

FIRST REGULAR SESSION

HOUSE BILL NO. 427

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SWAN.

1212H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 197.230, RSMo, and to enact in lieu thereof two new sections relating to reproductive health care.

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

Section A. Section 197.230, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 197.230 and 197.730, to read as follows:

197.230. The department of health and senior services shall make, or cause to be made, such inspections and investigations as it deems necessary. **In the case of any ambulatory surgical center operated for the purpose of performing or inducing any second or third trimester abortions or five or more first trimester abortions per month, the department shall make or cause to be made an on-site inspection or investigation at least annually.** 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 subdivision is deemed qualified by the department to inspect and investigate ambulatory surgical centers. The official so designated shall submit a written report of his **or her** findings to the department and the department may accept the recommendations of such official if it determines that the facility inspected meets minimum standards established pursuant to sections 197.200 to 197.240. **Inspection and investigation reports shall be made available to the public as provided under section 197.477. Any portion of a report may be redacted when made publicly available if such portion would disclose information that is not subject to disclosure under the law.**

197.730. 1. As used in this section the following terms shall mean:

(1) "Department", the department of health and senior services;

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 (2) "Federally qualified health center", a health care provider that is eligible for
4 federal funding under 42 U.S.C. 1396(1)(2)(B);

5 (3) "Hospital", a primary or tertiary care facility licensed under chapter 197;

6 (4) "Public funds", state funds from whatever source, including without limitation
7 state general revenue funds, state special account and limited purpose grants or loans, or
8 both, and federal funds provided under Title V, Title XIX and Title XX of the Social
9 Security Act;

10 (5) "Rural health clinic", a health care provider that is eligible for federal funding
11 under 42 U.S.C. Section 1395x(aa)(2).

12 2. Subject to any applicable requirements of federal statutes, rules, regulations or
13 guidelines, any expenditures or grants of public funds for family planning services by the
14 state, by and through the department, shall be made in the following order of priority:

15 (1) Health care facilities that are owned or operated by the state or any political
16 subdivision of the state;

17 (2) Nonpublic hospitals and federally qualified health centers;

18 (3) Rural health clinics; and

19 (4) Nonpublic health providers that have as their primary purpose the provision
20 of the primary health care services enumerated in 42 U.S.C. 254b(a)(1).

21 3. A cause of action in law or equity for recoupment, declaratory or injunctive relief
22 against any person who has intentionally violated this section may be maintained by a
23 prosecuting attorney with appropriate jurisdiction or by the attorney general.

24 4. Any entity eligible for the receipt of public funds has standing to bring any
25 action that the prosecuting attorney or the attorney general has authority to bring under
26 subsection 3 of this section, if an expenditure or grant of public funds made in violation of
27 this section has resulted in the reduction of public funds available to that entity. Any
28 monies that are recouped under actions taken under this section shall revert to the fund
29 from which the monies were appropriated or granted.

30 5. If judgment is rendered in favor of the plaintiff in an action described in this
31 section, the court shall also render judgment for a reasonable attorney's fee in favor of the
32 plaintiff against the defendant.

33 6. If judgment is rendered in favor of the defendant and the court finds that the
34 plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment
35 for a reasonable attorney's fee in favor of the defendant against the plaintiff.

36 7. If any provision of this section or the application thereof to anyone or to any
37 circumstance is held invalid, the remainder of this section and the application of such
38 provisions to others or other circumstances shall not be affected thereby.