

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

Offered By

1 AMEND Senate Bill No. 887, Page 1, in the title, Line 3, by deleting the phrase "directives  
2 registry"; and

3  
4 Further amend said bill, Page 1, Section A, Line 2, by inserting after all of said section and line the  
5 following:

6  
7 "188.036. 1. No physician shall perform an abortion on a woman if the physician knows  
8 that the woman conceived the unborn child for the purpose of providing fetal organs or tissue for  
9 medical transplantation to herself or another, and the physician knows that the woman intends to  
10 procure the abortion to utilize those organs or tissue for such use for herself or another.

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

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

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

20 5. No person shall knowingly donate or make an anatomical gift of the fetal organs or tissue  
21 resulting from an abortion to any person or entity for medical, scientific, experimental, therapeutic,  
22 or any other use.

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

28 [6.] 7. If any provision in this section or the application thereof to any person, circumstance  
29 or period of gestation is held invalid, such invalidity shall not affect the provisions or applications  
30 which can be given effect without the invalid provision or application, and to this end the provisions  
31 of this section are declared severable.

Standing Action Taken \_\_\_\_\_ Date \_\_\_\_\_

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1           8. Any person who violates the provisions of subsection 3, 4, 5, or 6 of this section shall be  
2 guilty of a class C felony, and the court may impose a fine in an amount not less than twice the  
3 amount of any valuable consideration received.

4           9. Nothing in this section shall prohibit the utilization of fetal organs or tissue resulting  
5 from an abortion for medical or scientific purposes to determine the cause or causes of any anomaly,  
6 illness, death, or genetic condition of the fetus, the paternity of the fetus, or for law enforcement  
7 purposes.

8           188.047. [A representative sample of] 1. All tissue and remains of a human fetus, as  
9 defined in section 194.375, removed at the time of abortion shall be ensured as nonhazardous in  
10 compliance with department of natural resources regulations and submitted to a board eligible or  
11 certified pathologist, who shall file a copy of the tissue report with the state department of health  
12 and senior services, and who shall provide a copy of the report to the abortion facility or hospital in  
13 which the abortion was performed or induced and the pathologist's report shall be made a part of the  
14 patient's permanent record.

15           2. The tissue report shall include:

16           (1) The pathologist's estimation, to a reasonable degree of scientific certainty, of the  
17 gestational age of the fetal remains;

18           (2) Whether all tissue and remains of a human fetus were received that would be common  
19 for a specimen of such estimated gestational age;

20           (3) If the pathologist finds that all tissue and remains of a human fetus were not received,  
21 what portion of the tissue and remains of a human fetus were not received;

22           (4) A gross diagnosis and detailed gross findings of what was received including the percent  
23 blood clot and the percent tissue;

24           (5) The date the tissue and remains of a human fetus were remitted to be disposed and the  
25 location of such disposal;

26           (6) A certification that all submitted tissue and remains of a human fetus have been disposed  
27 in accordance with state laws and regulations; and

28           (7) The name of the entity and physical address of the entity conducting the examination of  
29 the specimen containing the remains of a human fetus.

30           3. Each specimen containing remains of a human fetus shall be given a unique identification  
31 number to allow the specimen to be tracked from the abortion facility or hospital where the abortion  
32 was performed or induced to the pathology lab and to its final disposition location. The unique  
33 identification number shall be conspicuously adhered to the exterior of the specimen container.

34           4. A report shall be created and submitted to the department for each specimen containing  
35 remains of a human fetus at each facility that handles the specimen, including the abortion facility  
36 or hospital where the abortion was performed or induced, the pathology lab, and the location of  
37 final disposition. Each report shall document, if applicable, the date the specimen containing  
38 remains of a human fetus was collected, transported, received, and disposed. The report by the  
39 location of final disposition shall verify that all fetal tissue was received and has been properly  
40 disposed according to state laws and regulations.

41           5. The department shall pair each notice of abortion with its corresponding pathology

1 report. If the department does not receive the notice of abortion and the pathology report, the  
2 department shall conduct an investigation. If the department finds that the abortion facility or  
3 hospital where the abortion was performed or induced was not in compliance with the provisions of  
4 this section, the department shall consider such noncompliance a deficiency requiring an  
5 unscheduled inspection of the facility to ensure the deficiency is remedied.

