

SECOND REGULAR SESSION

# HOUSE BILL NO. 2285

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MOON.

4599H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 1.205, 188.010, 188.015, 188.017, 188.018, 188.020, 188.021, 188.023, 188.025, 188.026, 188.027, 188.028, 188.030, 188.031, 188.033, 188.035, 188.036, 188.038, 188.039, 188.043, 188.044, 188.047, 188.052, 188.055, 188.056, 188.057, 188.058, 188.060, 188.065, 188.070, 188.075, 188.080, 188.100, 188.105, 188.110, 188.115, 188.120, 188.125, 188.160, 188.200, 188.205, 188.210, 188.215, 188.220, 188.230, 188.250, 188.325, 188.335, 188.375, 191.211, 191.320, 191.831, 191.975, 192.665, 192.667, 194.390, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295, 208.655, 334.100, 334.245, 376.805, 541.080, 556.061, 562.031, 562.071, 563.026, 565.300, 574.200, 595.027, and 595.120, RSMo, and to enact in lieu thereof forty-one new sections relating to the protection of unborn children, with penalty provisions and an emergency clause.

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

Section A. Sections 1.205, 188.010, 188.015, 188.017, 188.018, 188.020, 188.021,  
2 188.023, 188.025, 188.026, 188.027, 188.028, 188.030, 188.031, 188.033, 188.035, 188.036,  
3 188.038, 188.039, 188.043, 188.044, 188.047, 188.052, 188.055, 188.056, 188.057, 188.058,  
4 188.060, 188.065, 188.070, 188.075, 188.080, 188.100, 188.105, 188.110, 188.115, 188.120,  
5 188.125, 188.160, 188.200, 188.205, 188.210, 188.215, 188.220, 188.230, 188.250, 188.325,  
6 188.335, 188.375, 191.211, 191.320, 191.831, 191.975, 192.665, 192.667, 194.390, 197.150,  
7 197.152, 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220, 197.225,  
8 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295, 208.655, 334.100,  
9 334.245, 376.805, 541.080, 556.061, 562.031, 562.071, 563.026, 565.300, 574.200, 595.027, and

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.

10 595.120, RSMo, are repealed and forty-one new sections enacted in lieu thereof, to be known  
 11 as sections 1.205, 188.010, 188.015, 188.020, 188.023, 188.075, 188.125, 191.211, 191.320,  
 12 191.831, 191.975, 192.665, 192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165,  
 13 197.200, 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287,  
 14 197.289, 197.293, 197.295, 334.100, 541.080, 556.061, 562.031, 562.071, 563.026, 565.015,  
 15 595.027, and 595.120, to read as follows:

1.205. 1. The general assembly of this state finds that:

- 2 (1) The life of each human being begins at conception;
- 3 (2) Unborn children have protectable interests in life, health, and well-being;
- 4 (3) The natural parents of unborn children have protectable interests in the life, health,  
 5 and well-being of their unborn child.

6 2. ~~[Effective January 1, 1988,]~~ The laws of this state shall be interpreted and construed  
 7 to acknowledge on behalf of the unborn child at every stage of development, all the rights,  
 8 privileges, and immunities available to other persons, citizens, and residents of this state~~[-subject~~  
 9 ~~only to]~~ **in accordance with** the Constitution of the United States~~[-and decisional interpretations~~  
 10 ~~thereof by the United States Supreme Court and specific provisions to the contrary in the statutes~~  
 11 ~~and constitution of this state].~~

12 3. As used in this section, the term "unborn children" or "unborn child" shall include all  
 13 unborn child or children or the offspring of human beings from the moment of conception, **as**  
 14 **defined in section 188.015**, until birth, at every stage of biological development.

15 4. Nothing in this section shall be interpreted as creating a cause of action against a  
 16 woman for indirectly harming her unborn child by failing to properly care for herself or by failing  
 17 to follow any particular program of prenatal care.

188.010. In recognition that Almighty God is the author of life, that all men and women  
 2 are "endowed by their Creator with certain unalienable Rights, that among these are Life", and  
 3 that Article I, Section 2 of the Constitution of Missouri provides that all persons have a natural  
 4 right to life, it is the intention of the general assembly of the state of Missouri to:

- 5 (1) Defend the right to life of all humans, born and unborn;
- 6 (2) Declare that the state and all of its political subdivisions are a "sanctuary of life" that  
 7 protects pregnant women and their unborn children; and
- 8 (3) ~~[Regulate]~~ **Abolish** abortion ~~[to the full extent permitted by the Constitution of the~~  
 9 ~~United States, decisions of the United States Supreme Court, and federal statutes]~~ **in this state.**

188.015. As used in this chapter, the following terms mean:

- 2 (1) "Abortion":

3 (a) The act of using or prescribing any instrument, device, medicine, drug, or any other  
4 means or substance with the intent to destroy the life of an embryo or fetus in his or her mother's  
5 womb; or

6 (b) The intentional termination of the pregnancy of a mother by using or prescribing any  
7 instrument, device, medicine, drug, or other means or substance with an intention other than to  
8 increase the probability of a live birth or to remove a dead unborn child;

9 (2) [~~"Abortion facility", a clinic, physician's office, or any other place or facility in which~~  
10 ~~abortions are performed or induced other than a hospital;~~

11 ~~——(3) "Conception", the fertilization of the ovum of a female by a sperm of a male;~~

12 [~~(4) "Department", the department of health and senior services;~~

13 ~~——(5) "Down Syndrome", the same meaning as defined in section 191.923;~~

14 ~~——(6) "Gestational age", length of pregnancy as measured from the first day of the woman's~~  
15 ~~last menstrual period;~~

16 ~~——(7) (3) "Medical emergency", a condition which, based on reasonable medical judgment,~~  
17 ~~so complicates the medical condition of a pregnant woman as to necessitate the immediate~~  
18 ~~abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will~~  
19 ~~create a serious risk of substantial and irreversible physical impairment of a major bodily~~  
20 ~~function of the pregnant woman;~~

21 [~~(8) "Physician", any person licensed to practice medicine in this state by the state board~~  
22 ~~of registration for the healing arts;~~

23 ~~——(9) "Reasonable medical judgment", a medical judgment that would be made by a~~  
24 ~~reasonably prudent physician, knowledgeable about the case and the treatment possibilities with~~  
25 ~~respect to the medical conditions involved;~~

26 ~~——(10) (4) "Unborn child", the offspring of human beings from the moment of conception~~  
27 ~~until birth and at every stage of its biological development, including the human conceptus,~~  
28 ~~zygote, morula, blastocyst, embryo, and fetus];~~

29 ~~——(11) "Viability" or "viable", that stage of fetal development when the life of the unborn~~  
30 ~~child may be continued indefinitely outside the womb by natural or artificial life-supportive~~  
31 ~~systems;~~

32 ~~——(12) "Viable pregnancy" or "viable intrauterine pregnancy", in the first trimester of~~  
33 ~~pregnancy, an intrauterine pregnancy that can potentially result in a liveborn baby].~~

188.020. No person shall perform or induce an abortion [except a physician].

188.023. Any licensed health care professional who delivers a baby [or performs an  
2 abortion,] who has prima facie evidence that a patient has been the victim of statutory rape in the  
3 first degree or statutory rape in the second degree, or if the patient is under the age of eighteen,  
4 that he or she has been a victim of sexual abuse, including rape in the first or second degree, or

5 incest, shall be required to report such offenses in the same manner as provided for by section  
6 210.115.

188.075. ~~[1. Any person who contrary to the provisions of sections 188.010 to 188.085  
2 knowingly performs, induces, or aids in the performance or inducing of any abortion or  
3 knowingly fails to perform any action required by sections 188.010 to 188.085 shall be guilty of  
4 a class A misdemeanor, unless a different penalty is provided for in state law, and, upon  
5 conviction, shall be punished as provided by law.~~

6 ~~———2. It shall be an affirmative defense for any person alleged to have violated any provision  
7 of this chapter that the person performed an action or did not perform an action because of a  
8 medical emergency. This affirmative defense shall be available in criminal, civil, and  
9 administrative actions or proceedings. The defendant shall have the burden of persuasion that  
10 the defense is more probably true than not.~~

11 ~~———3.]~~ The attorney general shall have concurrent original jurisdiction throughout the state,  
12 along with each prosecuting attorney and circuit attorney within their respective jurisdictions,  
13 to commence actions for a violation of any provision of this chapter, for a violation of any state  
14 law on the use of public funds for an abortion, or for a violation of any state law which regulates  
15 an abortion facility or a person who performs or induces an abortion. The attorney general, or  
16 prosecuting attorney or circuit attorney within their respective jurisdictions, may seek injunctive  
17 or other relief against any person who, or entity which, is in violation of any provision of this  
18 chapter, misuses public funds for an abortion, or violates any state law which regulates an  
19 abortion facility or a person who performs or induces an abortion.

188.125. 1. It is the intent of the general assembly to acknowledge the right of an  
2 alternatives to abortion agency to operate freely and engage in speech without governmental  
3 interference as protected by the Constitution of the United States and the Constitution and laws  
4 of Missouri, the right of a person not to be compelled by the government to participate in  
5 abortion contrary to his, her, or its religious beliefs or moral convictions, and that the  
6 Constitution of the United States and the Constitution and laws of Missouri shall be interpreted,  
7 construed, applied, and enforced to fully protect such rights.

8 2. A political subdivision of this state is preempted from enacting, adopting, maintaining,  
9 or enforcing any order, ordinance, rule, regulation, policy, or other similar measure that prohibits,  
10 restricts, limits, controls, directs, interferes with, or otherwise adversely affects an alternatives  
11 to abortion agency or its officers', agents', employees', or volunteers' operations or speech  
12 including, but not limited to, counseling, referrals, or education of, advertising or information  
13 to, or other communications with, clients, patients, other persons, or the public.

14 3. Nothing in subsection 2 of this section shall preclude or preempt a political  
15 subdivision of this state from exercising its lawful authority to regulate zoning or land use or to

16 enforce a building or fire code regulation; provided that, such political subdivision treats an  
17 alternatives to abortion agency in the same manner as a similarly situated agency and that such  
18 authority is not used to circumvent the intent of subsection 2 of this section.

19 ~~4. [A political subdivision of this state is preempted from enacting, adopting,~~  
20 ~~maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure~~  
21 ~~that has the purpose or effect of requiring a person to directly or indirectly participate in abortion~~  
22 ~~if such participation is contrary to the religious beliefs or moral convictions of such person.~~

23 ~~5. A political subdivision of this state is preempted from enacting, adopting, maintaining,~~  
24 ~~or enforcing any order, ordinance, rule, regulation, policy, or other similar measure requiring a~~  
25 ~~real estate broker, real estate salesperson, real estate broker-salesperson, appraisal firm,~~  
26 ~~appraiser, as such terms are defined in chapter 339, a property owner, or any other person to buy,~~  
27 ~~sell, exchange, purchase, rent, lease, advertise for, or otherwise conduct real estate transactions~~  
28 ~~for, to, or with an abortion facility or for, to, or with a person for the purpose of performing or~~  
29 ~~inducing an abortion not necessary to save the life of the mother, if such requirement is contrary~~  
30 ~~to the religious beliefs or moral convictions of such real estate broker, real estate salesperson,~~  
31 ~~real estate broker-salesperson, appraisal firm, appraiser, property owner, or other person.~~

32 ~~6. A political subdivision of this state is preempted from enacting, adopting, maintaining,~~  
33 ~~or enforcing any order, ordinance, rule, regulation, policy, or other similar measure requiring an~~  
34 ~~employer, employee, health plan provider, health plan sponsor, health care provider, or any other~~  
35 ~~person to provide coverage for or to participate in a health plan that includes benefits that are not~~  
36 ~~otherwise required by state law.~~

37 ~~7. In any action to enforce the provisions of this section, a court of competent jurisdiction~~  
38 ~~may order injunctive or other equitable relief, recovery of damages or other legal remedies, or~~  
39 ~~both, as well as payment of reasonable attorney's fees, costs, and expenses. The relief and~~  
40 ~~remedies set forth shall not be deemed exclusive and shall be in addition to any other relief or~~  
41 ~~remedies permitted by law.~~

42 ~~8.] In addition to a private cause of action by a person whose rights are violated contrary~~  
43 ~~to the provisions of this section, the attorney general is also authorized to bring a cause of action~~  
44 ~~to defend the rights guaranteed under this section.~~

45 ~~[9:] 5. Nothing in this section shall be construed to prohibit a political subdivision from~~  
46 ~~enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or~~  
47 ~~other similar measure to assist pregnant women to carry their unborn children to term or to assist~~  
48 ~~women in caring for their dependent children or placing their children for adoption including,~~  
49 ~~but not limited to, by funding or otherwise assisting an alternatives to abortion agency to provide~~  
50 ~~services to such women and children.~~

51 ~~[10:] 6. As used in this section, the following terms mean:~~

- 52 (1) "Alternatives to abortion agency":  
 53 (a) A maternity home as defined in section 135.600;  
 54 (b) A pregnancy resource center as defined in section 135.630; or  
 55 (c) An agency or entity that has the primary purpose of providing services or counseling  
 56 to pregnant women to assist such women in carrying their unborn children to term instead of  
 57 having abortions and to assist such women in caring for their dependent children or placing their  
 58 children for adoption, as described in section 188.325, regardless of whether such agency or  
 59 entity is receiving funding or reimbursement from the state for such purposes];  
 60 ~~————(2) "Participate in abortion":~~  
 61 ~~————(a) To undergo an abortion; or~~  
 62 ~~————(b) To perform or induce, assist in, refer or counsel for, advocate for, promote, procure,~~  
 63 ~~reimburse for, or provide health plan coverage for an abortion not necessary to save the life of~~  
 64 ~~the mother].~~

191.211. State expenditures for new programs and initiatives enacted by sections  
 2 103.178, 143.999, ~~[188.230,]~~ 191.231, 191.825 to 191.839, 208.177, 208.178, 208.179 and  
 3 208.181, 211.490, 285.240, 337.093, 374.126, 376.891 to 376.894, 431.064, 660.016, 660.017  
 4 and 660.018, and the state expenditures for the new initiatives and expansion of programs  
 5 enacted by revising sections 105.711 and 105.721, 191.520, 191.600, 198.090, 208.151, 208.152  
 6 and 208.215, as provided by H.B. 564, 1993, shall be funded exclusively by federal funds and  
 7 the funding sources established in sections 149.011, 149.015, 149.035, 149.061, 149.065,  
 8 149.160, 149.170, 149.180, 149.190 and 149.192, and no future general revenue shall be  
 9 appropriated to fund such new programs or expansions.

191.320. The department may contract with tertiary genetic centers to provide genetic  
 2 diagnostic and counseling services, to initiate and conduct investigations of the causes, mortality,  
 3 methods of treatment, prevention and cure of genetic disorders and related birth defects, and to  
 4 develop and administer programs and activities which aid in the prevention or treatment of a  
 5 particular genetic disorder. It may establish outreach clinics to be located throughout the state.  
 6 The department may divide the state into regions for this purpose. The boundaries of such  
 7 regions, to the extent practicable, shall be contiguous with relevant boundaries of political  
 8 subdivisions and health service areas. These centers and clinics may provide genetic diagnostic  
 9 evaluations, treatment, counseling and follow-up for families with or at high risk for a genetic  
 10 disease, such as sickle cell anemia, cystic fibrosis, inherited cardiovascular disease, inherited  
 11 forms of mental retardations, or hemophilia, provided that such evaluations, treatment, and  
 12 counseling shall not include referral for abortions ~~[unless such abortions are certified in writing~~  
 13 ~~by a physician that, in his professional judgment, the life of the mother would be endangered if~~  
 14 ~~the fetus were carried to term].~~

191.831. 1. There is hereby established in the state treasury a "Health Initiatives Fund",  
2 to which shall be deposited all revenues designated for the fund under subsection 8 of section  
3 149.015, and subsection 3 of section 149.160, and section 167.609, and all other funds donated  
4 to the fund or otherwise deposited pursuant to law. The state treasurer shall administer the fund.  
5 Money in the fund shall be appropriated to provide funding for implementing the new programs  
6 and initiatives established by sections 105.711 and 105.721. The moneys in the fund may further  
7 be used to fund those programs established by sections 191.411, 191.520 and 191.600, sections  
8 208.151 and 208.152, and sections 103.178, 143.999, 167.600 to 167.621, ~~188.230,~~ 191.211,  
9 191.231, 191.825 to 191.839, 192.013, 208.177, 208.178, 208.179 and 208.181, 211.490,  
10 285.240, 337.093, 374.126, 376.891 to 376.894, 431.064, 660.016, 660.017 and 660.018; in  
11 addition, not less than fifteen percent of the proceeds deposited to the health initiative fund  
12 pursuant to sections 149.015 and 149.160 shall be appropriated annually to provide funding for  
13 the C-STAR substance abuse rehabilitation program of the department of mental health, or its  
14 successor program, and a C-STAR pilot project developed by the director of the division of  
15 alcohol and drug abuse and the director of the department of corrections as an alternative to  
16 incarceration, as provided in subsections 2, 3, and 4 of this section. Such pilot project shall be  
17 known as the "Alt-care" program. In addition, some of the proceeds deposited to the health  
18 initiatives fund pursuant to sections 149.015 and 149.160 shall be appropriated annually to the  
19 division of alcohol and drug abuse of the department of mental health to be used for the  
20 administration and oversight of the substance abuse traffic offenders program defined in section  
21 302.010 and section 577.001. The provisions of section 33.080 to the contrary notwithstanding,  
22 money in the health initiatives fund shall not be transferred at the close of the biennium to the  
23 general revenue fund.

24 2. The director of the division of alcohol and drug abuse and the director of the  
25 department of corrections shall develop and administer a pilot project to provide a  
26 comprehensive substance abuse treatment and rehabilitation program as an alternative to  
27 incarceration, hereinafter referred to as "Alt-care". Alt-care shall be funded using money  
28 provided under subsection 1 of this section through the Missouri Medicaid program, the C-STAR  
29 program of the department of mental health, and the division of alcohol and drug abuse's  
30 purchase-of-service system. Alt-care shall offer a flexible combination of clinical services and  
31 living arrangements individually adapted to each client and her children. Alt-care shall consist  
32 of the following components:

- 33 (1) Assessment and treatment planning;
- 34 (2) Community support to provide continuity, monitoring of progress and access to  
35 services and resources;
- 36 (3) Counseling from individual to family therapy;

37 (4) Day treatment services which include accessibility seven days per week,  
38 transportation to and from the Alt-care program, weekly drug testing, leisure activities, weekly  
39 events for families and companions, job and education preparedness training, peer support and  
40 self-help and daily living skills; and

41 (5) Living arrangement options which are permanent, substance-free and conducive to  
42 treatment and recovery.

43 3. Any female who is pregnant or is the custodial parent of a child or children under the  
44 age of twelve years, and who has pleaded guilty to or found guilty of violating the provisions of  
45 chapter 195, and whose controlled substance abuse was a precipitating or contributing factor in  
46 the commission of the offense, and who is placed on probation may be required, as a condition  
47 of probation, to participate in Alt-care, if space is available in the pilot project area.  
48 Determinations of eligibility for the program, placement, and continued participation shall be  
49 made by the division of alcohol and drug abuse, in consultation with the department of  
50 corrections.

51 4. The availability of space in Alt-care shall be determined by the director of the division  
52 of alcohol and drug abuse in conjunction with the director of the department of corrections. If  
53 the sentencing court is advised that there is no space available, the court shall consider other  
54 authorized dispositions.

191.975. 1. This section shall be known and may be cited as the "Adoption Awareness  
2 Law".

