the applicant and ambulatory surgical center facilities meet the requirements established under sections 197.200 to 197.240, and have provided affirmative evidence that:

(1) Each member of the surgical staff is a physician, dentist or podiatrist currently licensed to practice in Missouri;

(2) Surgical procedures shall be performed only by physicians, dentists or podiatrists, who at the time are privileged to perform surgical procedures in at least one licensed hospital in the community in which the ambulatory surgical center is located, thus providing assurance to the public that patients treated in the center shall receive continuity of care should the services of a hospital be required; alternatively, applicant shall submit a copy of a current working agreement with at least one licensed hospital in the community in which the ambulatory surgical center is located, guaranteeing the transfer and admittance of patients for emergency treatment whenever necessary;

(3) Continuous physician services or registered professional nursing services are provided whenever a patient is in the facility;

(4) Adequate medical records for each patient are to be maintained.

2. Upon receipt of an application for a license, or the renewal thereof, the department shall issue or renew the license if the applicant and program meet the requirements established under sections 197.200 to 197.240 **and any other applicable state or federal law and regulations. The department shall not waive the requirements of this subsection as a condition of any litigation, settlement, or any other agreement.** Each license shall be issued only for the persons and premises named in the application. A license, unless sooner suspended or revoked, shall be issued for a period of one year.

3. Each license shall be issued only for the premises and persons or governmental units named in the application, and shall not be transferable or assignable except with the written consent of the department. Licenses shall be posted in a conspicuous place on the licensed premises.

4. If, during the period in which an ambulatory surgical center license is in effect, the license holder or operator legally transfers operational responsibilities by any process to another person as defined in section 197.200, an application shall be made for the issuance of a new license to become effective on the transfer date.

197.230. 1. The department of health and senior services shall make, or cause to be made, such inspections and investigations as it deems necessary. The department may delegate its powers and duties to investigate and inspect ambulatory surgical centers to an official of a political subdivision having a population of at least four hundred fifty thousand if such political

5 subdivision is deemed qualified by the department to inspect and investigate ambulatory surgical
6 centers. The official so designated shall submit a written report of his **or her** findings to the
7 department and the department may accept the recommendations of such official if it determines
8 that the facility inspected meets minimum standards established pursuant to sections 197.200 to
9 197.240.

10 **2. In the case of any ambulatory surgical center operated for the purpose of**
11 **performing or inducing an abortion, the department shall make or cause to be made an**
12 **unannounced on-site inspection and investigation as least annually. Such on-site inspection**
13 **and investigation shall include, but not be limited to, the following areas:**

14 **(1) Compliance with all statutory and regulatory requirements for an ambulatory**
15 **surgical center;**

16 **(2) Compliance with the requirement in section 188.047 that all tissue removed at**
17 **the time of abortion be submitted to a board certified or eligible pathologist and that the**
18 **resultant tissue report be made a part of the patient's permanent record;**

19 **(3) Review of patient records to ensure that no consent forms or other**
20 **documentation authorizes any utilization of fetal organs or tissue in violation of sections**
21 **188.036 and 194.275; and**

22 **(4) Compliance with sections 188.205, 188.210, and 188.215 prohibiting the use of**
23 **public funds, facilities, and employees to perform or to assist a prohibited abortion or to**
24 **encourage or to counsel a woman to have a prohibited abortion.**

25 **3. Inspection and investigation reports shall be made available to the public. Any**
26 **portion of a report may be redacted when made publicly available if such portion would**
27 **disclose information that is not subject to disclosure under the law.**

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