6 6. Beginning January 1, 2017, the department shall make an annual report to the general  
7 assembly. The report shall include, but not be limited to, all reports and information received by the  
8 department under the provisions of this section, the number of any deficiencies of each abortion  
9 facility in the calendar year and whether such deficiencies were remedied, and the following for  
10 each 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 a  
13 certification of the disposal of the remains; and

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

17  
18 The report shall not contain any personal patient information the disclosure of which is prohibited  
19 by state or federal law.

20 188.052. 1. An individual abortion report for each abortion performed or induced upon a  
21 woman shall be completed by her attending physician. The report shall include:

22 (1) The attending physician's estimation, to a reasonable degree of scientific certainty, of  
23 the gestational age of the fetal remains;

24 (2) Whether all tissue and remains of a human fetus, as defined in section 194.375, were  
25 removed that would be common for a specimen of such estimated gestational age; and

26 (3) If the attending physician finds that all tissue and remains of a human fetus were not  
27 removed, what portion of the tissue and remains of a human fetus were not removed.

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

30 (1) The date of the abortion;

31 (2) The name and address of the abortion facility or hospital where the abortion was  
32 performed;

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

34 3. All abortion reports shall be signed by the attending physician, and submitted to the state  
35 department of health and senior services within forty-five days from the date of the abortion. All  
36 complication reports shall be signed by the physician providing the post-abortion care and submitted  
37 to the department of health and senior services within forty-five days from the date of the post-  
38 abortion care.

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

41 5. The state department of health and senior services shall be responsible for collecting all

1 abortion reports and complication reports and collating and evaluating all data gathered therefrom  
2 and shall annually publish a statistical report based on such data from abortions performed in the  
3 previous calendar year.

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

10 188.160. 1. Each hospital, ambulatory surgical center, pathology lab, medical research  
11 entity, and disposal facility involved in handling fetal remains from an elective abortion shall  
12 establish and implement a written policy adopted by each hospital, ambulatory surgical center,  
13 pathology lab, medical research entity, and disposal facility relating to the protections for employees  
14 who disclose information under subsection 2 of this section. This policy shall include a time frame  
15 for completion of investigations related to complaints, not to exceed thirty days, and a method for  
16 notifying the complainant of the disposition of the investigation. This policy shall be submitted to  
17 the department to verify implementation. At a minimum, such policy shall include the following  
18 provisions:

19 (1) No supervisor or individual with authority to hire or fire in a hospital, ambulatory  
20 surgical center, pathology lab, medical research entity, or disposal facility shall prohibit employees  
21 from disclosing information under subsection 2 of this section;

22 (2) No supervisor or individual with authority to hire or fire in a hospital, ambulatory  
23 surgical center, pathology lab, medical research entity, or disposal facility shall use or threaten to  
24 use his or her supervisory authority to knowingly discriminate against, dismiss, penalize, or in any  
25 way retaliate against or harass an employee because the employee in good faith reported or  
26 disclosed any information under subsection 2 of this section, or in any way attempt to dissuade,  
27 prevent, or interfere with an employee who wishes to report or disclose such information; and

28 (3) Establish a program to identify a compliance officer who is a designated person  
29 responsible for administering the reporting and investigation process and an alternate person should  
30 the primary designee be implicated in the report.

31 2. The provisions of this section shall apply to information disclosed or reported in good  
32 faith by an employee concerning:

33 (1) Alleged facility mismanagement or fraudulent activity; or

34 (2) Alleged violations of applicable federal or state laws or administrative rules concerning  
35 abortions or the handling of fetal remains.

36  
37 All information disclosed, collected, and maintained under this subsection and under the written  
38 policy requirements of this section shall be accessible to the department at all times and shall be  
39 reviewed by the department at least annually. Complainants shall be notified of the department's  
40 access to such information and of the complainant's right to notify the department of any  
41 information concerning alleged violations of applicable federal or state laws or administrative rules

1 concerning abortions or the handling of fetal remains.

2 3. Prior to any disclosure to individuals or agencies other than the department, employees  
3 wishing to make a disclosure under the provisions of this section shall first report to the individual  
4 or individuals designated by the hospital, ambulatory surgical center, pathology lab, medical  
5 research entity, or disposal facility under subsection 1 of this section.

6 4. If the compliance officer, compliance committee, or management official discovers  
7 credible evidence of misconduct from any source and, after a reasonable inquiry, has reason to  
8 believe that the misconduct may violate criminal, civil, or administrative law, the hospital,  
9 ambulatory surgical center, pathology lab, medical research entity, or disposal facility shall report  
10 the existence of misconduct to the appropriate governmental authority within a reasonable period,  
11 but not more than seven days after determining that there is credible evidence of a violation.