3 2. To raise public awareness and to educate the public, the department of social services,  
4 with the assistance of the department of health and senior services, shall be responsible for:

5 (1) Collecting and distributing resource materials to educate the public about foster care  
6 and adoption;

7 (2) Developing and distributing educational materials, including but not limited to  
8 videos, brochures and other media as part of a comprehensive public relations campaign about  
9 the positive option of adoption and foster care. The materials shall include, but not be limited  
10 to, information about:

11 (a) The benefits of adoption and foster care;

12 (b) Adoption and foster care procedures;

13 (c) Means of financing the cost of adoption and foster care, including but not limited to  
14 adoption subsidies, foster care payments and special needs adoption tax credits;

15 (d) Options for birth parents in choosing adoptive parents;

16 (e) Protection for and rights of birth parents and adoptive parents prior to and following  
17 the adoption;

18 (f) Location of adoption and foster care agencies;



19 (g) Information regarding various state health and social service programs for pregnant  
20 women and children, including but not limited to medical assistance programs and temporary  
21 assistance for needy families (TANF); and

22 (h) Referrals to appropriate counseling services, including but not be limited to  
23 counseling services for parents who are considering retaining custody of their children, placing  
24 their children for adoption, or becoming foster or adoptive parents~~]; but excluding any referrals  
25 for abortion or to abortion facilities];~~

26 (3) Making such educational materials available through state and local public health  
27 clinics, public hospitals, family planning clinics, ~~[abortion facilities as defined in section  
28 188.015,]~~ maternity homes as defined in section 135.600, child-placing agencies licensed  
29 pursuant to sections 210.481 to 210.536, attorneys whose practice involves private adoptions,  
30 in vitro fertilization clinics and private physicians for distribution to their patients who request  
31 such educational materials. Such materials shall also be available to the public through the  
32 department of social services' internet website;

33 (4) Establishing a toll-free telephone number for information on adoption and foster care,  
34 and to answer questions and assist persons inquiring about becoming adoptive or foster parents.

35 3. In addition, the department may establish and implement an ongoing advertising  
36 campaign for the recruitment of adoptive and foster care families, with a special emphasis on the  
37 recruitment of qualified adoptive and foster care families for special needs children. Such  
38 advertising campaign may utilize, but shall not be limited to, the following media: television,  
39 radio, outdoor advertising, newspaper, magazines and other print media, websites, and the  
40 internet. The department may contract with professional advertising agencies or other  
41 professional entities to conduct such advertising campaign on behalf of the department.

42 4. The provisions of this section shall be subject to appropriations.

43 5. The department of social services shall promulgate rules for the implementation of  
44 this section in accordance with chapter 536.

192.665. As used in this section, section 192.667, and sections 197.150 to 197.165, the  
2 following terms mean:

3 (1) "Charge data", information submitted by health care providers on current charges for  
4 leading procedures and diagnoses;

5 (2) "Charges by payer", information submitted by hospitals on amount billed to  
6 Medicare, Medicaid, other government sources and all nongovernment sources combined as one  
7 data element;

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

9 (4) "Financial data", information submitted by hospitals drawn from financial statements  
10 which includes the balance sheet, income statement, charity care and bad debt and charges by  
11 payer, prepared in accordance with generally accepted accounting principles;

12 (5) "Health care provider", hospitals as defined in section 197.020 and ambulatory  
13 surgical centers [~~and abortion facilities~~] as defined in section 197.200;

14 (6) "Nosocomial infection", as defined by the federal Centers for Disease Control and  
15 Prevention and applied to infections within hospitals, ambulatory surgical centers, [~~abortion~~  
16 ~~facilities,~~] and other facilities;

17 (7) "Nosocomial infection incidence rate", a risk-adjusted measurement of new cases of  
18 nosocomial infections by procedure or device within a population over a given period of time,  
19 with such measurements defined by rule of the department pursuant to subsection 3 of section  
20 192.667 for use by all hospitals, ambulatory surgical centers, [~~abortion facilities,~~] and other  
21 facilities in complying with the requirements of the Missouri nosocomial infection control act  
22 of 2004;

23 (8) "Other facility", a type of facility determined to be a source of infections and  
24 designated by rule of the department pursuant to subsection 11 of section 192.667;

25 (9) "Patient abstract data", data submitted by hospitals which includes but is not limited  
26 to date of birth, sex, race, zip code, county of residence, admission date, discharge date, principal  
27 and other diagnoses, including external causes, principal and other procedures, procedure dates,  
28 total billed charges, disposition of the patient and expected source of payment with sources  
29 categorized according to Medicare, Medicaid, other government, workers' compensation, all  
30 commercial payors coded with a common code, self-pay, no charge and other.

192.667. 1. All health care providers shall at least annually provide to the department  
2 charge data as required by the department. All hospitals shall at least annually provide patient  
3 abstract data and financial data as required by the department. Hospitals as defined in section  
4 197.020 shall report patient abstract data for outpatients and inpatients. Ambulatory surgical  
5 centers [~~and abortion facilities~~] as defined in section 197.200 shall provide patient abstract data  
6 to the department. The department shall specify by rule the types of information which shall be  
7 submitted and the method of submission.

8 2. The department shall collect data on the incidence of health care-associated infections  
9 from hospitals, ambulatory surgical centers, [~~abortion facilities,~~] and other facilities as necessary  
10 to generate the reports required by this section. Hospitals, ambulatory surgical centers, [~~abortion~~  
11 ~~facilities,~~] and other facilities shall provide such data in compliance with this section. In order  
12 to streamline government and to eliminate duplicative reporting requirements, if the Centers for  
13 Medicare and Medicaid Services, or its successor entity, requires hospitals to submit health  
14 care-associated infection data, then hospitals and the department shall not be required to comply

15 with the health care-associated infection data reporting requirements of subsections 2 to 17 of  
16 this section applicable to hospitals, except that the department shall post a link on its website to  
17 publicly reported data by hospitals on the Centers for Medicare and Medicaid Services' Hospital  
18 Compare website, or its successor.

19 3. The department shall promulgate rules specifying the standards and procedures for the  
20 collection, analysis, risk adjustment, and reporting of the incidence of health care-associated  
21 infections and the types of infections and procedures to be monitored pursuant to subsection 13  
22 of this section. In promulgating such rules, the department shall:

23 (1) Use methodologies and systems for data collection established by the federal Centers  
24 for Disease Control and Prevention's National Healthcare Safety Network, or its successor; and

25 (2) Consider the findings and recommendations of the infection control advisory panel  
26 established pursuant to section 197.165.

27 4. By January 1, 2017, the infection control advisory panel created by section 197.165  
28 shall make recommendations to the department regarding the Centers for Medicare and Medicaid  
29 Services' health care-associated infection data collection, analysis, and public reporting  
30 requirements for hospitals, ambulatory surgical centers, and other facilities in the federal Centers  
31 for Disease Control and Prevention's National Healthcare Safety Network, or its successor, in  
32 lieu of all or part of the data collection, analysis, and public reporting requirements of this  
33 section. The advisory panel recommendations shall address which hospitals shall be required  
34 as a condition of licensure to use the National Healthcare Safety Network for data collection; the  
35 use of the National Healthcare Safety Network for risk adjustment and analysis of hospital  
36 submitted data; and the use of the Centers for Medicare and Medicaid Services' Hospital  
37 Compare website, or its successor, for public reporting of the incidence of health care-associated  
38 infection metrics. The advisory panel shall consider the following factors in developing its  
39 recommendation:

40 (1) Whether the public is afforded the same or greater access to facility-specific infection  
41 control indicators and metrics;

42 (2) Whether the data provided to the public is subject to the same or greater accuracy of  
43 risk adjustment;

44 (3) Whether the public is provided with the same or greater specificity of reporting of  
45 infections by type of facility infections and procedures;

46 (4) Whether the data is subject to the same or greater level of confidentiality of the  
47 identity of an individual patient;

48 (5) Whether the National Healthcare Safety Network, or its successor, has the capacity  
49 to receive, analyze, and report the required data for all facilities;

50 (6) Whether the cost to implement the National Healthcare Safety Network infection data  
51 collection and reporting system is the same or less.

52 5. After considering the recommendations of the infection control advisory panel, and  
53 provided that the requirements of subsection 13 of this section can be met, the department shall  
54 implement guidelines from the federal Centers for Disease Control and Prevention's National  
55 Healthcare Safety Network, or its successor. It shall be a condition of licensure for hospitals that  
56 meet the minimum public reporting requirements of the National Healthcare Safety Network and  
57 the Centers for Medicare and Medicaid Services to participate in the National Healthcare Safety  
58 Network, or its successor. Such hospitals shall permit the National Healthcare Safety Network,  
59 or its successor, to disclose facility-specific infection data to the department as required under  
60 this section, and as necessary to provide the public reports required by the department. It shall  
61 be a condition of licensure for any ambulatory surgical center [~~or abortion facility~~] which does  
62 not voluntarily participate in the National Healthcare Safety Network, or its successor, to submit  
63 facility-specific data to the department as required under this section, and as necessary to provide  
64 the public reports required by the department.

65 6. The department shall not require the resubmission of data which has been submitted  
66 to the department of health and senior services or the department of social services under any  
67 other provision of law. The department of health and senior services shall accept data submitted  
68 by associations or related organizations on behalf of health care providers by entering into  
69 binding agreements negotiated with such associations or related organizations to obtain data  
70 required pursuant to section 192.665 and this section. A health care provider shall submit the  
71 required information to the department of health and senior services:

72 (1) If the provider does not submit the required data through such associations or related  
73 organizations;

74 (2) If no binding agreement has been reached within ninety days of August 28, 1992,  
75 between the department of health and senior services and such associations or related  
76 organizations; or

77 (3) If a binding agreement has expired for more than ninety days.

78 7. Information obtained by the department under the provisions of section 192.665 and  
79 this section shall not be public information. Reports and studies prepared by the department  
80 based upon such information shall be public information and may identify individual health care  
81 providers. The department of health and senior services may authorize the use of the data by  
82 other research organizations pursuant to the provisions of section 192.067. The department shall  
83 not use or release any information provided under section 192.665 and this section which would  
84 enable any person to determine any health care provider's negotiated discounts with specific  
85 preferred provider organizations or other managed care organizations. The department shall not

86 release data in a form which could be used to identify a patient. Any violation of this subsection  
87 is a class A misdemeanor.

88         8. The department shall undertake a reasonable number of studies and publish  
89 information, including at least an annual consumer guide, in collaboration with health care  
90 providers, business coalitions and consumers based upon the information obtained pursuant to  
91 the provisions of section 192.665 and this section. The department shall allow all health care  
92 providers and associations and related organizations who have submitted data which will be used  
93 in any publication to review and comment on the publication prior to its publication or release  
94 for general use. The publication shall be made available to the public for a reasonable charge.

95         9. Any health care provider which continually and substantially, as these terms are  
96 defined by rule, fails to comply with the provisions of this section shall not be allowed to  
97 participate in any program administered by the state or to receive any moneys from the state.

98         10. A hospital, as defined in section 197.020, aggrieved by the department's  
99 determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal  
100 as provided in section 197.071. An ambulatory surgical center [~~or abortion facility~~] as defined  
101 in section 197.200 aggrieved by the department's determination of ineligibility for state moneys  
102 pursuant to subsection 9 of this section may appeal as provided in section 197.221.

103         11. The department of health may promulgate rules providing for collection of data and  
104 publication of the incidence of health care-associated infections for other types of health facilities  
105 determined to be sources of infections; except that, physicians' offices shall be exempt from  
106 reporting and disclosure of such infections.

107         12. By January 1, 2017, the advisory panel shall recommend and the department shall  
108 adopt in regulation with an effective date of no later than January 1, 2018, the requirements for  
109 the reporting of the following types of infections as specified in this subsection:

110         (1) Infections associated with a minimum of four surgical procedures for hospitals and  
111 a minimum of two surgical procedures for ambulatory surgical centers that meet the following  
112 criteria:

113         (a) Are usually associated with an elective surgical procedure. An "elective surgical  
114 procedure" is a planned, nonemergency surgical procedure that may be either medically required  
115 such as a hip replacement or optional such as breast augmentation;

116         (b) Demonstrate a high priority aspect such as affecting a large number of patients,  
117 having a substantial impact for a smaller population, or being associated with substantial cost,  
118 morbidity, or mortality; or

119         (c) Are infections for which reports are collected by the National Healthcare Safety  
120 Network or its successor;

121         (2) Central line-related bloodstream infections;

122 (3) Health care-associated infections specified for reporting by hospitals, ambulatory  
123 surgical centers, and other health care facilities by the rules of the Centers for Medicare and  
124 Medicaid Services to the federal Centers for Disease Control and Prevention's National  
125 Healthcare Safety Network, or its successor; and

126 (4) Other categories of infections that may be established by rule by the department.  
127

128 The department, in consultation with the advisory panel, shall be authorized to collect and report  
129 data on subsets of each type of infection described in this subsection.

130 13. In consultation with the infection control advisory panel established pursuant to  
131 section 197.165, the department shall develop and disseminate to the public reports based on data  
132 compiled for a period of twelve months. Such reports shall be updated quarterly and shall show  
133 for each hospital, ambulatory surgical center, ~~abortion facility,~~ and other facility metrics on  
134 risk-adjusted health care-associated infections under this section.

135 14. The types of infections under subsection 12 of this section to be publicly reported  
136 shall be determined by the department by rule and shall be consistent with the infections tracked  
137 by the National Healthcare Safety Network, or its successor.

138 15. Reports published pursuant to subsection 13 of this section shall be published and  
139 readily accessible on the department's internet website. The reports shall be distributed at least  
140 annually to the governor and members of the general assembly. The department shall make such  
141 reports available to the public for a period of at least two years.

142 16. The Hospital Industry Data Institute shall publish a report of Missouri hospitals'[,]  
143 **and** ambulatory surgical centers'[, ~~and abortion facilities'~~] compliance with standardized quality  
144 of care measures established by the federal Centers for Medicare and Medicaid Services for  
145 prevention of infections related to surgical procedures. If the Hospital Industry Data Institute  
146 fails to do so by July 31, 2008, and annually thereafter, the department shall be authorized to  
147 collect information from the Centers for Medicare and Medicaid Services or from hospitals[,]  
148 **and** ambulatory surgical centers[, ~~and abortion facilities'~~] and publish such information in  
149 accordance with this section.

150 17. The data collected or published pursuant to this section shall be available to the  
151 department for purposes of licensing hospitals[,] **and** ambulatory surgical centers[, ~~and abortion~~  
152 ~~facilities'~~] pursuant to chapter 197.

153 18. The department shall promulgate rules to implement the provisions of section  
154 192.131 and sections 197.150 to 197.160. Any rule or portion of a rule, as that term is defined  
155 in section 536.010, that is created under the authority delegated in this section shall become  
156 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
157 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the

158 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
159 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
160 rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid  
161 and void.

162 19. No later than August 28, 2017, each hospital, excluding mental health facilities as  
163 defined in section 632.005, and each ambulatory surgical center [~~and abortion facility~~] as defined  
164 in section 197.200, shall in consultation with its medical staff establish an antimicrobial  
165 stewardship program for evaluating the judicious use of antimicrobials, especially antibiotics that  
166 are the last line of defense against resistant infections. The hospital's stewardship program and  
167 the results of the program shall be monitored and evaluated by hospital quality improvement  
168 departments and shall be available upon inspection to the department. At a minimum, the  
169 antimicrobial stewardship program shall be designed to evaluate that hospitalized patients  
170 receive, in accordance with accepted medical standards of practice, the appropriate antimicrobial,  
171 at the appropriate dose, at the appropriate time, and for the appropriate duration.

172 20. Hospitals described in subsection 19 of this section shall meet the National  
173 Healthcare Safety Network requirements for reporting antimicrobial usage or resistance by using  
174 the Centers for Disease Control and Prevention's Antimicrobial Use and Resistance (AUR)  
175 Module when conditions of participation promulgated by the Centers for Medicare and Medicaid  
176 Services requiring the electronic reporting of antibiotic use or antibiotic resistance by hospitals  
177 become effective. When such antimicrobial usage or resistance reporting takes effect, hospitals  
178 shall authorize the National Healthcare Safety Network, or its successor, to disclose to the  
179 department facility-specific information reported to the AUR Module. Facility-specific data on  
180 antibiotic usage and resistance collected under this subsection shall not be disclosed to the  
181 public, but the department may release case-specific information to other facilities, physicians,  
182 and the public if the department determines on a case-by-case basis that the release of such  
183 information is necessary to protect persons in a public health emergency. Nothing in this section  
184 shall prohibit a hospital from voluntarily reporting antibiotic use or antibiotic resistance data  
185 through the National Healthcare Safety Network, or its successor, prior to the effective date of  
186 the conditions of participation requiring the reporting.

187 21. The department shall make a report to the general assembly beginning January 1,  
188 2018, and on every January first thereafter on the incidence, type, and distribution of  
189 antimicrobial-resistant infections identified in the state and within regions of the state.

197.150. The department shall require that each hospital, ambulatory surgical center,  
2 [~~abortion facility,~~] and other facility have in place procedures for monitoring and enforcing  
3 compliance with infection control regulations and standards. Such procedures shall be  
4 coordinated with administrative staff, personnel staff, and the quality improvement program.

5 Such procedures shall include, at a minimum, requirements for the facility's infection control  
6 program to conduct surveillance of personnel with a portion of the surveillance to be done in  
7 such manner that employees and medical staff are observed without their knowledge of such  
8 observation, provided that this unobserved surveillance requirement shall not be considered to  
9 be grounds for licensure enforcement action by the department until the department establishes  
10 clear and verifiable criteria for determining compliance. Such surveillance also may include  
11 monitoring of the rate of use of hand hygiene products.

197.152. 1. Infection control officers as defined in federal regulation and other  
2 hospital[;] **and** ambulatory surgical center[~~,-and-abortion-facility~~] employees shall be protected  
3 against retaliation by the hospital[;] **or** ambulatory surgical center[~~,-or-abortion-facility~~] for  
4 reporting infection control concerns pursuant to section 197.285 and shall be entitled to the full  
5 benefits of that section. Such infection control officers shall report any interference in the  
6 performance of their duties by their supervisors to the hospital[;] **or** ambulatory surgical center[;  
7 ~~or-abortion-facility~~] compliance officer established by and empowered to act pursuant to section  
8 197.285.

9 2. Infection control officers as defined in federal regulation shall also have the authority  
10 to order the cessation of a practice that falls outside accepted practices as defined by appropriate  
11 state and federal regulatory agencies, accreditation organizations, or the standards adopted by the  
12 Centers for Disease Control and Prevention or the Association of Professionals in Infection  
13 Control and Epidemiology. The hospital[;] **or** ambulatory surgical center[~~,-or-abortion-facility~~]  
14 may require that such a cessation order of an infection control officer be endorsed by the  
15 hospital[;] **or** ambulatory surgical center[~~,-or-abortion-facility~~] chief executive officer or his or  
16 her designee before taking effect. The hospital[;] **or** ambulatory surgical center[~~,-or-abortion~~  
17 ~~facility~~] infection control committee shall convene as soon as possible to review such cessation  
18 order and may overrule or sustain the directive of the infection control officer. The department  
19 shall promulgate rules governing documentation of such events.

20 3. Members of the medical staff who report in good faith infection control concerns to  
21 the hospital[;] **or** ambulatory surgical center[~~,-or-abortion-facility~~] administration or medical staff  
22 leadership shall not be subject to retaliation or discrimination for doing so. Nothing in this  
23 section shall prevent or shield medical staff members from being subject to professional review  
24 actions for substandard care or breach of standards established in hospital policy, rules, or  
25 medical staff bylaws.

197.158. Every hospital[;] **and** ambulatory surgery center[~~,-and-abortion-facility~~] shall,  
2 beginning June 1, 2006, provide each patient an opportunity to submit to the hospital[;] **or**  
3 ambulatory surgical center[~~,-or-abortion-facility~~] administration complaints, comments, and



4 suggestions related to the care they received or their personal observations related to the quality  
5 of care provided. The department shall promulgate rules to implement this section.

