

# HOUSE BILL NO. 1906

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE NEWMAN.

4116H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 191, RSMo, by adding thereto one new section relating to the disclosure of health services, with penalty provisions.

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

Section A. Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.762, to read as follows:

**191.762. 1. As used in this section, the following terms shall mean:**

**(1) "Certified nurse midwife", a registered nurse who is currently certified as a nurse midwife by the American College of Nurse-Midwives, or other nationally recognized certifying body approved by the board of nursing;**

**(2) "Certified nurse practitioner", a registered nurse who is currently certified as a nurse practitioner by a nationally recognized certifying body approved by the board of nursing;**

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

**(4) "Health information", any oral or written information in any form or medium that relates to:**

**(a) The past, present, or future physical or mental health or condition of an individual;**

**(b) The provision of health care to an individual; or**

**(c) The past, present, or future payment for the provision of health care to an individual;**

**(5) "Medical services", includes, but is not limited to, prenatal sonography, pregnancy tests, and pregnancy options counseling;**

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.

18           **(6) "Physician", a physician licensed under chapter 334;**

19           **(7) "Physician assistant", a physician assistant licensed under sections 334.735 to**  
20 **334.749;**

21           **(8) "Registered nurse", a person licensed under the provisions of chapter 335 to**  
22 **engage in the practice of professional nursing.**

23           **2. (1) The provisions of this section shall apply to an entity if the primary purpose**  
24 **of the entity is to provide pregnancy-related services and the entity advertises or solicits**  
25 **patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options**  
26 **counseling.**

27           **(2) The provisions of this section do not apply to an entity if, at all of the entity's**  
28 **sites that are open to the public, the entity:**

29           **(a) Employs one or more of the following practitioners:**

30           **a. Physician;**

31           **b. Nurse practitioner;**

32           **c. Physician assistant;**

33           **d. Registered nurse; or**

34           **e. Nurse midwife; and**

35           **(b) Has one or more of the practitioners listed in paragraph (a) of this subdivision**  
36 **onsite whenever medical services or treatment is provided.**

37           **(3) An entity shall provide written notice of whether the entity provides each of the**  
38 **following:**

39           **(a) Contraceptive drugs or devices that are approved by the Food and Drug**  
40 **Administration;**

41           **(b) An onsite consultation with a practitioner listed in paragraph (a) of subdivision**  
42 **(2) of this subsection;**

43           **(c) Adoption services or referral for adoption services; and**

44           **(d) Abortion services or referral for abortion services.**

45           **(4) The notice required under subdivision (3) of this subsection shall be:**

46           **(a) Conspicuously placed:**

47           **a. At all entrances to the premises at which the entity provides the services**  
48 **described in subdivision (1) of this subsection;**

49           **b. In all areas where individuals wait to receive the services described in**  
50 **subdivision (1) of this subsection;**

51           **c. On any website maintained by the entity that refers to the services described in**  
52 **subdivision (1) of this subsection; and**

53 **d. In all advertisements promoting the services described in subdivision (1) of this**  
54 **subsection or promoting the entity providing the services; and**

55 **(b) Written and provided in a manner that a reasonable person is likely to read and**  
56 **understand before accepting the services described in subdivision (1) of this subsection.**

57 **(5) An entity that collects health information from a patron of the entity shall not**  
58 **disclose the patron's health information to any other person without the written**  
59 **authorization of the patron.**

60 **(6) Upon receipt of a written request from a patron of the entity to examine or**  
61 **obtain a copy of any health information of the patron, an entity described in subdivision**  
62 **(1) of this subsection shall:**

63 **(a) a. Make the health information of the patron that is in the entity's possession**  
64 **or control available for examination by the patron during regular business hours; and**

65 **b. Notwithstanding any other provision of law to the contrary, provide at no charge**  
66 **to the patron one copy of any health information of the patron that is in the entity's**  
67 **possession or control to the patron, if requested; or**

68 **(b) Inform the patron that the entity does not have any health information of the**  
69 **patron in the entity's possession or control.**

70 **3. (1) The department shall serve any person who violates the provisions of this**  
71 **section with a written notice informing the person of the violation and stating that the**  
72 **person may avoid an administrative penalty by curing the violation within five days of the**  
73 **service of the notice.**

74 **(2) If the person fails to cure the violation within five days of the date of service of**  
75 **the notice, the department shall impose an administrative penalty of at least two hundred**  
76 **fifty dollars but not more than one thousand dollars.**

77 **(3) If the violation continues for more than seven days after the expiration of the**  
78 **five-day period, the department may impose an additional administrative penalty of up to**  
79 **five thousand dollars for the continued violation.**

80 **(4) If the violation continues for more than fourteen days after the expiration of the**  
81 **five-day period, the department may impose an additional administrative penalty of up to**  
82 **ten thousand dollars for each week thereafter in which the violation continues.**

83 **(5) A person is entitled, upon request submitted within a time prescribed by the**  
84 **department by rule, to a contested case hearing to dispute any administrative penalty**  
85 **imposed under this section. Any administrative decision shall be subject to judicial review**  
86 **in accordance with chapter 536.**

87 **(6) All administrative penalties recovered under this section shall be deposited in**  
88 **the state general revenue fund and shall be available for general governmental expenses.**

89           **(7) Nothing in this section shall be construed to prohibit the department from**  
90 **maintaining an action in the name of the state for injunction or other process against any**  
91 **person to restrain or prevent a violation of a requirement or prohibition under this section.**

92           **4. The department shall promulgate rules to implement the provisions of this**  
93 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
94 **created under the authority delegated in this section shall become effective only if it**  
95 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
96 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
97 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
98 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
99 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,**  
100 **shall be invalid and void.**

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