12 5. Reports made to the department shall be subject to the provisions of section 197.477;  
13 provided that, the restrictions of section 197.477 shall not be construed to limit the employee's  
14 ability to subpoena from the original source the information reported to the department under this  
15 section.

16 6. Each written policy shall allow employees making a report who wish to remain  
17 anonymous to do so, and shall include safeguards to protect the confidentiality of the employee  
18 making the report, the confidentiality of patients, and the integrity of data, information, and medical  
19 records.

20 7. Each hospital, ambulatory surgical center, pathology lab, medical research entity, and  
21 disposal facility shall, within forty-eight hours of the receipt of a report, notify the employee that his  
22 or her report has been received and is being reviewed, unless the employee wishes to remain  
23 anonymous.

24 8. Beginning December 1, 2016, each hospital, ambulatory surgical center, pathology lab,  
25 medical research entity, and disposal facility involved in handling fetal remains from an elective  
26 abortion shall post a notice at their place of employment, in a sufficient number of places on the  
27 premises to assure that such notice will reasonably be seen by all employees. A hospital, ambulatory  
28 surgical center, pathology lab, medical research entity, or disposal facility involved in handling fetal  
29 remains from an elective abortion for whom services are performed by individuals who may not  
30 reasonably be expected to see a posted notice shall notify each such employee in writing of the  
31 contents of such notice. The notice shall include all information provided in this section.

32 194.375. 1. Sections 194.375 to 194.390 shall be known and may be cited as the  
33 "Disposition of Fetal Remains Act".

34 2. As used in sections 194.375 to 194.390, the following terms mean:

35 (1) "Final disposition", the burial, cremation, or other disposition of the remains of a human  
36 fetus following a spontaneous fetal demise occurring after a gestation period of less than twenty  
37 completed weeks;

38 (2) "Remains of a human fetus", the [fetal] remains [or fetal products of conception of a  
39 mother after a miscarriage, regardless of the gestational age or whether the remains have been  
40 obtained by spontaneous or accidental means] of the dead offspring of a human being that has  
41 reached a stage of development so that there are cartilaginous structures or fetal or skeletal parts

1 after an abortion or miscarriage, whether the remains have been obtained by induced, spontaneous,  
2 or accidental means."; and

3  
4 Further amend said bill, Page 3, Section 194.600, Line 60, by inserting after all of said section and  
5 line the following:

6  
7 "197.230. 1. The department of health and senior services shall make, or cause to be made,  
8 such inspections and investigations as it deems necessary. The department may delegate its powers  
9 and duties to investigate and inspect ambulatory surgical centers to an official of a political  
10 subdivision having a population of at least four hundred fifty thousand if such political subdivision  
11 is deemed qualified by the department to inspect and investigate ambulatory surgical centers. The  
12 official so designated shall submit a written report of his or her findings to the department and the  
13 department may accept the recommendations of such official if it determines that the facility  
14 inspected meets minimum standards established pursuant to sections 197.200 to 197.240.

15 2. In the case of any ambulatory surgical center operated for the purpose of performing or  
16 inducing an abortion, the department shall make or cause to be made an unannounced on-site  
17 inspection and investigation at least annually. Such on-site inspection and investigation shall  
18 include, but not be limited to, the following areas:

19 (1) Compliance with all statutory and regulatory requirements for an ambulatory surgical  
20 center, including requirements that the facility maintain adequate staffing and equipment to respond  
21 to medical emergencies;

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

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

27 (4) Compliance with sections 188.205, 188.210, and 188.215 prohibiting the use of public  
28 funds, facilities, and employees to perform or to assist a prohibited abortion or to encourage or to  
29 counsel a woman to have a prohibited abortion;

30 (5) Compliance with sections 188.080 and 197.215 requiring any physician performing or  
31 inducing abortions to have the hospital surgical and admitting privileges prescribed therein; and

32 (6) Compliance with the requirement in section 197.215 that continuous physician services  
33 or registered professional nursing services be provided whenever a patient is in the facility.

34 3. Inspection and investigation reports shall be made available to the public. Any portion of  
35 a report may be redacted when made publicly available if such portion would disclose information  
36 that is not subject to disclosure under the law."; and

37  
38 Further amend said bill by amending the title, enacting clause, and intersectional references  
39 accordingly.