197.160. The department of health and senior services shall have access to all data and  
2 information held by hospitals, ambulatory surgical centers, ~~[abortion facilities,]~~ and other  
3 facilities related to their infection control practices, rates, or treatments of infections. Failure to  
4 provide such access shall be grounds for full or partial licensure suspension or revocation  
5 pursuant to section 197.293, sections 197.010 to 197.100, or sections 197.200 to 197.240. If the  
6 department determines that the hospital, ambulatory surgical center, ~~[abortion facility,]~~ or other  
7 facility is willfully impeding access to such information, the department shall be authorized to  
8 direct all state agencies to suspend all or a portion of state payments to such entity until such time  
9 as the desired information is obtained by the department.

197.162. The department shall in its licensure of hospitals~~;~~ **and** ambulatory surgical  
2 centers~~;~~~~and abortion facilities]~~ give special attention to infection control practices and shall  
3 direct hospitals~~;~~ **and** ambulatory surgical centers~~;~~~~and abortion facilities]~~ to set quantifiable  
4 measures of performance for reducing the incidence of nosocomial infections in Missouri. The  
5 department shall prepare an annual report on infection control standards and compliance, which  
6 shall be shared with the governor and the general assembly.

197.165. 1. The department shall appoint an "Infection Control Advisory Panel" for the  
2 purposes of implementing sections 192.131 and 192.667.

3 2. Members of the infection control advisory panel shall include:

4 (1) Two public members;

5 (2) Three board-certified or board-eligible physicians licensed pursuant to chapter 334  
6 who are affiliated with a Missouri hospital or medical school, active members of the Society for  
7 Health Care Epidemiology of America, and have demonstrated interest and expertise in health  
8 facility infection control;

9 (3) One physician licensed pursuant to chapter 334 who is active in the practice of  
10 medicine in Missouri and who holds medical staff privileges at a Missouri hospital;

11 (4) Four infection control practitioners certified by the certification board of infection  
12 control and epidemiology, at least two of whom shall be practicing in a rural hospital or setting  
13 and at least two of whom shall be registered professional nurses licensed under chapter 335;

14 (5) A medical statistician with an advanced degree in such specialty;

15 (6) A clinical microbiologist with an advanced degree in such specialty;

16 (7) Three employees of the department, representing the functions of hospital~~;~~ **and**  
17 ambulatory surgical center~~;~~~~and abortion facility]~~ licensure, epidemiology and health data  
18 analysis, who shall serve as ex officio nonvoting members of the panel.

19 3. Reasonable expenses of the panel shall be paid from private donations made  
 20 specifically for that purpose to the "Infection Control Advisory Panel Fund", which is hereby  
 21 created in the state treasury. If such donations are not received from private sources, then the  
 22 provisions of this act shall be implemented without the advisory panel.

197.200. As used in sections 197.200 to 197.240, unless the context clearly indicates  
 2 otherwise, the following terms mean:

- 3 (1) ~~["Abortion facility", as such term is defined in section 188.015;~~  
 4 ~~——(2)]~~ (2) "Ambulatory surgical center", any public or private establishment operated primarily  
 5 for the purpose of performing surgical procedures or primarily for the purpose of performing  
 6 childbirths, and which does not provide services or other accommodations for patients to stay  
 7 more than twenty-three hours within the establishment, provided, however, that nothing in this  
 8 definition shall be construed to include the offices of dentists currently licensed pursuant to  
 9 chapter 332;  
 10 ~~[(3)]~~ (2) "Dentist", any person currently licensed to practice dentistry pursuant to chapter  
 11 332;  
 12 ~~[(4)]~~ (3) "Department", the department of health and senior services;  
 13 ~~[(5)]~~ (4) "Governmental unit", any city, county or other political subdivision of this state,  
 14 or any department, division, board or other agency of any political subdivision of this state;  
 15 ~~[(6)]~~ (5) "Person", any individual, firm, partnership, corporation, company, or association  
 16 and the legal successors thereof;  
 17 ~~[(7)]~~ (6) "Physician", any person currently licensed to practice medicine pursuant to  
 18 chapter 334;  
 19 ~~[(8)]~~ (7) "Podiatrist", any person currently licensed to practice podiatry pursuant to  
 20 chapter 330.

197.205. 1. No person or governmental unit acting severally or jointly with any other  
 2 person or governmental unit shall establish, conduct or maintain an ambulatory surgical center  
 3 ~~[or abortion facility]~~ in this state without a license under sections 197.200 to 197.240 issued by  
 4 the department of health and senior services.

5 2. Nothing in sections 197.200 to 197.240 shall be construed to impair or abridge the  
 6 authority of a governmental unit to license ambulatory surgical centers ~~[or abortion facilities]~~,  
 7 provided that any ordinance of a governmental unit shall require compliance with all rules,  
 8 regulations, and standards adopted by the department to implement the provisions of sections  
 9 197.200 to 197.240.

197.215. 1. Upon receipt of an application for a license, the department of health and  
 2 senior services shall issue a license if the applicant and ambulatory surgical center facilities ~~[or~~

3 ~~abortion facilities]~~ meet the requirements established under sections 197.200 to 197.240, and  
4 have provided affirmative evidence that:

5 (1) Each member of the surgical staff is a physician, dentist or podiatrist currently  
6 licensed to practice in Missouri~~], and each person authorized to perform or induce abortions is~~  
7 ~~a physician currently licensed to practice in Missouri];~~

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

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

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

19 2. Upon receipt of an application for a license, or the renewal thereof, the department  
20 shall issue or renew the license if the applicant and program meet the requirements established  
21 under sections 197.200 to 197.240. Each license shall be issued only for the persons and  
22 premises named in the application. A license, unless sooner suspended or revoked, shall be  
23 issued for a period of one year.

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

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

197.220. The department of health and senior services may deny, suspend or revoke a  
2 license in any case in which the department finds that there has been a substantial failure to  
3 comply with the requirements of sections 197.200 to 197.240, or in any case in which the  
4 director of the department makes a finding that:

5 (1) The applicant, or if the applicant is a firm, partnership or association, any of its  
6 members, or if a corporation, any of its officers or directors, or the person designated to manage  
7 or supervise the facility, has been finally adjudicated and found guilty, or entered a plea of guilty

8 or nolo contendere, in a criminal prosecution under the laws of any state or of the United States,  
9 for any offense reasonably related to the qualifications, functions, or duties of an ambulatory  
10 surgical center [~~or of an abortion facility~~], or for any offense an essential element of which is  
11 fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether  
12 or not sentence is imposed;

13 (2) The licensure status or record of the applicant, or if the applicant is a firm,  
14 partnership or association, of any of its members, or if a corporation, of any of its officers or  
15 directors, or of the person designated to manage or supervise the facility, from any other state,  
16 federal district or land, territory or commonwealth of the United States, or of any foreign country  
17 where the applicant has done business in a similar capacity indicates that granting a license to  
18 the applicant would be detrimental to the interests of the public.

197.225. 1. The department of health and senior services may adopt such reasonable  
2 rules, regulations, and standards for the types of services provided as are necessary to carry out  
3 the provisions of sections 197.200 to 197.240, and to assure quality patient care and patient  
4 safety, which shall include, but not be limited to:

5 (1) Construction of the facility including, but not limited to, plumbing, heating, lighting,  
6 and ventilation which should insure the health, safety, comfort, and privacy of patients and  
7 protection from fire hazard;

8 (2) Number, qualifications, and organization of all personnel, having responsibility for  
9 any part of the care provided to the patients;

10 (3) Equipment essential to the health, welfare, and safety of the patients;

11 (4) Facilities, programs, and services to be provided in connection with the care of  
12 patients in ambulatory surgical centers; and

13 (5) Procedures for peer review and for receiving and investigating complaints regarding  
14 any ambulatory surgical center or any physician, dentist, podiatrist, nurse, assistant, manager,  
15 supervisor, or employee practicing or working in any such facility.

16 2. The department of health and senior services may adopt separate rules, regulations,  
17 or standards to apply to ambulatory surgical centers [~~and to apply to abortion facilities~~].

18 [~~3. Abortion facilities shall be required to maintain a written protocol for managing  
19 medical emergencies and the transfer of patients requiring further emergency care to a hospital  
20 within a reasonable distance from the abortion facility.~~]

197.230. 1. The department of health and senior services shall make, or cause to be  
2 made, such inspections and investigations as it deems necessary. The department may delegate  
3 its powers and duties to investigate and inspect ambulatory surgical centers [~~or abortion  
4 facilities~~] to an official of a political subdivision having a population of at least four hundred  
5 fifty thousand if such political subdivision is deemed qualified by the department to inspect and

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

10 2. ~~[In the case of any abortion facility, the department shall make or cause to be made~~  
11 ~~an unannounced on-site inspection and investigation at least annually. Such on-site inspection~~  
12 ~~and investigation shall include, but not be limited to, the following areas:~~

13 ~~———(1) Compliance with all statutory and regulatory requirements for an abortion facility,~~  
14 ~~including requirements that the facility maintain adequate staffing and equipment to respond to~~  
15 ~~medical emergencies;~~

16 ~~———(2) Compliance with the provisions of chapter 188; and~~

17 ~~———(3) Compliance with the requirement in section 197.215 that continuous physician~~  
18 ~~services or registered professional nursing services be provided whenever a patient is in the~~  
19 ~~facility.~~

20 ~~———3.] Inspection, investigation, and quality assurance reports shall be made available to the~~  
21 ~~public. Any portion of a report may be redacted when made publicly available if such portion~~  
22 ~~would disclose information that is not subject to disclosure under the law.~~

197.235. 1. Any person operating, conducting, managing, or establishing an ambulatory  
2 surgical center ~~[or abortion facility]~~ without a license required by sections 197.200 to 197.240  
3 is guilty of a class A misdemeanor and, upon conviction, shall be subject to a fine of not more  
4 than five hundred dollars. Each day of continuing violation shall constitute a separate offense.

5 2. The attorney general shall represent the department of health and senior services and  
6 shall institute an action in the name of the state for injunctive or other relief against any person  
7 or governmental unit to restrain or prevent the establishment, conduct, management, or operation  
8 of an ambulatory surgical center ~~[or abortion facility]~~ without a license issued pursuant to the  
9 provisions of sections 197.200 to 197.240.

10 3. Any person operating, conducting, managing, or establishing an ambulatory surgical  
11 center ~~[or abortion facility]~~ who, in the course of advertising, promoting, or otherwise  
12 publicizing the activities, business, location, or any other matter concerning the operations of  
13 said ambulatory surgical center ~~[or abortion facility]~~, uses or employs in any manner the words  
14 "State, Missouri, State of Missouri, Department of Health and Senior Services, the initials 'Mo.',"   
15 or any emblem of the state of Missouri or the department of health and senior services, for the  
16 purpose of conveying or in any manner reasonably calculated to convey the false impression that  
17 the state of Missouri or any department, agency, bureau, or instrumentality thereof is involved  
18 in the business of said ambulatory surgical center ~~[or abortion facility]~~, or took part in said  
19 advertisement, promotion, publicity, or other statement, shall be subject to a fine of one hundred

20 dollars per day for each day during the period beginning with the day said advertisement,  
21 promotion, publication, or statement first appears and ending on the day on which it is  
22 withdrawn.

197.240. After September 28, 1975, no individual or group health insurance policy of  
2 insurance providing coverage on an expense incurred basis, nor individual or group service or  
3 indemnity type contract issued by a nonprofit corporation, nor any self-insured group health  
4 benefit plan or trust, of any kind or description, shall be issued or payment accepted therefor in  
5 renewal or continuation thereof unless coverage for any service performed in an ambulatory  
6 surgical center [~~or abortion facility~~] is provided for therein if such service would have been  
7 covered under the terms of the policy or contract as an eligible inpatient service, except as  
8 provided in section 376.805. Nothing in this section shall apply to a group contract, plan or trust  
9 which provides health care and surgical care directly to its members and their dependents.  
10 Nothing in this section shall be construed to mandate coverage under an individual or group  
11 health insurance policy of insurance providing coverage on an expense-incurred basis, or an  
12 individual or group service or indemnity type contract issued by a nonprofit corporation, or any  
13 self-insured group health benefit plan or trust, of any kind or description, to provide health  
14 insurance for services which are usually performed in a physician's office.

197.285. 1. Hospitals[;] **and** ambulatory surgical centers[~~, and abortion facilities~~] shall  
2 establish and implement a written policy adopted by each hospital[;] **and** ambulatory surgical  
3 center[~~, and abortion facility~~] relating to the protections for employees who disclose information  
4 pursuant to subsection 2 of this section. This policy shall include a time frame for completion  
5 of investigations related to complaints, not to exceed thirty days, and a method for notifying the  
6 complainant of the disposition of the investigation. This policy shall be submitted to the  
7 department of health and senior services to verify implementation. At a minimum, such policy  
8 shall include the following provisions:

9 (1) No supervisor or individual with authority to hire or fire in a hospital[;] **or**  
10 ambulatory surgical center[~~, or abortion facility~~] shall prohibit employees from disclosing  
11 information pursuant to subsection 2 of this section;

12 (2) No supervisor or individual with authority to hire or fire in a hospital[;] **or**  
13 ambulatory surgical center[~~, or abortion facility~~] shall use or threaten to use his or her  
14 supervisory authority to knowingly discriminate against, dismiss, penalize or in any way retaliate  
15 against or harass an employee because the employee in good faith reported or disclosed any  
16 information pursuant to subsection 2 of this section, or in any way attempt to dissuade, prevent  
17 or interfere with an employee who wishes to report or disclose such information;

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

21 2. This section shall apply to information disclosed or reported in good faith by an  
22 employee concerning:

23 (1) Alleged facility mismanagement or fraudulent activity;

24 (2) Alleged violations of applicable federal or state laws or administrative rules  
25 concerning patient care, patient safety or facility safety; or

26 (3) The ability of employees to successfully perform their assigned duties.

27

28 All information disclosed, collected and maintained pursuant to this subsection and pursuant to  
29 the written policy requirements of this section shall be accessible to the department of health and  
30 senior services at all times and shall be reviewed by the department of health and senior services  
31 at least annually. Complainants shall be notified of the department of health and senior services'  
32 access to such information and of the complainant's right to notify the department of health and  
33 senior services of any information concerning alleged violations of applicable federal or state  
34 laws or administrative rules concerning patient care, patient safety or facility safety.

35 3. Prior to any disclosure to individuals or agencies other than the department of health  
36 and senior services, employees wishing to make a disclosure pursuant to the provisions of this  
37 section shall first report to the individual or individuals designated by the hospital[;] **or**  
38 ambulatory surgical center[; ~~or abortion facility~~] pursuant to subsection 1 of this section.

39 4. If the compliance officer, compliance committee or management official discovers  
40 credible evidence of misconduct from any source and, after a reasonable inquiry, has reason to  
41 believe that the misconduct may violate criminal, civil or administrative law, then the hospital[;]  
42 **or** ambulatory surgical center[; ~~or abortion facility~~] shall report the existence of misconduct to  
43 the appropriate governmental authority within a reasonable period, but not more than seven days  
44 after determining that there is credible evidence of a violation.

45 5. Reports made to the department of health and senior services shall be subject to the  
46 provisions of section 197.477, provided that the restrictions of section 197.477 shall not be  
47 construed to limit the employee's ability to subpoena from the original source the information  
48 reported to the department pursuant to this section.

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

53           7. Each hospital[;] **and** ambulatory surgical center[; ~~and abortion facility~~] shall, within  
54 forty-eight hours of the receipt of a report, notify the employee that his or her report has been  
55 received and is being reviewed.

197.287. [~~By July 1, 2001,~~] All hospitals and ambulatory surgical centers[; ~~and by July~~  
2 1, 2018, ~~all abortion facilities~~] shall provide training programs, with measurable minimal training  
3 outcomes relating to quality of patient care and patient safety, to all unlicensed staff providing  
4 patient care in their facility within ninety days of the beginning date of employment. Standards  
5 for such training shall be established by the department of health and senior services by rule. It  
6 shall be a requirement of hospital[;] **and** ambulatory surgical center[; ~~and abortion facility~~]  
7 licensure pursuant to this chapter that all hospitals[;] **and** ambulatory surgical centers[; ~~and~~  
8 ~~abortion facilities~~] submit documentation to the department of health and senior services on the  
9 training program used.

197.289. 1. All hospitals[;] **and** ambulatory surgical centers[; ~~and abortion facilities~~]  
2 shall develop and implement a methodology which ensures adequate nurse staffing that will meet  
3 the needs of patients. At a minimum, there shall be on duty at all times a sufficient number of  
4 licensed registered nurses to provide patient care requiring the judgment and skills of a licensed  
5 registered nurse and to oversee the activities of all nursing personnel.

6           2. There shall be sufficient licensed and ancillary nursing personnel on duty on each  
7 nursing unit to meet the needs of each patient in accordance with accepted standards of quality  
8 patient care.

197.293. 1. In addition to the powers established in sections 197.070 and 197.220, the  
2 department of health and senior services shall use the following standards for enforcing  
3 hospital[;] **and** ambulatory surgical center[; ~~and abortion facility~~] licensure regulations  
4 promulgated to enforce the provisions of sections 197.010 to 197.120, sections 197.150 to  
5 197.165, and sections 197.200 to 197.240:

6           (1) Upon notification of a deficiency in meeting regulatory standards, the hospital[;] **or**  
7 ambulatory surgical center[; ~~or abortion facility~~] shall develop and implement a plan of  
8 correction approved by the department which includes, but is not limited to, the specific type of  
9 corrective action to be taken and an estimated time to complete such action;

10           (2) If the plan as implemented does not correct the deficiency, the department may either:

11           (a) Direct the hospital[;] **or** ambulatory surgical center[; ~~or abortion facility~~] to develop  
12 and implement a plan of correction pursuant to subdivision (1) of this subsection; or

13           (b) Require the hospital[;] **or** ambulatory surgical center[; ~~or abortion facility~~] to  
14 implement a plan of correction developed by the department;

15           (3) If there is a continuing deficiency after implementation of the plan of correction  
16 pursuant to subdivision (2) of this subsection and the hospital[;] **or** ambulatory surgical center[;



17 ~~or abortion facility~~] has had an opportunity to correct such deficiency, the department may  
18 restrict new inpatient admissions or outpatient entrants to the service or services affected by such  
19 deficiency;

20 (4) If there is a continuing deficiency after the department restricts new inpatient  
21 admissions or outpatient entrants to the service or services pursuant to subdivision (3) of this  
22 subsection and the hospital[;] **or** ambulatory surgical center[; ~~or abortion facility~~] has had an  
23 opportunity to correct such deficiency, the department may suspend operations in all or part of  
24 the service or services affected by such deficiency;

25 (5) If there is a continuing deficiency after suspension of operations pursuant to  
26 subdivision (4) of this subsection, the department may deny, suspend or revoke the hospital's[;]  
27 **or** ambulatory surgical center's[; ~~or abortion facility's~~] license pursuant to section 197.070 or  
28 section 197.220.

29 2. Notwithstanding the provisions of subsection 1 of this section to the contrary, if a  
30 deficiency in meeting licensure standards presents an immediate and serious threat to the  
31 patients' health and safety, the department may, based on the scope and severity of the deficiency,  
32 restrict access to the service or services affected by the deficiency until the hospital[;] **or**  
33 ambulatory surgical center[; ~~or abortion facility~~] has developed and implemented an approved  
34 plan of correction. Decisions as to whether a deficiency constitutes an immediate and serious  
35 threat to the patients' health and safety shall be made in accordance with guidelines established  
36 pursuant to regulation of the department of health and senior services and such decisions shall  
37 be approved by the bureau of health facility licensing in the department of health and senior  
38 services, or its successor agency, or by a person authorized by the regulations to approve such  
39 decisions in the absence of the director.

197.295. 1. A hospital[;] **or** ambulatory surgical center[; ~~or abortion facility~~] aggrieved  
2 by a decision of the department pursuant to the provisions of paragraph (b) of subdivision (2) and  
3 subdivisions (3), (4) and (5) of subsection 1 of section 197.293 may appeal such decision to the  
4 administrative hearing commission pursuant to section 197.071 or section 197.221, and seek  
5 judicial review pursuant to section 621.145. An appeal of an action to restrict new inpatient  
6 admissions or outpatient entrants, suspend operations or revoke a license shall be heard on an  
7 expedited basis by the administrative hearing commission. The hospital[;] **or** ambulatory  
8 surgical center[; ~~or abortion facility~~] may apply to the administrative hearing commission for an  
9 order to stay or suspend any such departmental action pending the commission's findings and  
10 ruling as authorized by section 621.035.

11 2. If both the department and the hospital[;] **or** ambulatory surgical center[; ~~or abortion~~  
12 ~~facility~~] agree to do so, prior to an appeal to the administrative hearing commission pursuant to  
13 section 197.071 or section 197.221, an official action of the department made pursuant to

14 sections 197.010 to 197.120 or sections 197.200 to 197.240 may be appealed to a departmental  
15 hearing officer. The department of health and senior services shall promulgate rules specifying  
16 the qualifications of such a hearing officer, establish procedures to ensure impartial decisions and  
17 provide for comparable appeal remedies when a departmental hearing officer is unavailable.

334.100. 1. The board may refuse to issue or renew any certificate of registration or  
2 authority, permit or license required pursuant to this chapter for one or any combination of  
3 causes stated in subsection 2 of this section. The board shall notify the applicant in writing of  
4 the reasons for the refusal and shall advise the applicant of the applicant's right to file a  
5 complaint with the administrative hearing commission as provided by chapter 621. As an  
6 alternative to a refusal to issue or renew any certificate, registration or authority, the board may,  
7 at its discretion, issue a license which is subject to probation, restriction or limitation to an  
8 applicant for licensure for any one or any combination of causes stated in subsection 2 of this  
9 section. The board's order of probation, limitation or restriction shall contain a statement of the  
10 discipline imposed, the basis therefor, the date such action shall become effective, and a  
11 statement that the applicant has thirty days to request in writing a hearing before the  
12 administrative hearing commission. If the board issues a probationary, limited or restricted  
13 license to an applicant for licensure, either party may file a written petition with the  
14 administrative hearing commission within thirty days of the effective date of the probationary,  
15 limited or restricted license seeking review of the board's determination. If no written request  
16 for a hearing is received by the administrative hearing commission within the thirty-day period,  
17 the right to seek review of the board's decision shall be considered as waived.

18 2. The board may cause a complaint to be filed with the administrative hearing  
19 commission as provided by chapter 621 against any holder of any certificate of registration or  
20 authority, permit or license required by this chapter or any person who has failed to renew or has  
21 surrendered the person's certificate of registration or authority, permit or license for any one or  
22 any combination of the following causes:

23 (1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to  
24 an extent that such use impairs a person's ability to perform the work of any profession licensed  
25 or regulated by this chapter;

26 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty  
27 or nolo contendere, in a criminal prosecution under the laws of any state or of the United States,  
28 for any offense reasonably related to the qualifications, functions or duties of any profession  
29 licensed or regulated pursuant to this chapter, for any offense involving fraud, dishonesty or an  
30 act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

31 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of  
32 registration or authority, permit or license issued pursuant to this chapter or in obtaining  
33 permission to take any examination given or required pursuant to this chapter;

34 (4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or  
35 unprofessional conduct in the performance of the functions or duties of any profession licensed  
36 or regulated by this chapter, including, but not limited to, the following:

37 (a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by  
38 fraud, deception or misrepresentation; willfully and continually overcharging or overtreating  
39 patients; or charging for visits to the physician's office which did not occur unless the services  
40 were contracted for in advance, or for services which were not rendered or documented in the  
41 patient's records;

42 (b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to  
43 obtain or retain a patient or discourage the use of a second opinion or consultation;

44 (c) Willfully and continually performing inappropriate or unnecessary treatment,  
45 diagnostic tests or medical or surgical services;

46 (d) Delegating professional responsibilities to a person who is not qualified by training,  
47 skill, competency, age, experience or licensure to perform such responsibilities;

48 (e) Misrepresenting that any disease, ailment or infirmity can be cured by a method,  
49 procedure, treatment, medicine or device;

50 (f) Performing or prescribing medical services which have been declared by board rule  
51 to be of no medical or osteopathic value;

52 (g) Final disciplinary action by any professional medical or osteopathic association or  
53 society or licensed hospital or medical staff of such hospital in this or any other state or territory,  
54 whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension,  
55 limitation, or restriction of the person's license or staff or hospital privileges, failure to renew  
56 such privileges or license for cause, or other final disciplinary action, if the action was in any way  
57 related to unprofessional conduct, professional incompetence, malpractice or any other violation  
58 of any provision of this chapter;

59 (h) Signing a blank prescription form; or dispensing, prescribing, administering or  
60 otherwise distributing any drug, controlled substance or other treatment without sufficient  
61 examination including failing to establish a valid physician-patient relationship pursuant to  
62 section 334.108, or for other than medically accepted therapeutic or experimental or investigative  
63 purposes duly authorized by a state or federal agency, or not in the course of professional  
64 practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical  
65 infirmity or disease, except as authorized in section 334.104;

- 66 (i) Exercising influence within a physician-patient relationship for purposes of engaging  
67 a patient in sexual activity;
- 68 (j) Being listed on any state or federal sexual offender registry;
- 69 (k) Terminating the medical care of a patient without adequate notice or without making  
70 other arrangements for the continued care of the patient;
- 71 (l) Failing to furnish details of a patient's medical records to other treating physicians or  
72 hospitals upon proper request; or failing to comply with any other law relating to medical  
73 records;
- 74 (m) Failure of any applicant or licensee to cooperate with the board during any  
75 investigation;
- 76 (n) Failure to comply with any subpoena or subpoena duces tecum from the board or an  
77 order of the board;
- 78 (o) Failure to timely pay license renewal fees specified in this chapter;
- 79 (p) Violating a probation agreement, order, or other settlement agreement with this board  
80 or any other licensing agency;
- 81 (q) Failing to inform the board of the physician's current residence and business address;
- 82 (r) Advertising by an applicant or licensee which is false or misleading, or which violates  
83 any rule of the board, or which claims without substantiation the positive cure of any disease, or  
84 professional superiority to or greater skill than that possessed by any other physician. An  
85 applicant or licensee shall also be in violation of this provision if the applicant or licensee has  
86 a financial interest in any organization, corporation or association which issues or conducts such  
87 advertising;
- 88 (s) Any other conduct that is unethical or unprofessional involving a minor;
- 89 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or  
90 physical health of a patient or the public; or incompetency, gross negligence or repeated  
91 negligence in the performance of the functions or duties of any profession licensed or regulated  
92 by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure,  
93 on more than one occasion, to use that degree of skill and learning ordinarily used under the  
94 same or similar circumstances by the member of the applicant's or licensee's profession;
- 95 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling  
96 any person to violate, any provision of this chapter or chapter 324, or of any lawful rule or  
97 regulation adopted pursuant to this chapter or chapter 324;
- 98 (7) Impersonation of any person holding a certificate of registration or authority, permit  
99 or license or allowing any person to use his or her certificate of registration or authority, permit,  
100 license or diploma from any school;

101 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,  
102 censure, probation or other final disciplinary action against the holder of or applicant for a  
103 license or other right to practice any profession regulated by this chapter by another state,  
104 territory, federal agency or country, whether or not voluntarily agreed to by the licensee or  
105 applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing  
106 the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject  
107 to an investigation or while actually under investigation by any licensing authority, medical  
108 facility, branch of the Armed Forces of the United States of America, insurance company, court,  
109 agency of the state or federal government, or employer;

110 (9) A person is finally adjudged incapacitated or disabled by a court of competent  
111 jurisdiction;

112 (10) Assisting or enabling any person to practice or offer to practice any profession  
113 licensed or regulated by this chapter who is not registered and currently eligible to practice  
114 pursuant to this chapter; or knowingly performing any act which in any way aids, assists,  
115 procures, advises, or encourages any person to practice medicine who is not registered and  
116 currently eligible to practice pursuant to this chapter. A physician who works in accordance with  
117 standing orders or protocols or in accordance with the provisions of section 334.104 shall not be  
118 in violation of this subdivision;

119 (11) Issuance of a certificate of registration or authority, permit or license based upon  
120 a material mistake of fact;

121 (12) Failure to display a valid certificate or license if so required by this chapter or any  
122 rule promulgated pursuant to this chapter;

123 (13) Violation of the drug laws or rules and regulations of this state, including but not  
124 limited to any provision of chapter 195, any other state, or the federal government;

125 (14) Knowingly making, or causing to be made, or aiding, or abetting in the making of,  
126 a false statement in any birth, death or other certificate or document executed in connection with  
127 the practice of the person's profession;

128 (15) Knowingly making a false statement, orally or in writing to the board;

129 (16) Soliciting patronage in person or by agents or representatives, or by any other means  
130 or manner, under the person's own name or under the name of another person or concern, actual  
131 or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or  
132 necessity for or appropriateness of health care services for all patients, or the qualifications of  
133 an individual person or persons to diagnose, render, or perform health care services;

134 (17) Using, or permitting the use of, the person's name under the designation of  
135 "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial  
136 exploitation of any goods, wares or merchandise;

137 (18) Knowingly making or causing to be made a false statement or misrepresentation of  
138 a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208 or  
139 chapter 630 or for payment from Title XVIII or Title XIX of the Social Security Act;

140 (19) Failure or refusal to properly guard against contagious, infectious or communicable  
141 diseases or the spread thereof; maintaining an unsanitary office or performing professional  
142 services under unsanitary conditions; or failure to report the existence of an unsanitary condition  
143 in the office of a physician or in any health care facility to the board, in writing, within thirty  
144 days after the discovery thereof;

145 (20) Any candidate for licensure or person licensed to practice as a physical therapist,  
146 paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary,  
147 practicing or offering to practice professional physical therapy independent of the prescription  
148 and direction of a person licensed and registered as a physician and surgeon pursuant to this  
149 chapter, as a dentist pursuant to chapter 332, as a podiatrist pursuant to chapter 330, as an  
150 advanced practice registered nurse under chapter 335, or any licensed and registered physician,  
151 dentist, podiatrist, or advanced practice registered nurse practicing in another jurisdiction, whose  
152 license is in good standing;

153 (21) Any candidate for licensure or person licensed to practice as a physical therapist,  
154 treating or attempting to treat ailments or other health conditions of human beings other than by  
155 professional physical therapy and as authorized by sections 334.500 to 334.620;

156 (22) Any person licensed to practice as a physician or surgeon, requiring, as a condition  
157 of the physician-patient relationship, that the patient receive prescribed drugs, devices or other  
158 professional services directly from facilities of that physician's office or other entities under that  
159 physician's ownership or control. A physician shall provide the patient with a prescription which  
160 may be taken to the facility selected by the patient and a physician knowingly failing to disclose  
161 to a patient on a form approved by the advisory commission for professional physical therapists  
162 as established by section 334.625 which is dated and signed by a patient or guardian  
163 acknowledging that the patient or guardian has read and understands that the physician has a  
164 pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment  
165 and that the prescribed treatment is available on a competitive basis. This subdivision shall not  
166 apply to a referral by one physician to another physician within a group of physicians practicing  
167 together;

168 (23) A pattern of personal use or consumption of any controlled substance unless it is  
169 prescribed, dispensed or administered by another physician who is authorized by law to do so;

170 (24) Habitual intoxication or dependence on alcohol, evidence of which may include  
171 more than one alcohol-related enforcement contact as defined by section 302.525;

172 (25) Failure to comply with a treatment program or an aftercare program entered into as  
173 part of a board order, settlement agreement or licensee's professional health program;

174 (26) Revocation, suspension, limitation, probation, or restriction of any kind whatsoever  
175 of any controlled substance authority, whether agreed to voluntarily or not, or voluntary  
176 termination of a controlled substance authority while under investigation;

177 (27) For a physician to operate, conduct, manage, or establish an abortion facility, or for  
178 a physician to perform an abortion in an abortion facility~~], if such facility comes under the~~  
179 ~~definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, and such~~  
180 ~~facility has failed to obtain or renew a license as an ambulatory surgical center].~~

181 3. Collaborative practice arrangements, protocols and standing orders shall be in writing  
182 and signed and dated by a physician prior to their implementation.

183 4. After the filing of such complaint before the administrative hearing commission, the  
184 proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding  
185 by the administrative hearing commission that the grounds, provided in subsection 2 of this  
186 section, for disciplinary action are met, the board may, singly or in combination, warn, censure  
187 or place the person named in the complaint on probation on such terms and conditions as the  
188 board deems appropriate for a period not to exceed ten years, or may suspend the person's  
189 license, certificate or permit for a period not to exceed three years, or restrict or limit the person's  
190 license, certificate or permit for an indefinite period of time, or revoke the person's license,  
191 certificate, or permit, or administer a public or private reprimand, or deny the person's  
192 application for a license, or permanently withhold issuance of a license or require the person to  
193 submit to the care, counseling or treatment of physicians designated by the board at the expense  
194 of the individual to be examined, or require the person to attend such continuing educational  
195 courses and pass such examinations as the board may direct.

196 5. In any order of revocation, the board may provide that the person may not apply for  
197 reinstatement of the person's license for a period of time ranging from two to seven years  
198 following the date of the order of revocation. All stay orders shall toll this time period.

199 6. Before restoring to good standing a license, certificate or permit issued pursuant to this  
200 chapter which has been in a revoked, suspended or inactive state for any cause for more than two  
201 years, the board may require the applicant to attend such continuing medical education courses  
202 and pass such examinations as the board may direct.

203 7. In any investigation, hearing or other proceeding to determine a licensee's or  
204 applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall  
205 be discoverable by the board and admissible into evidence, regardless of any statutory or  
206 common law privilege which such licensee, applicant, record custodian or patient might  
207 otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold

208 records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of  
209 privilege between such licensee, applicant or record custodian and a patient.

541.080. When any mortal wound shall be given, or any poison shall be administered,  
2 or any means shall be employed in one county by which any human being shall be killed, who  
3 shall die thereof in another county, an indictment for such offense may be found in either county,  
4 and the same proceedings shall be had thereon, in all respects, as if the offense had been  
5 commenced and consummated in the county in which such indictment shall be found.

556.061. In this code, unless the context requires a different definition, the following  
2 terms shall mean:

3 (1) "Access", to instruct, communicate with, store data in, retrieve or extract data from,  
4 or otherwise make any use of any resources of, a computer, computer system, or computer  
5 network;

6 (2) "Affirmative defense":

7 (a) The defense referred to is not submitted to the trier of fact unless supported by  
8 evidence; and

9 (b) If the defense is submitted to the trier of fact the defendant has the burden of  
10 persuasion that the defense is more probably true than not;

11 (3) "Burden of injecting the issue":

12 (a) The issue referred to is not submitted to the trier of fact unless supported by evidence;  
13 and

14 (b) If the issue is submitted to the trier of fact any reasonable doubt on the issue requires  
15 a finding for the defendant on that issue;

16 (4) "Commercial film and photographic print processor", any person who develops  
17 exposed photographic film into negatives, slides or prints, or who makes prints from negatives  
18 or slides, for compensation. The term commercial film and photographic print processor shall  
19 include all employees of such persons but shall not include a person who develops film or makes  
20 prints for a public agency;

21 (5) "Computer", the box that houses the central processing unit (CPU), along with any  
22 internal storage devices, such as internal hard drives, and internal communication devices, such  
23 as internal modems capable of sending or receiving electronic mail or fax cards, along with any  
24 other hardware stored or housed internally. Thus, computer refers to hardware, software and data  
25 contained in the main unit. Printers, external modems attached by cable to the main unit,  
26 monitors, and other external attachments will be referred to collectively as peripherals and  
27 discussed individually when appropriate. When the computer and all peripherals are referred to  
28 as a package, the term "computer system" is used. Information refers to all the information on  
29 a computer system including both software applications and data;



30 (6) "Computer equipment", computers, terminals, data storage devices, and all other  
31 computer hardware associated with a computer system or network;

32 (7) "Computer hardware", all equipment which can collect, analyze, create, display,  
33 convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or  
34 data. Hardware includes, but is not limited to, any data processing devices, such as central  
35 processing units, memory typewriters and self-contained laptop or notebook computers; internal  
36 and peripheral storage devices, transistor-like binary devices and other memory storage devices,  
37 such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard  
38 drive, optical disks and digital memory; local area networks, such as two or more computers  
39 connected together to a central computer server via cable or modem; peripheral input or output  
40 devices, such as keyboards, printers, scanners, plotters, video display monitors and optical  
41 readers; and related communication devices, such as modems, cables and connections, recording  
42 equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers,  
43 programmable telephone dialing or signaling devices and electronic tone-generating devices; as  
44 well as any devices, mechanisms or parts that can be used to restrict access to computer  
45 hardware, such as physical keys and locks;

46 (8) "Computer network", two or more interconnected computers or computer systems;

47 (9) "Computer program", a set of instructions, statements, or related data that directs or  
48 is intended to direct a computer to perform certain functions;

49 (10) "Computer software", digital information which can be interpreted by a computer  
50 and any of its related components to direct the way they work. Software is stored in electronic,  
51 magnetic, optical or other digital form. The term commonly includes programs to run operating  
52 systems and applications, such as word processing, graphic, or spreadsheet programs, utilities,  
53 compilers, interpreters and communications programs;

54 (11) "Computer-related documentation", written, recorded, printed or electronically  
55 stored material which explains or illustrates how to configure or use computer hardware,  
56 software or other related items;

57 (12) "Computer system", a set of related, connected or unconnected, computer  
58 equipment, data, or software;

59 (13) "Confinement":

60 (a) A person is in confinement when such person is held in a place of confinement  
61 pursuant to arrest or order of a court, and remains in confinement until:

62 a. A court orders the person's release; or

63 b. The person is released on bail, bond, or recognizance, personal or otherwise; or

64 c. A public servant having the legal power and duty to confine the person authorizes his  
65 release without guard and without condition that he return to confinement;

66 (b) A person is not in confinement if:

67 a. The person is on probation or parole, temporary or otherwise; or

68 b. The person is under sentence to serve a term of confinement which is not continuous,  
69 or is serving a sentence under a work-release program, and in either such case is not being held  
70 in a place of confinement or is not being held under guard by a person having the legal power  
71 and duty to transport the person to or from a place of confinement;

72 (14) "Consent": consent or lack of consent may be expressed or implied. Assent does  
73 not constitute consent if:

74 (a) It is given by a person who lacks the mental capacity to authorize the conduct charged  
75 to constitute the offense and such mental incapacity is manifest or known to the actor; or

76 (b) It is given by a person who by reason of youth, mental disease or defect, intoxication,  
77 a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable  
78 to make a reasonable judgment as to the nature or harmfulness of the conduct charged to  
79 constitute the offense; or

80 (c) It is induced by force, duress or deception;

81 (15) "Controlled substance", a drug, substance, or immediate precursor in schedules I  
82 through V as defined in chapter 195;

83 (16) "Criminal negligence", failure to be aware of a substantial and unjustifiable risk that  
84 circumstances exist or a result will follow, and such failure constitutes a gross deviation from  
85 the standard of care which a reasonable person would exercise in the situation;

86 (17) "Custody", a person is in custody when he or she has been arrested but has not been  
87 delivered to a place of confinement;

88 (18) "Damage", when used in relation to a computer system or network, means any  
89 alteration, deletion, or destruction of any part of the computer system or network;

90 (19) "Dangerous felony", the felonies of arson in the first degree, assault in the first  
91 degree, attempted rape in the first degree if physical injury results, attempted forcible rape if  
92 physical injury results, attempted sodomy in the first degree if physical injury results, attempted  
93 forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the  
94 first degree, forcible sodomy, assault in the second degree if the victim of such assault is a  
95 special victim as defined in subdivision (14) of section 565.002, kidnapping in the first degree,  
96 kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree,  
97 domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree,  
98 statutory rape in the first degree when the victim is a child less than twelve years of age at the  
99 time of the commission of the act giving rise to the offense, statutory sodomy in the first degree  
100 when the victim is a child less than twelve years of age at the time of the commission of the act  
101 giving rise to the offense, child molestation in the first or second degree, abuse of a child if the

102 child dies as a result of injuries sustained from conduct chargeable under section 568.060, child  
103 kidnapping, parental kidnapping committed by detaining or concealing the whereabouts of the  
104 child for not less than one hundred twenty days under section 565.153, and an  
105 "intoxication-related traffic offense" or "intoxication-related boating offense" if the person is  
106 found to be a "habitual offender" or "habitual boating offender" as such terms are defined in  
107 section 577.001;

108 (20) "Dangerous instrument", any instrument, article or substance, which, under the  
109 circumstances in which it is used, is readily capable of causing death or other serious physical  
110 injury;

111 (21) "Data", a representation of information, facts, knowledge, concepts, or instructions  
112 prepared in a formalized or other manner and intended for use in a computer or computer  
113 network. Data may be in any form including, but not limited to, printouts, microfiche, magnetic  
114 storage media, punched cards and as may be stored in the memory of a computer;

115 (22) "Deadly weapon", any firearm, loaded or unloaded, or any weapon from which a  
116 shot, readily capable of producing death or serious physical injury, may be discharged, or a  
117 switchblade knife, dagger, billy club, blackjack or metal knuckles;

118 (23) "Digital camera", a camera that records images in a format which enables the  
119 images to be downloaded into a computer;

120 (24) "Disability", a mental, physical, or developmental impairment that substantially  
121 limits one or more major life activities or the ability to provide adequately for one's care or  
122 protection, whether the impairment is congenital or acquired by accident, injury or disease, where  
123 such impairment is verified by medical findings;

124 (25) "Elderly person", a person sixty years of age or older;

125 (26) "Felony", an offense so designated or an offense for which persons found guilty  
126 thereof may be sentenced to death or imprisonment for a term of more than one year;

127 (27) "Forcible compulsion" either:

128 (a) Physical force that overcomes reasonable resistance; or

129 (b) A threat, express or implied, that places a person in reasonable fear of death, serious  
130 physical injury or kidnapping of such person or another person;

131 (28) "Incapacitated", a temporary or permanent physical or mental condition in which  
132 a person is unconscious, unable to appraise the nature of his or her conduct, or unable to  
133 communicate unwillingness to an act;

134 (29) "Infraction", a violation defined by this code or by any other statute of this state if  
135 it is so designated or if no sentence other than a fine, or fine and forfeiture or other civil penalty,  
136 is authorized upon conviction;

137 (30) "Inhabitable structure", a vehicle, vessel or structure;

- 138 (a) Where any person lives or carries on business or other calling; or  
139 (b) Where people assemble for purposes of business, government, education, religion,  
140 entertainment, or public transportation; or  
141 (c) Which is used for overnight accommodation of persons.  
142
- 143 Any such vehicle, vessel, or structure is inhabitable regardless of whether a person is actually  
144 present. If a building or structure is divided into separately occupied units, any unit not occupied  
145 by the actor is an inhabitable structure of another;
- 146 (31) "Knowingly", when used with respect to:  
147 (a) Conduct or attendant circumstances, means a person is aware of the nature of his or  
148 her conduct or that those circumstances exist; or  
149 (b) A result of conduct, means a person is aware that his or her conduct is practically  
150 certain to cause that result;
- 151 (32) "Law enforcement officer", any public servant having both the power and duty to  
152 make arrests for violations of the laws of this state, and federal law enforcement officers  
153 authorized to carry firearms and to make arrests for violations of the laws of the United States;
- 154 (33) "Misdemeanor", an offense so designated or an offense for which persons found  
155 guilty thereof may be sentenced to imprisonment for a term of which the maximum is one year  
156 or less;
- 157 (34) "Of another", property that any entity, including but not limited to any natural  
158 person, corporation, limited liability company, partnership, association, governmental  
159 subdivision or instrumentality, other than the actor, has a possessory or proprietary interest  
160 therein, except that property shall not be deemed property of another who has only a security  
161 interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or  
162 other security arrangement;
- 163 (35) "Offense", any felony or misdemeanor;
- 164 (36) "**Person**", **includes a human being from the moment of conception as defined**  
165 **in section 188.015;**
- 166 (37) "Physical injury", slight impairment of any function of the body or temporary loss  
167 of use of any part of the body;
- 168 [~~37~~] (38) "Place of confinement", any building or facility and the grounds thereof  
169 wherein a court is legally authorized to order that a person charged with or convicted of a crime  
170 be held;
- 171 [~~38~~] (39) "Possess" or "possessed", having actual or constructive possession of an  
172 object with knowledge of its presence. A person has actual possession if such person has the  
173 object on his or her person or within easy reach and convenient control. A person has

174 constructive possession if such person has the power and the intention at a given time to exercise  
175 dominion or control over the object either directly or through another person or persons.  
176 Possession may also be sole or joint. If one person alone has possession of an object, possession  
177 is sole. If two or more persons share possession of an object, possession is joint;

178 ~~[(39)]~~ **(40)** "Property", anything of value, whether real or personal, tangible or intangible,  
179 in possession or in action;

180 ~~[(40)]~~ **(41)** "Public servant", any person employed in any way by a government of this  
181 state who is compensated by the government by reason of such person's employment, any person  
182 appointed to a position with any government of this state, or any person elected to a position with  
183 any government of this state. It includes, but is not limited to, legislators, jurors, members of the  
184 judiciary and law enforcement officers. It does not include witnesses;

185 ~~[(41)]~~ **(42)** "Purposely", when used with respect to a person's conduct or to a result  
186 thereof, means when it is his or her conscious object to engage in that conduct or to cause that  
187 result;

188 ~~[(42)]~~ **(43)** "Recklessly", consciously disregarding a substantial and unjustifiable risk that  
189 circumstances exist or that a result will follow, and such disregard constitutes a gross deviation  
190 from the standard of care which a reasonable person would exercise in the situation;

191 ~~[(43)]~~ **(44)** "Serious emotional injury", an injury that creates a substantial risk of  
192 temporary or permanent medical or psychological damage, manifested by impairment of a  
193 behavioral, cognitive or physical condition. Serious emotional injury shall be established by  
194 testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable  
195 degree of medical or psychological certainty;

196 ~~[(44)]~~ **(45)** "Serious physical injury", physical injury that creates a substantial risk of  
197 death or that causes serious disfigurement or protracted loss or impairment of the function of any  
198 part of the body;

199 ~~[(45)]~~ **(46)** "Services", when used in relation to a computer system or network, means  
200 use of a computer, computer system, or computer network and includes, but is not limited to,  
201 computer time, data processing, and storage or retrieval functions;

202 ~~[(46)]~~ **(47)** "Sexual orientation", male or female heterosexuality, homosexuality or  
203 bisexuality by inclination, practice, identity or expression, or having a self-image or identity not  
204 traditionally associated with one's gender;

205 ~~[(47)]~~ **(48)** "Vehicle", a self-propelled mechanical device designed to carry a person or  
206 persons, excluding vessels or aircraft;

207 ~~[(48)]~~ **(49)** "Vessel", any boat or craft propelled by a motor or by machinery, whether or  
208 not such motor or machinery is a principal source of propulsion used or capable of being used  
209 as a means of transportation on water, or any boat or craft more than twelve feet in length which

210 is powered by sail alone or by a combination of sail and machinery, and used or capable of being  
211 used as a means of transportation on water, but not any boat or craft having, as the only means  
212 of propulsion, a paddle or oars;

213 ~~[(49)]~~ (50) "Voluntary act":

214 (a) A bodily movement performed while conscious as a result of effort or determination.  
215 Possession is a voluntary act if the possessor knowingly procures or receives the thing possessed,  
216 or having acquired control of it was aware of his or her control for a sufficient time to have  
217 enabled him or her to dispose of it or terminate his or her control; or

218 (b) An omission to perform an act of which the actor is physically capable. A person is  
219 not guilty of an offense based solely upon an omission to perform an act unless the law defining  
220 the offense expressly so provides, or a duty to perform the omitted act is otherwise imposed by  
221 law;

222 ~~[(50)]~~ (51) "Vulnerable person", any person in the custody, care, or control of the  
223 department of mental health who is receiving services from an operated, funded, licensed, or  
224 certified program.

562.031. 1. A person is not relieved of criminal liability for conduct because he or she  
2 engages in such conduct under a mistaken belief of fact or law unless such mistake negatives the  
3 existence of the mental state required by the offense.

4 2. A person is not relieved of criminal liability for conduct because he or she believes  
5 his or her conduct does not constitute an offense unless his or her belief is reasonable and:

6 (1) The offense is defined by an administrative regulation or order which is not known  
7 to him or her and has not been published or otherwise made reasonably available to him or her,  
8 and he or she could not have acquired such knowledge by the exercise of due diligence pursuant  
9 to facts known to him or her; or

10 (2) He or she acts in reasonable reliance upon an official statement of the law, afterward  
11 determined to be invalid or erroneous, contained in:

12 (a) A statute;

13 (b) An opinion or order of an appellate court; or

14 (c) An official interpretation of the statute, regulation or order defining the offense made  
15 by a public official or agency legally authorized to interpret such statute, regulation or order.

16 3. The burden of injecting the issue of reasonable belief that conduct does not constitute  
17 an offense under subdivisions (1) and (2) of subsection 2 of this section is on the defendant.

18 **4. For purposes of this section, reliance is unreasonable if based upon an official**  
19 **statement permitting the unjustified homicide of an unborn child as defined in section**  
20 **1.205.**

562.071. 1. It is an affirmative defense that the defendant engaged in the conduct charged to constitute an offense because he or she was coerced to do so, by the use of, or threatened imminent use of, unlawful physical force upon him or her or a third person, which force or threatened force a person of reasonable firmness in his situation would have been unable to resist.

2. The defense of "duress" as defined in subsection 1 is not available:

(1) As to the crime of murder, **except murder by abortion as defined in section 188.015;**

(2) As to any offense when the defendant recklessly places himself or herself in a situation in which it is probable that he or she will be subjected to the force or threatened force described in subsection 1 of this section.

563.026. 1. Unless inconsistent with other provisions of this chapter defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute any offense [~~other than a class A felony or murder~~] is justifiable and not criminal when it is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability of avoiding the injury outweighs the desirability of avoiding the injury sought to be prevented by the statute defining the offense charged.

2. The necessity and justifiability of conduct under subsection 1 of this section may not rest upon considerations pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder. Whenever evidence relating to the defense of justification under this section is offered, the court shall rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a justification.

3. The defense of justification under this section is an affirmative defense.

**565.015. 1. This section shall be known and may be cited as the "Abolition of Abortion in Missouri Act".**

**2. It is the intent of the general assembly to provide to unborn children the equal protection of the laws of this state; to establish that a living human child, from the moment of conception, is entitled to the same rights, powers, privileges, justice, and protections as are secured or granted by the laws of this state to any other human person; and to treat as void and of no effect any and all federal acts, laws, treaties, decisions, orders, rules, or regulations that would deprive an unborn child of the right to life or prohibit the protection of such right.**

10           **3. The attorney general and prosecuting attorneys shall ensure the enforcement of**  
11 **chapter 565 in relation to abortion regardless of any contrary or conflicting federal acts,**  
12 **laws, treaties, decisions, orders, rules, or regulations.**

13           **4. This chapter shall be enforced in relation to abortion regardless of any contrary**  
14 **or conflicting federal acts, laws, treaties, decisions, orders, rules, or regulations. Any court**  
15 **decision purporting to enjoin this state from protecting innocent human life from the**  
16 **moment of conception shall be treated as nonauthoritative, void, and of no force. No**  
17 **government agency or official of this state, including any sheriff, deputy sheriff, or other**  
18 **law enforcement officer, shall give force or effect to any court order that conflicts with this**  
19 **section. Cooperative agreements with federal agencies notwithstanding, no law**  
20 **enforcement agency or law enforcement officer in this state shall assist or cooperate in any**  
21 **way with the arrest or imprisonment of any government official or individual who complies**  
22 **with this section and refuses to comply with any contrary court order. Such contrary**  
23 **orders shall include, but not be limited to, any order to levy upon property, seize bank**  
24 **accounts, arrest the person, or serve process for the purpose of causing any person to**  
25 **violate this section, or for the purpose of punishing any person for the failure to comply**  
26 **with an order contrary to this section. A federal officer or agent who arrests any Missouri**  
27 **government official for compliance with this section shall be subject to arrest by Missouri**  
28 **law enforcement.**

29           **5. In any investigation or proceeding brought to enforce the provisions of chapter**  
30 **565 relating to abortion, as in all other criminal cases, a court on motion of the prosecuting**  
31 **attorney may order that a witness shall not be excused from giving testimony or producing**  
32 **any papers, documents, or things, on the grounds that such testimony may tend to**  
33 **incriminate or subject the witness to a penalty or forfeiture; but such witness shall not be**  
34 **prosecuted or subjected to criminal penalty or forfeiture for or on account of any**  
35 **transaction, matter, or thing concerning which the witness has been ordered to testify. The**  
36 **prosecuting attorney shall also have authority to grant such immunity to a witness who**  
37 **voluntarily agrees to give testimony or produce any papers, documents, or things. The**  
38 **witness may nevertheless be prosecuted for failing to comply with the order to answer,**  
39 **perjury, or the giving of false evidence.**

          595.027. 1. Upon request by the department for verification of injuries of victims,  
2 medical providers shall submit the information requested by the department within twenty  
3 working days of the request at no cost to the fund.

4           2. For purposes of this section, "medical providers" means physicians, dentists, clinical  
5 psychologists, optometrists, podiatrists, registered nurses, physician's assistants, chiropractors,



6 physical therapists, hospitals, ambulatory surgical centers, [~~abortion facilities,~~] and nursing  
7 homes.

8 3. Failure to submit the information as required by this section shall be an infraction.

595.120. 1. Prior to January 1, 2019, the department of public safety shall create a poster  
2 that provides information regarding the national human trafficking resource center hotline. The  
3 poster shall be no smaller than eight and one-half inches by eleven inches in size and shall  
4 include a statement in substantially the following form:

5 "If you or someone you know is being forced to engage in any activity and cannot  
6 leave – whether it is commercial sex, housework, farm work, or any other activity  
7 – call the National Human Trafficking Resource Center Hotline at  
8 1-888-373-7888 or text 233733 (BEFREE) or visit the following website:  
9 www.traffickingresourcecenter.org to access help and services. Victims of human  
10 trafficking are protected under U.S. and Missouri law.

11 The toll-free hotline is:

- 12 - Available 24 hours a day, 7 days a week
- 13 - Operated by a nonprofit, nongovernmental organization
- 14 - Anonymous and confidential
- 15 - Accessible in 170 languages
- 16 - Able to provide help, referral to services, training, and general information."

17

18 The statement shall appear on each poster in English, Spanish, and, for each county, any other  
19 language required for voting materials in that county under Section 1973 of the Voting Rights  
20 Act of 1965, 42 U.S.C. Section 1973, as amended. In addition to the national human trafficking  
21 resource center hotline, the statement may contain any additional hotlines regarding human  
22 trafficking for access to help and services.

23 2. Beginning March 1, 2019, the human trafficking hotline poster designed by the  
24 department of public safety shall be displayed in a conspicuous place in or near the bathrooms  
25 or near the entrance of each of the following establishments:

26 (1) Hotels, motels, or other establishments that have been cited as a public nuisance for  
27 prostitution under section 567.080;

28 (2) Strip clubs or other sexually oriented businesses;

29 (3) Private clubs that have a liquor permit for on-premises consumption, do not hold  
30 themselves out to be food service establishments, and are not affiliated with any nonprofit  
31 fraternal, athletic, religious, or veteran organizations;

32 (4) Airports;

33 (5) Train stations that serve passengers;

- 34 (6) Emergency rooms within general acute care hospitals;
- 35 (7) Urgent care centers;
- 36 (8) Privately operated job recruitment centers;
- 37 (9) Businesses or establishments that offer massage or body work services for
- 38 compensation by individuals who are not licensed under section 324.265;
- 39 (10) Women's health centers;
- 40 (11) ~~[Abortion facilities as defined in section 188.015;~~
- 41 ~~——(12)]~~ Family planning clinics;
- 42 ~~[(13)]~~ (12) Maternity homes as defined in section 135.600;
- 43 ~~[(14)]~~ (13) Pregnancy resource centers as defined in section 135.630;
- 44 ~~[(15)]~~ (14) Bus stations;
- 45 ~~[(16)]~~ (15) Truck stops. For the purposes of this section, "truck stops" shall mean
- 46 privately owned and operated facilities that provide food, fuel, shower or other sanitary facilities,
- 47 and lawful overnight parking; and
- 48 ~~[(17)]~~ (16) Roadside rest areas.

49 3. The department of public safety shall make the poster available for print on its public  
 50 website. To obtain a copy of the poster, the owners or operators of an establishment required to  
 51 post the human trafficking hotline notice under subsection 2 of this section may print the online  
 52 poster using the online link or request that the poster be mailed for the cost of printing and first  
 53 class postage.

54 4. Any owner or operator of an establishment required to post the human trafficking  
 55 hotline notice under subsection 2 of this section who fails to comply with the requirement shall  
 56 receive a written warning for the first violation and may be guilty of an infraction for any  
 57 subsequent violation.

2 ~~[188.017. 1. This section shall be known and may be cited as the "Right~~  
~~to Life of the Unborn Child Act".~~

3 ~~—— 2. Notwithstanding any other provision of law to the contrary, no~~  
~~abortion shall be performed or induced upon a woman, except in cases of medical~~  
~~emergency. Any person who knowingly performs or induces an abortion of an~~  
~~unborn child in violation of this subsection shall be guilty of a class B felony, as~~  
~~well as subject to suspension or revocation of his or her professional license by~~  
~~his or her professional licensing board. A woman upon whom an abortion is~~  
~~performed or induced in violation of this subsection shall not be prosecuted for~~  
~~a conspiracy to violate the provisions of this subsection.~~

11 ~~—— 3. It shall be an affirmative defense for any person alleged to have~~  
~~violated the provisions of subsection 2 of this section that the person performed~~  
~~or induced an abortion because of a medical emergency. The defendant shall~~  
~~have the burden of persuasion that the defense is more probably true than not.~~

15 ~~4. The enactment of this section shall only become effective upon~~  
 16 ~~notification to the revisor of statutes by an opinion by the attorney general of~~  
 17 ~~Missouri, a proclamation by the governor of Missouri, or the adoption of a~~  
 18 ~~concurrent resolution by the Missouri general assembly that:~~

19 ~~(1) The United States Supreme Court has overruled, in whole or in part,~~  
 20 ~~Roe v. Wade, 410 U.S. 113 (1973), restoring or granting to the state of Missouri~~  
 21 ~~the authority to regulate abortion to the extent set forth in this section, and that~~  
 22 ~~as a result, it is reasonably probable that this section would be upheld by the court~~  
 23 ~~as constitutional;~~

24 ~~(2) An amendment to the Constitution of the United States has been~~  
 25 ~~adopted that has the effect of restoring or granting to the state of Missouri the~~  
 26 ~~authority to regulate abortion to the extent set forth in this section; or~~

27 ~~(3) The United States Congress has enacted a law that has the effect of~~  
 28 ~~restoring or granting to the state of Missouri the authority to regulate abortion to~~  
 29 ~~the extent set forth in this section.]~~

30

2 ~~[188.018. If any one or more provisions, sections, subsections, sentences,~~  
 3 ~~clauses, phrases, or words of this chapter or the application thereof to any person,~~  
 4 ~~circumstance, or period of gestational age is found to be unenforceable,~~  
 5 ~~unconstitutional, or invalid by a court of competent jurisdiction, the same is~~  
 6 ~~hereby declared to be severable and the balance of this chapter shall remain~~  
 7 ~~effective notwithstanding such unenforceability, unconstitutionality, or invalidity.~~  
 8 ~~The general assembly hereby declares that it would have passed each provision,~~  
 9 ~~section, subsection, sentence, clause, phrase, or word thereof, irrespective of the~~  
 10 ~~fact that any one or more provisions, sections, subsections, sentences, clauses,~~  
 11 ~~phrases, or words of this chapter, or the application of this chapter to any person,~~  
 12 ~~circumstance, or period of gestational age, would be declared unenforceable,~~  
 13 ~~unconstitutional, or invalid.]~~

2 ~~[188.021. 1. When RU-486 (mifepristone) or any drug or chemical is~~  
 3 ~~used for the purpose of inducing an abortion, the initial dose of the drug or~~  
 4 ~~chemical shall be administered in the same room and in the physical presence of~~  
 5 ~~the physician who prescribed, dispensed, or otherwise provided the drug or~~  
 6 ~~chemical to the patient. The physician inducing the abortion, or a person acting~~  
 7 ~~on such physician's behalf, shall make all reasonable efforts to ensure that the~~  
 8 ~~patient returns after the administration or use of RU-486 or any drug or chemical~~  
 9 ~~for a follow-up visit unless such termination of the pregnancy has already been~~  
 10 ~~confirmed and the patient's medical condition has been assessed by a licensed~~  
 11 ~~physician prior to discharge.~~

12 ~~2. When the Food and Drug Administration label of any drug or chemical~~  
 used for the purpose of inducing an abortion includes any clinical study in which

13 ~~more than one percent of those administered the drug or chemical required~~  
 14 ~~surgical intervention after its administration, no physician may prescribe or~~  
 15 ~~administer such drug or chemical to any patient without first obtaining approval~~  
 16 ~~from the department of health and senior services of a complication plan from the~~  
 17 ~~physician for administration of the drug or chemical to any patient. The~~  
 18 ~~complication plan shall include any information deemed necessary by the~~  
 19 ~~department to ensure the safety of any patient suffering complications as a result~~  
 20 ~~of the administration of the drug or chemical in question. No complication plan~~  
 21 ~~shall be required where the patient is administered the drug in a medical~~  
 22 ~~emergency at a hospital and is then treated as an inpatient at a hospital under~~  
 23 ~~medical monitoring by the hospital until the abortion is completed.~~

24 ~~3. The department may adopt rules, regulations, and standards governing~~  
 25 ~~complication plans to ensure that patients undergoing abortions induced by drugs~~  
 26 ~~or chemicals have access to safe and reliable care. Any rule or portion of a rule,~~  
 27 ~~as that term is defined in section 536.010, that is created under the authority~~  
 28 ~~delegated in this section shall become effective only if it complies with and is~~  
 29 ~~subject to all of the provisions of chapter 536 and, if applicable, section 536.028.~~  
 30 ~~This section and chapter 536 are nonseverable and if any of the powers vested~~  
 31 ~~with the general assembly pursuant to chapter 536 to review, to delay the~~  
 32 ~~effective date, or to disapprove and annul a rule are subsequently held~~  
 33 ~~unconstitutional, then the grant of rulemaking authority and any rule proposed or~~  
 34 ~~adopted after October 24, 2017, shall be invalid and void.]~~  
 35

2 ~~[188.025. Every abortion performed at sixteen weeks gestational age or~~  
 3 ~~later shall be performed in a hospital.]~~

2 ~~[188.026. 1. This section and sections 188.056, 188.057, and 188.058~~  
 3 ~~shall be known and may be cited as the "Missouri Stands for the Unborn Act".~~

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

10 ~~(1) At conception, a new genetically distinct human being is formed;~~

11 ~~(2) The fact that the life of an individual human being begins at~~  
 12 ~~conception has long been recognized in Missouri law: "[T]he child is, in truth,~~  
 13 ~~alive from the moment of conception". State v. Emerich, 13 Mo. App. 492, 495~~  
 14 ~~(1883), affirmed, 87 Mo. 110 (1885). Under section 1.205, the general assembly~~  
 15 ~~has recognized that the life of each human being begins at conception and that~~  
 16 ~~unborn children have protectable interests in life, health, and well-being;~~

17 ~~(3) The first prohibition of abortion in Missouri was enacted in 1825.~~  
~~Since then, the repeal and reenactment of prohibitions of abortion have made~~

18 distinctions with respect to penalties for performing or inducing abortion on the  
19 basis of "quickening"; however, the unborn child was still protected from  
20 conception onward;

21 ~~————— (4) In ruling that Missouri's prohibition on abortion was constitutional in~~  
22 ~~1972, the Missouri supreme court accepted as a stipulation of the parties that~~  
23 ~~"[i]nfant Doe, Intervenor Defendant in this case, and all other unborn children~~  
24 ~~have all the qualities and attributes of adult human persons differing only in age~~  
25 ~~or maturity. Medically, human life is a continuum from conception to death."~~  
26 ~~Rodgers v. Danforth, 486 S.W.2d 258, 259 (1972);~~

27 ~~————— (5) In Webster v. Reproductive Health Services, 492 U.S. 490 (1989), the~~  
28 ~~Supreme Court, while considering the "preamble" that set forth "findings" in~~  
29 ~~section 1.205, stated: "We think the extent to which the preamble's language~~  
30 ~~might be used to interpret other state statutes or regulations is something that only~~  
31 ~~the courts of Missouri can definitively decide. State law has offered protections~~  
32 ~~to unborn children in tort and probate law". Id. at 506. Since Webster, Missouri~~  
33 ~~courts have construed section 1.205 and have consistently found that an unborn~~  
34 ~~child is a person for purposes of Missouri's homicide and assault laws when the~~  
35 ~~unborn child's mother was killed or assaulted by another person. Section 1.205~~  
36 ~~has even been found applicable to the manslaughter of an unborn child who was~~  
37 ~~eight weeks gestational age or earlier. State v. Harrison, 390 S.W.3d 927 (Mo.~~  
38 ~~Ct. App. 2013);~~

39 ~~————— (6) In medicine, a special emphasis is placed on the heartbeat. The~~  
40 ~~heartbeat is a discernible sign of life at every stage of human existence. During~~  
41 ~~the fifth week of gestational age, an unborn child's heart begins to beat and blood~~  
42 ~~flow begins during the sixth week;~~

43 ~~————— (7) Depending on the ultrasound equipment being used, the unborn~~  
44 ~~child's heartbeat can be visually detected as early as six to eight weeks gestational~~  
45 ~~age. By about twelve weeks gestational age, the unborn child's heartbeat can~~  
46 ~~consistently be made audible through the use of a handheld Doppler fetal heart~~  
47 ~~rate device;~~

48 ~~————— (8) Confirmation of a pregnancy can be indicated through the detection~~  
49 ~~of the unborn child's heartbeat, while the absence of a heartbeat can be an~~  
50 ~~indicator of the death of the unborn child if the child has reached the point of~~  
51 ~~development when a heartbeat should be detectable;~~

52 ~~————— (9) Heart rate monitoring during pregnancy and labor is utilized to~~  
53 ~~measure the heart rate and rhythm of the unborn child, at an average rate between~~  
54 ~~one hundred ten and one hundred sixty beats per minute, and helps determine the~~  
55 ~~health of the unborn child;~~

56 ~~————— (10) The Supreme Court in Roe discussed "the difficult question of when~~  
57 ~~life begins" and wrote: "[p]hysicians and their scientific colleagues have regarded~~  
58 ~~{quickening} with less interest and have tended to focus either upon conception,~~  
59 ~~upon live birth, or upon the interim point at which the fetus becomes 'viable', that~~  
60 ~~is, potentially able to live outside the mother's womb, albeit with artificial aid".~~

61 Roe, 410 U.S. at 160. Today, however, physicians' and scientists' interests on life  
62 in the womb also focus on other markers of development in the unborn child,  
63 including, but not limited to, presence of a heartbeat, brain development, a viable  
64 pregnancy or viable intrauterine pregnancy during the first trimester of  
65 pregnancy, and the ability to experience pain;

66 (11) In *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52  
67 (1976), the Supreme Court noted that "we recognized in *Roe* that viability was  
68 a matter of medical judgment, skill, and technical ability, and we preserved the  
69 flexibility of the term". *Id.* at 64. Due to advances in medical technology and  
70 diagnoses, present-day physicians and scientists now describe the viability of an  
71 unborn child in an additional manner, by determining whether there is a viable  
72 pregnancy or viable intrauterine pregnancy during the first trimester of  
73 pregnancy;

74 (12) While the overall risk of miscarriage after clinical recognition of  
75 pregnancy is twelve to fifteen percent, the incidence decreases significantly if  
76 cardiac activity in the unborn child has been confirmed. The detection of a  
77 heartbeat in an unborn child is a reliable indicator of a viable pregnancy and that  
78 the unborn child will likely survive to birth, especially if presenting for a prenatal  
79 visit at eight weeks gestational age or later. For asymptomatic women attending  
80 a first prenatal visit between six and eleven weeks gestational age where a  
81 heartbeat was confirmed through an ultrasound, the subsequent risk of  
82 miscarriage is one and six-tenths percent. Although the risk is higher at six  
83 weeks gestational age at nine and four-tenths percent, it declines rapidly to one  
84 and five-tenths percent at eight weeks gestational age, and less than one percent  
85 at nine weeks gestational age or later;

86 (13) The presence of a heartbeat in an unborn child represents a more  
87 definable point of ascertaining survivability than the ambiguous concept of  
88 viability that has been adopted by the Supreme Court, especially since if a  
89 heartbeat is detected at eight weeks gestational age or later in a normal  
90 pregnancy, there is likely to be a viable pregnancy and there is a high probability  
91 that the unborn child will survive to birth;

92 (14) The placenta begins developing during the early first trimester of  
93 pregnancy and performs a respiratory function by making oxygen supply to and  
94 carbon dioxide removal from the unborn child possible later in the first trimester  
95 and throughout the second and third trimesters of pregnancy;

96 (15) By the fifth week of gestation, the development of the brain of the  
97 unborn child is underway. Brain waves have been measured and recorded as  
98 early as the eighth week of gestational age in children who were removed during  
99 an ectopic pregnancy or hysterectomy. Fetal magnetic resonance imaging (MRI)  
100 of an unborn child's brain is used during the second and third trimesters of  
101 pregnancy and brain activity has been observed using MRI;

102 (16) Missouri law identifies the presence of circulation, respiration, and  
103 brain function as indicia of life under section 194.005, as the presence of

104 circulation, respiration, and brain function indicates that such person is not  
105 legally dead, but is legally alive;

106 ~~————— (17) Unborn children at eight weeks gestational age show spontaneous~~  
107 ~~movements, such as a twitching of the trunk and developing limbs. It has been~~  
108 ~~reported that unborn children at this stage show reflex responses to touch. The~~  
109 ~~perioral area is the first part of the unborn child's body to respond to touch at~~  
110 ~~about eight weeks gestational age and by fourteen weeks gestational age most of~~  
111 ~~the unborn child's body is responsive to touch;~~

112 ~~————— (18) Peripheral cutaneous sensory receptors, the receptors that feel pain,~~  
113 ~~develop early in the unborn child. They appear in the perioral cutaneous area at~~  
114 ~~around seven to eight weeks gestational age, in the palmar regions at ten to ten~~  
115 ~~and a half weeks gestational age, the abdominal wall at fifteen weeks gestational~~  
116 ~~age, and over all of the unborn child's body at sixteen weeks gestational age;~~

117 ~~————— (19) Substance P, a peptide that functions as a neurotransmitter,~~  
118 ~~especially in the transmission of pain, is present in the dorsal horn of the spinal~~  
119 ~~cord of the unborn child at eight to ten weeks gestational age. Enkephalins,~~  
120 ~~peptides that play a role in neurotransmission and pain modulation, are present~~  
121 ~~in the dorsal horn at twelve to fourteen weeks gestational age;~~

122 ~~————— (20) When intrauterine needling is performed on an unborn child at~~  
123 ~~sixteen weeks gestational age or later, the reaction to this invasive stimulus is~~  
124 ~~blood flow redistribution to the brain. Increased blood flow to the brain is the~~  
125 ~~same type of stress response seen in a born child and an adult;~~

126 ~~————— (21) By sixteen weeks gestational age, pain transmission from a~~  
127 ~~peripheral receptor to the cortex is possible in the unborn child;~~

128 ~~————— (22) Physicians provide anesthesia during in utero treatment of unborn~~  
129 ~~children as early as sixteen weeks gestational age for certain procedures,~~  
130 ~~including those to correct fetal urinary tract obstruction. Anesthesia is~~  
131 ~~administered by ultrasound-guided injection into the arm or leg of the unborn~~  
132 ~~child;~~

133 ~~————— (23) A leading textbook on prenatal development of the human brain~~  
134 ~~states, "It may be concluded that, although nociperception (the actual perception~~  
135 ~~of pain) awaits the appearance of consciousness, nociception (the experience of~~  
136 ~~pain) is present some time before birth. In the absence of disproof, it is merely~~  
137 ~~prudent to assume that pain can be experienced even early in prenatal life (Dr. J.~~  
138 ~~Wisser, Zürich): the fetus should be given the benefit of the doubt". Ronan~~  
139 ~~Ø'Rahilly & Fabiola Müller. The Embryonic Human Brain: An Atlas of~~  
140 ~~Developmental Stages (3d ed. 2005);~~

141 ~~————— (24) By fourteen or fifteen weeks gestational age or later, the~~  
142 ~~predominant abortion method in Missouri is dilation and evacuation (D&E). The~~  
143 ~~D&E abortion method includes the dismemberment, disarticulation, and~~  
144 ~~exsanguination of the unborn child, causing the unborn child's death;~~

145 ~~————— (25) The Supreme Court acknowledged in Gonzales v. Carhart, 550 U.S.~~  
146 ~~124, 160 (2007), that "the standard D&E is in some respects as brutal, if not~~

147 more, than the intact D&E" partial birth abortion method banned by Congress and  
148 upheld as facially constitutional by the Supreme Court, even though the federal  
149 ban was applicable both before and after viability and had no exception for the  
150 health of the mother;

151 ————— (26) Missouri's ban on the partial birth abortion method, section 565.300,  
152 is in effect because of *Gonzales v. Carhart* and the Supreme Court's subsequent  
153 decision in *Nixon v. Reproductive Health Services of Planned Parenthood of the*  
154 *St. Louis Region, Inc.*, 550 U.S. 901 (2007), to vacate and remand to the  
155 appellate court the prior invalidation of section 565.300. Since section 565.300,  
156 like Congress' ban on partial birth abortion, is applicable both before and after  
157 viability, there is ample precedent for the general assembly to constitutionally  
158 prohibit the brutal D&E abortion method at fourteen weeks gestational age or  
159 later, even before the unborn child is viable, with a medical emergency exception;

160 ————— (27) In *Roper v. Simmons*, 543 U.S. 551 (2005), the Supreme Court  
161 determined that "evolving standards of decency" dictated that a Missouri statute  
162 allowing the death penalty for a conviction of murder in the first degree for a  
163 person under eighteen years of age when the crime was committed was  
164 unconstitutional under the Eighth and Fourteenth Amendments to the United  
165 States Constitution because it violated the prohibition against "cruel and unusual  
166 punishments";

167 ————— (28) In *Bucklew v. Precythe*, 139 S. Ct. 1112, 1123 (2019), the Supreme  
168 Court noted that "'[d]isgusting' practices" like disemboweling and quartering  
169 "readily qualified as 'cruel and unusual', as a reader at the time of the Eighth  
170 Amendment's adoption would have understood those words";

171 ————— (29) Evolving standards of decency dictate that Missouri should prohibit  
172 the brutal and painful D&E abortion method at fourteen weeks gestational age or  
173 later, with a medical emergency exception, because if a comparable method of  
174 killing was used on:

175 ————— (a) A person convicted of murder in the first degree, it would be cruel  
176 and unusual punishment; or

177 ————— (b) An animal, it would be unlawful under state law because it would not  
178 be a humane method, humane euthanasia, or humane killing of certain animals  
179 under chapters 273 and 578;

180 ————— (30) In *Roper*, the Supreme Court also found that "[i]t is proper that we  
181 acknowledge the overwhelming weight of international opinion against the  
182 juvenile death penalty.... The opinion of the world community, while not  
183 controlling our outcome, does provide respected and significant confirmation for  
184 our own conclusions". *Roper*, 543 U.S. at 578. In its opinion, the Supreme Court  
185 was instructed by "international covenants prohibiting the juvenile death  
186 penalty", such as the International Covenant on Civil and Political Rights, 999  
187 U.N.T.S. 171. *Id.* at 577;

188 ————— (31) The opinion of the world community, reflected in the laws of the  
189 United Nation's 193-member states and six other entities, is that in most



190 countries, most abortions are prohibited after twelve weeks gestational age or  
191 later;

192 ~~————— (32) The opinion of the world community is also shared by most~~  
193 ~~Americans, who believe that most abortions in the second and third trimesters of~~  
194 ~~pregnancy should be illegal, based on polling that has remained consistent since~~  
195 ~~1996;~~

196 ~~————— (33) Abortion procedures performed later in pregnancy have a higher~~  
197 ~~medical risk for women. Compared to an abortion at eight weeks gestational age~~  
198 ~~or earlier, the relative risk increases exponentially at later gestational ages. The~~  
199 ~~relative risk of death for a pregnant woman who had an abortion performed or~~  
200 ~~induced upon her at:~~

201 ~~————— (a) Eleven to twelve weeks gestational age is between three and four~~  
202 ~~times higher than an abortion at eight weeks gestational age or earlier;~~

203 ~~————— (b) Thirteen to fifteen weeks gestational age is almost fifteen times~~  
204 ~~higher than an abortion at eight weeks gestational age or earlier;~~

205 ~~————— (c) Sixteen to twenty weeks gestational age is almost thirty times higher~~  
206 ~~than an abortion at eight weeks gestational age or earlier; and~~

207 ~~————— (d) Twenty-one weeks gestational age or later is more than seventy-five~~  
208 ~~times higher than an abortion at eight weeks gestational age or earlier;~~

209 ~~————— (34) In addition to the short-term risks of an abortion, studies have found~~  
210 ~~that the long-term physical and psychological consequences of abortion for~~  
211 ~~women include, but are not limited to, an increased risk of preterm birth, low~~  
212 ~~birthweight babies, and placenta previa in subsequent pregnancies, as well as~~  
213 ~~serious behavioral health issues. These risks increase as abortions are performed~~  
214 ~~or induced at later gestational ages. These consequences of an abortion have a~~  
215 ~~detrimental effect not only on women, their children, and their families, but also~~  
216 ~~on an already burdened health care system, taxpayers, and the workforce;~~

217 ~~————— (35) A large percentage of women who have an abortion performed or~~  
218 ~~induced upon them in Missouri each year are at less than eight weeks gestational~~  
219 ~~age, a large majority are at less than fourteen weeks gestational age, a larger~~  
220 ~~majority are at less than eighteen weeks gestational age, and an even larger~~  
221 ~~majority are at less than twenty weeks gestational age. A prohibition on~~  
222 ~~performing or inducing an abortion at eight weeks gestational age or later, with~~  
223 ~~a medical emergency exception, does not amount to a substantial obstacle to a~~  
224 ~~large fraction of women for whom the prohibition is relevant, which is pregnant~~  
225 ~~women in Missouri who are seeking an abortion while not experiencing a~~  
226 ~~medical emergency. The burden that a prohibition on performing or inducing an~~  
227 ~~abortion at eight, fourteen, eighteen, or twenty weeks gestational age or later,~~  
228 ~~with a medical emergency exception, might impose on abortion access, is~~  
229 ~~outweighed by the benefits conferred upon the following:~~

230 ~~————— (a) Women more advanced in pregnancy who are at greater risk of harm~~  
231 ~~from abortion;~~

232 ~~————— (b) Unborn children at later stages of development;~~

233 ~~————— (c) The medical profession, by preserving its integrity and fulfilling its~~  
234 ~~commitment to do no harm; and~~

235 ~~————— (d) Society, by fostering respect for human life, born and unborn, at all~~  
236 ~~stages of development, and by lessening societal tolerance of violence against~~  
237 ~~innocent human life;~~

238 ~~————— (36) In Webster, the Supreme Court noted, in upholding a Missouri~~  
239 ~~statute, "that there may be a 4-week error in estimating gestational age".~~  
240 ~~Webster, 492 U.S. at 516. Thus, an unborn child thought to be eight weeks~~  
241 ~~gestational age might in fact be twelve weeks gestational age, when an abortion~~  
242 ~~poses a greater risk to the woman and the unborn child is considerably more~~  
243 ~~developed. An unborn child at fourteen weeks gestational age might be eighteen~~  
244 ~~weeks gestational age and an unborn child at eighteen weeks gestational age~~  
245 ~~might be twenty-two weeks gestational age, when an abortion poses a greater risk~~  
246 ~~to the woman, the unborn child is considerably more developed, the abortion~~  
247 ~~method likely to be employed is more brutal, and the risk of pain experienced by~~  
248 ~~the unborn child is greater. An unborn child at twenty weeks gestational age~~  
249 ~~might be twenty-four weeks gestational age, when an abortion poses a greater risk~~  
250 ~~to the woman, the unborn child is considerably more developed, the abortion~~  
251 ~~method likely to be employed is more brutal, the risk of pain experienced by the~~  
252 ~~unborn child is greater, and the unborn child may be viable.~~

253 ~~————— 3. The state of Missouri is bound by Article VI, Clause 2 of the~~  
254 ~~Constitution of the United States that "all treaties made, or which shall be made,~~  
255 ~~under the authority of the United States, shall be the supreme law of the land".~~  
256 ~~One such treaty is the International Covenant on Civil and Political Rights,~~  
257 ~~entered into force on March 23, 1976, and adopted by the United States on~~  
258 ~~September 8, 1992. In ratifying the Covenant, the United States declared that~~  
259 ~~while the provisions of Articles 1 through 27 of the Covenant are not~~  
260 ~~self-executing, the United States' understanding is that state governments share~~  
261 ~~responsibility with the federal government in implementing the Covenant.~~

262 ~~————— 4. Article 6, Paragraph 1, U.N.T.S. at 174, of the International Covenant~~  
263 ~~on Civil and Political Rights states, "Every human being has the inherent right to~~  
264 ~~life. This right shall be protected by law. No one shall be arbitrarily deprived of~~  
265 ~~his life". The state of Missouri takes seriously its obligation to comply with the~~  
266 ~~Covenant and to implement this paragraph as it relates to the inherent right to life~~  
267 ~~of unborn human beings, protecting the rights of unborn human beings by law,~~  
268 ~~and ensuring that such unborn human beings are not arbitrarily deprived of life.~~  
269 ~~The state of Missouri hereby implements Article 6, Paragraph 1 of the Covenant~~  
270 ~~by the regulation of abortion in this state:~~

271 ~~————— 5. The state of Missouri has interests that include, but are not limited to:~~

272 ~~————— (1) Protecting unborn children throughout pregnancy and preserving and~~  
273 ~~promoting their lives from conception to birth;~~

274 ~~————— (2) Encouraging childbirth over abortion;~~

275 ~~————— (3) Ensuring respect for all human life from conception to natural death;~~

- 276 ~~————— (4) Safeguarding an unborn child from the serious harm of pain by an~~
- 277 ~~abortion method that would cause the unborn child to experience pain while she~~
- 278 ~~or he is being killed;~~
- 279 ~~————— (5) Preserving the integrity of the medical profession and regulating and~~
- 280 ~~restricting practices that might cause the medical profession or society as a whole~~
- 281 ~~to become insensitive, even disdainful, to life. This includes regulating and~~
- 282 ~~restricting abortion methods that are not only brutal and painful, but if allowed~~
- 283 ~~to continue, will further coarsen society to the humanity of not only unborn~~
- 284 ~~children, but all vulnerable and innocent human life, making it increasingly~~
- 285 ~~difficult to protect such life;~~
- 286 ~~————— (6) Ending the incongruities in state law by permitting some unborn~~
- 287 ~~children to be killed by abortion, while requiring that unborn children be~~
- 288 ~~protected in nonabortion circumstances through, including, but not limited to,~~
- 289 ~~homicide, assault, self-defense, and defense of another statutes; laws~~
- 290 ~~guaranteeing prenatal health care, emergency care, and testing; state-sponsored~~
- 291 ~~health insurance for unborn children; the prohibition of restraints in correctional~~
- 292 ~~institutions to protect pregnant offenders and their unborn children; and~~
- 293 ~~protecting the interests of unborn children by the appointment of conservators,~~
- 294 ~~guardians, and representatives;~~
- 295 ~~————— (7) Reducing the risks of harm to pregnant women who obtain abortions~~
- 296 ~~later in pregnancy; and~~
- 297 ~~————— (8) Avoiding burdens on the health care system, taxpayers, and the~~
- 298 ~~workforce because of increased preterm births, low birthweight babies,~~
- 299 ~~compromised pregnancies, extended postpartum recoveries, and behavioral health~~
- 300 ~~problems caused by the long-term effects of abortions performed or induced later~~
- 301 ~~in the pregnancy.]~~

302

[188.027. 1. Except in cases of medical emergency, no abortion shall be performed or induced on a woman without her voluntary and informed consent, given freely and without coercion. Consent to an abortion is voluntary and informed and given freely and without coercion if, and only if, at least seventy-two hours prior to the abortion:

- 6 ~~————— (1) The physician who is to perform or induce the abortion, a qualified~~
- 7 ~~professional, or the referring physician has informed the woman orally, reduced~~
- 8 ~~to writing, and in person, of the following:~~
- 9 ~~————— (a) The name of the physician who will perform or induce the abortion;~~
- 10 ~~————— (b) Medically accurate information that a reasonable patient would~~
- 11 ~~consider material to the decision of whether or not to undergo the abortion,~~
- 12 ~~including:~~
- 13 ~~————— a. A description of the proposed abortion method;~~
- 14 ~~————— b. The immediate and long-term medical risks to the woman associated~~
- 15 ~~with the proposed abortion method including, but not limited to, infection,~~
- 16 ~~hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies~~

17           ~~or the ability to carry a subsequent child to term, and possible adverse~~  
18           ~~psychological effects associated with the abortion; and~~  
19           ~~c. The immediate and long-term medical risks to the woman, in light of~~  
20           ~~the anesthesia and medication that is to be administered, the unborn child's~~  
21           ~~gestational age, and the woman's medical history and medical condition;~~  
22           ~~(c) Alternatives to the abortion which shall include making the woman~~  
23           ~~aware that information and materials shall be provided to her detailing such~~  
24           ~~alternatives to the abortion;~~  
25           ~~(d) A statement that the physician performing or inducing the abortion~~  
26           ~~is available for any questions concerning the abortion, together with the telephone~~  
27           ~~number that the physician may be later reached to answer any questions that the~~  
28           ~~woman may have;~~  
29           ~~(e) The location of the hospital that offers obstetrical or gynecological~~  
30           ~~care located within thirty miles of the location where the abortion is performed~~  
31           ~~or induced and at which the physician performing or inducing the abortion has~~  
32           ~~clinical privileges and where the woman may receive follow-up care by the~~  
33           ~~physician if complications arise;~~  
34           ~~(f) The gestational age of the unborn child at the time the abortion is to~~  
35           ~~be performed or induced; and~~  
36           ~~(g) The anatomical and physiological characteristics of the unborn child~~  
37           ~~at the time the abortion is to be performed or induced;~~  
38           ~~(2) The physician who is to perform or induce the abortion or a qualified~~  
39           ~~professional has presented the woman, in person, printed materials provided by~~  
40           ~~the department, which describe the probable anatomical and physiological~~  
41           ~~characteristics of the unborn child at two-week gestational increments from~~  
42           ~~conception to full term, including color photographs or images of the developing~~  
43           ~~unborn child at two-week gestational increments. Such descriptions shall include~~  
44           ~~information about brain and heart functions, the presence of external members~~  
45           ~~and internal organs during the applicable stages of development and information~~  
46           ~~on when the unborn child is viable. The printed materials shall prominently~~  
47           ~~display the following statement: "The life of each human being begins at~~  
48           ~~conception. Abortion will terminate the life of a separate, unique, living human~~  
49           ~~being.";~~  
50           ~~(3) The physician who is to perform or induce the abortion, a qualified~~  
51           ~~professional, or the referring physician has presented the woman, in person,~~  
52           ~~printed materials provided by the department, which describe the various surgical~~  
53           ~~and drug-induced methods of abortion relevant to the stage of pregnancy, as well~~  
54           ~~as the immediate and long-term medical risks commonly associated with each~~  
55           ~~abortion method including, but not limited to, infection, hemorrhage, cervical tear~~  
56           ~~or uterine perforation, harm to subsequent pregnancies or the ability to carry a~~  
57           ~~subsequent child to term, and the possible adverse psychological effects~~  
58           ~~associated with an abortion;~~

59 ————— (4) The physician who is to perform or induce the abortion or a qualified  
60 professional shall provide the woman with the opportunity to view at least  
61 seventy-two hours prior to the abortion an active ultrasound of the unborn child  
62 and hear the heartbeat of the unborn child if the heartbeat is audible. The woman  
63 shall be provided with a geographically indexed list maintained by the  
64 department of health care providers, facilities, and clinics that perform  
65 ultrasounds, including those that offer ultrasound services free of charge. Such  
66 materials shall provide contact information for each provider, facility, or clinic  
67 including telephone numbers and, if available, website addresses. Should the  
68 woman decide to obtain an ultrasound from a provider, facility, or clinic other  
69 than the abortion facility, the woman shall be offered a reasonable time to obtain  
70 the ultrasound examination before the date and time set for performing or  
71 inducing an abortion. The person conducting the ultrasound shall ensure that the  
72 active ultrasound image is of a quality consistent with standard medical practice  
73 in the community, contains the dimensions of the unborn child, and accurately  
74 portrays the presence of external members and internal organs, if present or  
75 viewable, of the unborn child. The auscultation of fetal heart tone must also be  
76 of a quality consistent with standard medical practice in the community. If the  
77 woman chooses to view the ultrasound or hear the heartbeat or both at the  
78 abortion facility, the viewing or hearing or both shall be provided to her at the  
79 abortion facility at least seventy-two hours prior to the abortion being performed  
80 or induced;

81 ————— (5) The printed materials provided by the department shall include  
82 information on the possibility of an abortion causing pain in the unborn child.  
83 This information shall include, but need not be limited to, the following:

84 ————— (a) Unborn children as early as eight weeks gestational age start to show  
85 spontaneous movements and unborn children at this stage in pregnancy show  
86 reflex responses to touch;

87 ————— (b) In the unborn child, the area around his or her mouth and lips is the  
88 first part of the unborn child's body to respond to touch and by fourteen weeks  
89 gestational age most of the unborn child's body is responsive to touch;

90 ————— (c) Pain receptors on the unborn child's skin develop around his or her  
91 mouth at around seven to eight weeks gestational age, around the palms of his or  
92 her hands at ten to ten and a half weeks, on the abdominal wall at fifteen weeks,  
93 and over all of his or her body at sixteen weeks gestational age;

94 ————— (d) Beginning at sixteen weeks gestational age and later, it is possible for  
95 pain to be transmitted from receptors to the cortex of the unborn child's brain,  
96 where thinking and perceiving occur;

97 ————— (e) When a physician performs a life-saving surgery, he or she provides  
98 anesthesia to unborn children as young as sixteen weeks gestational age in order  
99 to alleviate the unborn child's pain; and

100 ~~\_\_\_\_\_ (f) A description of the actual steps in the abortion procedure to be~~  
101 ~~performed or induced and at which steps the abortion procedure could be painful~~  
102 ~~to the unborn child;~~

103 ~~\_\_\_\_\_ (6) The physician who is to perform or induce the abortion or a qualified~~  
104 ~~professional has presented the woman, in person, printed materials provided by~~  
105 ~~the department explaining to the woman alternatives to abortion she may wish to~~  
106 ~~consider. Such materials shall:~~

107 ~~\_\_\_\_\_ (a) Identify on a geographical basis public and private agencies available~~  
108 ~~to assist a woman in carrying her unborn child to term, and to assist her in caring~~  
109 ~~for her dependent child or placing her child for adoption, including agencies~~  
110 ~~commonly known and generally referred to as pregnancy resource centers, crisis~~  
111 ~~pregnancy centers, maternity homes, and adoption agencies. Such materials shall~~  
112 ~~provide a comprehensive list by geographical area of the agencies, a description~~  
113 ~~of the services they offer, and the telephone numbers and addresses of the~~  
114 ~~agencies; provided that such materials shall not include any programs, services,~~  
115 ~~organizations, or affiliates of organizations that perform or induce, or assist in the~~  
116 ~~performing or inducing of, abortions or that refer for abortions;~~

117 ~~\_\_\_\_\_ (b) Explain the Missouri alternatives to abortion services program under~~  
118 ~~section 188.325, and any other programs and services available to pregnant~~  
119 ~~women and mothers of newborn children offered by public or private agencies~~  
120 ~~which assist a woman in carrying her unborn child to term and assist her in caring~~  
121 ~~for her dependent child or placing her child for adoption, including but not~~  
122 ~~limited to prenatal care; maternal health care; newborn or infant care; mental~~  
123 ~~health services; professional counseling services; housing programs; utility~~  
124 ~~assistance; transportation services; food, clothing, and supplies related to~~  
125 ~~pregnancy; parenting skills; educational programs; job training and placement~~  
126 ~~services; drug and alcohol testing and treatment; and adoption assistance;~~

127 ~~\_\_\_\_\_ (c) Identify the state website for the Missouri alternatives to abortion~~  
128 ~~services program under section 188.325, and any toll-free number established by~~  
129 ~~the state operated in conjunction with the program;~~

130 ~~\_\_\_\_\_ (d) Prominently display the statement: "There are public and private~~  
131 ~~agencies willing and able to help you carry your child to term, and to assist you~~  
132 ~~and your child after your child is born, whether you choose to keep your child or~~  
133 ~~place him or her for adoption. The state of Missouri encourages you to contact~~  
134 ~~those agencies before making a final decision about abortion. State law requires~~  
135 ~~that your physician or a qualified professional give you the opportunity to call~~  
136 ~~agencies like these before you undergo an abortion.";~~

137 ~~\_\_\_\_\_ (7) The physician who is to perform or induce the abortion or a qualified~~  
138 ~~professional has presented the woman, in person, printed materials provided by~~  
139 ~~the department explaining that the father of the unborn child is liable to assist in~~  
140 ~~the support of the child, even in instances where he has offered to pay for the~~  
141 ~~abortion. Such materials shall include information on the legal duties and~~  
142 ~~support obligations of the father of a child, including, but not limited to, child~~

143 support payments, and the fact that paternity may be established by the father's  
144 name on a birth certificate or statement of paternity, or by court action. Such  
145 printed materials shall also state that more information concerning paternity  
146 establishment and child support services and enforcement may be obtained by  
147 calling the family support division within the Missouri department of social  
148 services; and

149 ~~————— (8) The physician who is to perform or induce the abortion or a qualified~~  
150 ~~professional shall inform the woman that she is free to withhold or withdraw her~~  
151 ~~consent to the abortion at any time without affecting her right to future care or~~  
152 ~~treatment and without the loss of any state or federally funded benefits to which~~  
153 ~~she might otherwise be entitled.~~

154 ~~————— 2. All information required to be provided to a woman considering~~  
155 ~~abortion by subsection 1 of this section shall be presented to the woman~~  
156 ~~individually, in the physical presence of the woman and in a private room, to~~  
157 ~~protect her privacy, to maintain the confidentiality of her decision, to ensure that~~  
158 ~~the information focuses on her individual circumstances, to ensure she has an~~  
159 ~~adequate opportunity to ask questions, and to ensure that she is not a victim of~~  
160 ~~coerced abortion. Should a woman be unable to read materials provided to her,~~  
161 ~~they shall be read to her. Should a woman need an interpreter to understand the~~  
162 ~~information presented in the written materials, an interpreter shall be provided to~~  
163 ~~her. Should a woman ask questions concerning any of the information or~~  
164 ~~materials, answers shall be provided in a language she can understand.~~

165 ~~————— 3. No abortion shall be performed or induced unless and until the woman~~  
166 ~~upon whom the abortion is to be performed or induced certifies in writing on a~~  
167 ~~checklist form provided by the department that she has been presented all the~~  
168 ~~information required in subsection 1 of this section, that she has been provided~~  
169 ~~the opportunity to view an active ultrasound image of the unborn child and hear~~  
170 ~~the heartbeat of the unborn child if it is audible, and that she further certifies that~~  
171 ~~she gives her voluntary and informed consent, freely and without coercion, to the~~  
172 ~~abortion procedure.~~

173 ~~————— 4. No physician shall perform or induce an abortion unless and until the~~  
174 ~~physician has obtained from the woman her voluntary and informed consent~~  
175 ~~given freely and without coercion. If the physician has reason to believe that the~~  
176 ~~woman is being coerced into having an abortion, the physician or qualified~~  
177 ~~professional shall inform the woman that services are available for her and shall~~  
178 ~~provide her with private access to a telephone and information about such~~  
179 ~~services, including but not limited to the following:~~

180 ~~————— (1) Rape crisis centers, as defined in section 455.003;~~

181 ~~————— (2) Shelters for victims of domestic violence, as defined in section~~  
182 ~~455.200; and~~

183 ~~————— (3) Orders of protection, pursuant to chapter 455.~~

184 ~~5. The physician who is to perform or induce the abortion shall, at least~~  
185 ~~seventy-two hours prior to such procedure, inform the woman orally and in~~  
186 ~~person of:~~

187 ~~(1) The immediate and long-term medical risks to the woman associated~~  
188 ~~with the proposed abortion method including, but not limited to, infection,~~  
189 ~~hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies~~  
190 ~~or the ability to carry a subsequent child to term, and possible adverse~~  
191 ~~psychological effects associated with the abortion; and~~

192 ~~(2) The immediate and long-term medical risks to the woman, in light of~~  
193 ~~the anesthesia and medication that is to be administered, the unborn child's~~  
194 ~~gestational age, and the woman's medical history and medical conditions.~~

195 ~~6. No physician shall perform or induce an abortion unless and until the~~  
196 ~~physician has received and signed a copy of the form prescribed in subsection 3~~  
197 ~~of this section. The physician shall retain a copy of the form in the patient's~~  
198 ~~medical record.~~

199 ~~7. In the event of a medical emergency, the physician who performed or~~  
200 ~~induced the abortion shall clearly certify in writing the nature and circumstances~~  
201 ~~of the medical emergency. This certification shall be signed by the physician~~  
202 ~~who performed or induced the abortion, and shall be maintained under section~~  
203 ~~188.060.~~

204 ~~8. No person or entity shall require, obtain, or accept payment for an~~  
205 ~~abortion from or on behalf of a patient until at least seventy-two hours have~~  
206 ~~passed since the time that the information required by subsection 1 of this section~~  
207 ~~has been provided to the patient. Nothing in this subsection shall prohibit a~~  
208 ~~person or entity from notifying the patient that payment for the abortion will be~~  
209 ~~required after the seventy-two-hour period has expired if she voluntarily chooses~~  
210 ~~to have the abortion.~~

211 ~~9. The term "qualified professional" as used in this section shall refer to~~  
212 ~~a physician, physician assistant, registered nurse, licensed practical nurse,~~  
213 ~~psychologist, licensed professional counselor, or licensed social worker, licensed~~  
214 ~~or registered under chapter 334, 335, or 337, acting under the supervision of the~~  
215 ~~physician performing or inducing the abortion, and acting within the course and~~  
216 ~~scope of his or her authority provided by law. The provisions of this section shall~~  
217 ~~not be construed to in any way expand the authority otherwise provided by law~~  
218 ~~relating to the licensure, registration, or scope of practice of any such qualified~~  
219 ~~professional.~~

220 ~~10. By November 30, 2010, the department shall produce the written~~  
221 ~~materials and forms described in this section. Any written materials produced~~  
222 ~~shall be printed in a typeface large enough to be clearly legible. All information~~  
223 ~~shall be presented in an objective, unbiased manner designed to convey only~~  
224 ~~accurate scientific and medical information. The department shall furnish the~~  
225 ~~written materials and forms at no cost and in sufficient quantity to any person~~  
226 ~~who performs or induces abortions, or to any hospital or facility that provides~~



227 abortions. The department shall make all information required by subsection 1  
 228 of this section available to the public through its department website. The  
 229 department shall maintain a toll-free, twenty-four-hour hotline telephone number  
 230 where a caller can obtain information on a regional basis concerning the agencies  
 231 and services described in subsection 1 of this section. No identifying information  
 232 regarding persons who use the website shall be collected or maintained. The  
 233 department shall monitor the website on a regular basis to prevent tampering and  
 234 correct any operational deficiencies.

235 ~~11. In order to preserve the compelling interest of the state to ensure that~~  
 236 ~~the choice to consent to an abortion is voluntary and informed, and given freely~~  
 237 ~~and without coercion, the department shall use the procedures for adoption of~~  
 238 ~~emergency rules under section 536.025 in order to promulgate all necessary rules,~~  
 239 ~~forms, and other necessary material to implement this section by November 30,~~  
 240 ~~2010.~~

241 ~~12. If the provisions in subsections 1 and 8 of this section requiring a~~  
 242 ~~seventy-two-hour waiting period for an abortion are ever temporarily or~~  
 243 ~~permanently restrained or enjoined by judicial order, then the waiting period for~~  
 244 ~~an abortion shall be twenty-four hours; provided, however, that if such temporary~~  
 245 ~~or permanent restraining order or injunction is stayed or dissolved, or otherwise~~  
 246 ~~ceases to have effect, the waiting period for an abortion shall be seventy-two~~  
 247 ~~hours.]~~

248  
 2 [188.028. 1. Except in the case of a medical emergency, no person shall  
 3 knowingly perform or induce an abortion upon a pregnant woman under the age  
 4 of eighteen years unless:

5 ~~(1) The attending physician has secured the informed written consent of~~  
 6 ~~the minor and one parent or guardian, and the consenting parent or guardian of~~  
 7 ~~the minor has notified any other custodial parent in writing prior to the securing~~  
 8 ~~of the informed written consent of the minor and one parent or guardian. For~~  
 9 ~~purposes of this subdivision, "custodial parent" shall only mean a parent of a~~  
 10 ~~minor who has been awarded joint legal custody or joint physical custody of such~~  
 11 ~~minor by a court of competent jurisdiction. Notice shall not be required for any~~  
 12 ~~parent:~~

13 ~~(a) Who has been found guilty of any offense in violation of chapter 565,~~  
 14 ~~relating to offenses against the person; chapter 566, relating to sexual offenses;~~  
 15 ~~chapter 567, relating to prostitution; chapter 568, relating to offenses against the~~  
 16 ~~family; or chapter 573, related to pornography and related offenses, if a child was~~  
 17 ~~a victim;~~

18 ~~(b) Who has been found guilty of any offense in any other state or foreign~~  
 19 ~~country, or under federal, tribal, or military jurisdiction if a child was a victim,~~  
 20 ~~which would be a violation of chapters 565, 566, 567, 568, or 573 if committed~~  
~~in this state;~~

- 21 ~~————— (c) Who is listed on the sexual offender registry under sections 589.400~~  
22 ~~to 589.425;~~
- 23 ~~————— (d) Against whom an order of protection has been issued, including a~~  
24 ~~foreign order of protection given full faith and credit in this state under section~~  
25 ~~455.067;~~
- 26 ~~————— (e) Whose custodial, parental, or guardianship rights have been~~  
27 ~~terminated by a court of competent jurisdiction; or~~
- 28 ~~————— (f) Whose whereabouts are unknown after reasonable inquiry, who is a~~  
29 ~~fugitive from justice, who is habitually in an intoxicated or drugged condition;~~  
30 ~~or who has been declared mentally incompetent or incapacitated by a court of~~  
31 ~~competent jurisdiction;~~
- 32 ~~————— (2) The minor is emancipated and the attending physician has received~~  
33 ~~the informed written consent of the minor;~~
- 34 ~~————— (3) The minor has been granted the right to self-consent to the abortion~~  
35 ~~by court order pursuant to subsection 2 of this section, and the attending~~  
36 ~~physician has received the informed written consent of the minor; or~~
- 37 ~~————— (4) The minor has been granted consent to the abortion by court order;~~  
38 ~~and the court has given its informed written consent in accordance with~~  
39 ~~subsection 2 of this section, and the minor is having the abortion willingly, in~~  
40 ~~compliance with subsection 3 of this section.~~
- 41 ~~————— 2. The right of a minor to self-consent to an abortion under subdivision~~  
42 ~~(3) of subsection 1 of this section or court consent under subdivision (4) of~~  
43 ~~subsection 1 of this section may be granted by a court pursuant to the following~~  
44 ~~procedures:~~
- 45 ~~————— (1) The minor or next friend shall make an application to the juvenile~~  
46 ~~court which shall assist the minor or next friend in preparing the petition and~~  
47 ~~notices required pursuant to this section. The minor or the next friend of the~~  
48 ~~minor shall thereafter file a petition setting forth the initials of the minor; the age~~  
49 ~~of the minor; the names and addresses of each parent, guardian, or, if the minor's~~  
50 ~~parents are deceased and no guardian has been appointed, any other person~~  
51 ~~standing in loco parentis of the minor; that the minor has been fully informed of~~  
52 ~~the risks and consequences of the abortion; that the minor is of sound mind and~~  
53 ~~has sufficient intellectual capacity to consent to the abortion; that, if the court~~  
54 ~~does not grant the minor majority rights for the purpose of consent to the~~  
55 ~~abortion, the court should find that the abortion is in the best interest of the minor~~  
56 ~~and give judicial consent to the abortion; that the court should appoint a guardian~~  
57 ~~ad litem of the child; and if the minor does not have private counsel, that the~~  
58 ~~court should appoint counsel. The petition shall be signed by the minor or the~~  
59 ~~next friend;~~
- 60 ~~————— (2) A hearing on the merits of the petition, to be held on the record, shall~~  
61 ~~be held as soon as possible within five days of the filing of the petition. If any~~  
62 ~~party is unable to afford counsel, the court shall appoint counsel at least~~  
63 ~~twenty-four hours before the time of the hearing. At the hearing, the court shall~~

64 hear evidence relating to the emotional development, maturity, intellect and  
 65 understanding of the minor; the nature, possible consequences, and alternatives  
 66 to the abortion; and any other evidence that the court may find useful in  
 67 determining whether the minor should be granted majority rights for the purpose  
 68 of consenting to the abortion or whether the abortion is in the best interests of the  
 69 minor;

70 ~~\_\_\_\_\_ (3) In the decree, the court shall for good cause:~~

71 ~~\_\_\_\_\_ (a) Grant the petition for majority rights for the purpose of consenting to~~  
 72 ~~the abortion;~~

73 ~~\_\_\_\_\_ (b) Find the abortion to be in the best interests of the minor and give~~  
 74 ~~judicial consent to the abortion, setting forth the grounds for so finding; or~~

75 ~~\_\_\_\_\_ (c) Deny the petition, setting forth the grounds on which the petition is~~  
 76 ~~denied;~~

77 ~~\_\_\_\_\_ (4) If the petition is allowed, the informed consent of the minor, pursuant~~  
 78 ~~to a court grant of majority rights, or the judicial consent, shall bar an action by~~  
 79 ~~the parents or guardian of the minor on the grounds of battery of the minor by~~  
 80 ~~those performing or inducing the abortion. The immunity granted shall only~~  
 81 ~~extend to the performance or induction of the abortion in accordance herewith~~  
 82 ~~and any necessary accompanying services which are performed in a competent~~  
 83 ~~manner. The costs of the action shall be borne by the parties;~~

84 ~~\_\_\_\_\_ (5) An appeal from an order issued under the provisions of this section~~  
 85 ~~may be taken to the court of appeals of this state by the minor or by a parent or~~  
 86 ~~guardian of the minor. The notice of intent to appeal shall be given within~~  
 87 ~~twenty-four hours from the date of issuance of the order. The record on appeal~~  
 88 ~~shall be completed and the appeal shall be perfected within five days from the~~  
 89 ~~filing of notice to appeal. Because time may be of the essence regarding the~~  
 90 ~~performance or induction of the abortion, the supreme court of this state shall, by~~  
 91 ~~court rule, provide for expedited appellate review of cases appealed under this~~  
 92 ~~section.~~

93 ~~\_\_\_\_\_ 3. If a minor desires an abortion, then she shall be orally informed of and,~~  
 94 ~~if possible, sign the written consent required under this chapter in the same~~  
 95 ~~manner as an adult person. No abortion shall be performed or induced on any~~  
 96 ~~minor against her will, except that an abortion may be performed or induced~~  
 97 ~~against the will of a minor pursuant to a court order described in subdivision (4)~~  
 98 ~~of subsection 1 of this section that the abortion is necessary to preserve the life~~  
 99 ~~of the minor.]~~

100

~~[188.030. 1. Except in the case of a medical emergency, no abortion of~~  
 2 ~~a viable unborn child shall be performed or induced unless the abortion is~~  
 3 ~~necessary to preserve the life of the pregnant woman whose life is endangered by~~  
 4 ~~a physical disorder, physical illness, or physical injury, including a~~  
 5 ~~life-endangering physical condition caused by or arising from the pregnancy~~  
 6 ~~itself, or when continuation of the pregnancy will create a serious risk of~~

7 substantial and irreversible physical impairment of a major bodily function of the  
8 pregnant woman. For purposes of this section, "major bodily function" includes;  
9 but is not limited to, functions of the immune system, normal cell growth,  
10 digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine,  
11 and reproductive functions.

12 ~~2. Except in the case of a medical emergency:~~

13 ~~(1) Prior to performing or inducing an abortion upon a woman, the~~  
14 ~~physician shall determine the gestational age of the unborn child in a manner~~  
15 ~~consistent with accepted obstetrical and neonatal practices and standards. In~~  
16 ~~making such determination, the physician shall make such inquiries of the~~  
17 ~~pregnant woman and perform or cause to be performed such medical~~  
18 ~~examinations, imaging studies, and tests as a reasonably prudent physician,~~  
19 ~~knowledgeable about the medical facts and conditions of both the woman and the~~  
20 ~~unborn child involved, would consider necessary to perform and consider in~~  
21 ~~making an accurate diagnosis with respect to gestational age;~~

22 ~~(2) If the physician determines that the gestational age of the unborn~~  
23 ~~child is twenty weeks or more, prior to performing or inducing an abortion upon~~  
24 ~~the woman, the physician shall determine if the unborn child is viable by using~~  
25 ~~and exercising that degree of care, skill, and proficiency commonly exercised by~~  
26 ~~a skillful, careful, and prudent physician. In making this determination of~~  
27 ~~viability, the physician shall perform or cause to be performed such medical~~  
28 ~~examinations and tests as are necessary to make a finding of the gestational age,~~  
29 ~~weight, and lung maturity of the unborn child and shall enter such findings and~~  
30 ~~determination of viability in the medical record of the woman;~~

31 ~~(3) If the physician determines that the gestational age of the unborn~~  
32 ~~child is twenty weeks or more, and further determines that the unborn child is not~~  
33 ~~viable and performs or induces an abortion upon the woman, the physician shall~~  
34 ~~report such findings and determinations and the reasons for such determinations~~  
35 ~~to the health care facility in which the abortion is performed and to the state~~  
36 ~~board of registration for the healing arts, and shall enter such findings and~~  
37 ~~determinations in the medical records of the woman and in the individual~~  
38 ~~abortion report submitted to the department under section 188.052;~~

39 ~~(4) (a) If the physician determines that the unborn child is viable, the~~  
40 ~~physician shall not perform or induce an abortion upon the woman unless the~~  
41 ~~abortion is necessary to preserve the life of the pregnant woman or that a~~  
42 ~~continuation of the pregnancy will create a serious risk of substantial and~~  
43 ~~irreversible physical impairment of a major bodily function of the woman.~~

44 ~~(b) Before a physician may proceed with performing or inducing an~~  
45 ~~abortion upon a woman when it has been determined that the unborn child is~~  
46 ~~viable, the physician shall first certify in writing the medical threat posed to the~~  
47 ~~life of the pregnant woman, or the medical reasons that continuation of the~~  
48 ~~pregnancy would cause a serious risk of substantial and irreversible physical~~  
49 ~~impairment of a major bodily function of the pregnant woman. Upon completion~~

50 of the abortion, the physician shall report the reasons and determinations for the  
51 abortion of a viable unborn child to the health care facility in which the abortion  
52 is performed and to the state board of registration for the healing arts, and shall  
53 enter such findings and determinations in the medical record of the woman and  
54 in the individual abortion report submitted to the department under section  
55 188.052.

56 ~~(c) Before a physician may proceed with performing or inducing an~~  
57 ~~abortion upon a woman when it has been determined that the unborn child is~~  
58 ~~viable, the physician who is to perform the abortion shall obtain the agreement~~  
59 ~~of a second physician with knowledge of accepted obstetrical and neonatal~~  
60 ~~practices and standards who shall concur that the abortion is necessary to~~  
61 ~~preserve the life of the pregnant woman, or that continuation of the pregnancy~~  
62 ~~would cause a serious risk of substantial and irreversible physical impairment of~~  
63 ~~a major bodily function of the pregnant woman. This second physician shall also~~  
64 ~~report such reasons and determinations to the health care facility in which the~~  
65 ~~abortion is to be performed and to the state board of registration for the healing~~  
66 ~~arts, and shall enter such findings and determinations in the medical record of the~~  
67 ~~woman and the individual abortion report submitted to the department under~~  
68 ~~section 188.052. The second physician shall not have any legal or financial~~  
69 ~~affiliation or relationship with the physician performing or inducing the abortion;~~  
70 ~~except that such prohibition shall not apply to physicians whose legal or financial~~  
71 ~~affiliation or relationship is a result of being employed by or having staff~~  
72 ~~privileges at the same hospital as the term "hospital" is defined in section~~  
73 ~~197.020.~~

74 ~~(d) Any physician who performs or induces an abortion upon a woman~~  
75 ~~when it has been determined that the unborn child is viable shall utilize the~~  
76 ~~available method or technique of abortion most likely to preserve the life or~~  
77 ~~health of the unborn child. In cases where the method or technique of abortion~~  
78 ~~most likely to preserve the life or health of the unborn child would present a~~  
79 ~~greater risk to the life or health of the woman than another legally permitted and~~  
80 ~~available method or technique, the physician may utilize such other method or~~  
81 ~~technique. In all cases where the physician performs an abortion upon a viable~~  
82 ~~unborn child, the physician shall certify in writing the available method or~~  
83 ~~techniques considered and the reasons for choosing the method or technique~~  
84 ~~employed.~~

85 ~~(e) No physician shall perform or induce an abortion upon a woman~~  
86 ~~when it has been determined that the unborn child is viable unless there is in~~  
87 ~~attendance a physician other than the physician performing or inducing the~~  
88 ~~abortion who shall take control of and provide immediate medical care for a child~~  
89 ~~born as a result of the abortion. During the performance of the abortion, the~~  
90 ~~physician performing it, and subsequent to the abortion, the physician required~~  
91 ~~to be in attendance, shall take all reasonable steps in keeping with good medical~~  
92 ~~practice, consistent with the procedure used, to preserve the life or health of the~~

93 viable unborn child; provided that it does not pose an increased risk to the life of  
94 the woman or does not pose an increased risk of substantial and irreversible  
95 physical impairment of a major bodily function of the woman.

96 ~~3. Any person who knowingly performs or induces an abortion of an~~  
97 ~~unborn child in violation of the provisions of this section is guilty of a class D~~  
98 ~~felony, and, upon a finding of guilt or plea of guilty, shall be imprisoned for a~~  
99 ~~term of not less than one year, and, notwithstanding the provisions of section~~  
100 ~~558.002, shall be fined not less than ten thousand nor more than fifty thousand~~  
101 ~~dollars.~~

102 ~~4. Any physician who pleads guilty to or is found guilty of performing~~  
103 ~~or inducing an abortion of an unborn child in violation of this section shall be~~  
104 ~~subject to suspension or revocation of his or her license to practice medicine in~~  
105 ~~the state of Missouri by the state board of registration for the healing arts under~~  
106 ~~the provisions of sections 334.100 and 334.103.~~

107 ~~5. Any hospital licensed in the state of Missouri that knowingly allows~~  
108 ~~an abortion of an unborn child to be performed or induced in violation of this~~  
109 ~~section may be subject to suspension or revocation of its license under the~~  
110 ~~provisions of section 197.070.~~

111 ~~6. Any abortion facility licensed in the state of Missouri that knowingly~~  
112 ~~allows an abortion of an unborn child to be performed or induced in violation of~~  
113 ~~this section may be subject to suspension or revocation of its license under the~~  
114 ~~provisions of section 197.220.~~

115 ~~7. A woman upon whom an abortion is performed or induced in violation~~  
116 ~~of this section shall not be prosecuted for a conspiracy to violate the provisions~~  
117 ~~of this section.~~

118 ~~8. Nothing in this section shall be construed as creating or recognizing~~  
119 ~~a right to abortion, nor is it the intention of this section to make lawful any~~  
120 ~~abortion that is currently unlawful.~~

121 ~~9. It is the intent of the legislature that this section be severable as noted~~  
122 ~~in section 1.140. In the event that any section, subsection, subdivision,~~  
123 ~~paragraph, sentence, or clause of this section be declared invalid under the~~  
124 ~~Constitution of the United States or the Constitution of the State of Missouri, it~~  
125 ~~is the intent of the legislature that the remaining provisions of this section remain~~  
126 ~~in force and effect as far as capable of being carried into execution as intended~~  
127 ~~by the legislature.~~

128 ~~10. The general assembly may, by concurrent resolution, appoint one or~~  
129 ~~more of its members who sponsored or co-sponsored this act in his or her official~~  
130 ~~capacity to intervene as a matter of right in any case in which the constitutionality~~  
131 ~~of this law is challenged.]~~

132

2 ~~[188.031. For purposes of section 188.028, the term "next friend" shall~~  
~~not include another minor child, or any entity or person in an individual or~~

3 representative capacity that has a financial interest or potential gain from the  
4 proposed abortion, or any employee of or volunteer for such entity or person.]  
5

2 ~~[188.033. Whenever an abortion facility or a family planning agency~~  
3 ~~located in this state, or any of its agents or employees acting within the scope of~~  
4 ~~his or her authority or employment, provides to a woman considering an abortion~~  
5 ~~the name, address, telephone number, or website of an abortion provider that is~~  
6 ~~located outside of the state, such abortion facility or family planning agency or~~  
7 ~~its agents or employees shall also provide to such woman the printed materials~~  
8 ~~produced by the department under section 188.027. If the name, address,~~  
9 ~~telephone number, or website of such abortion provider is not provided to such~~  
10 ~~woman in person, such printed materials shall be offered to her, and if she~~  
11 ~~chooses, sent to such woman at no cost to her the same day or as soon as possible~~  
12 ~~either electronically or by U.S. mail overnight delivery service or by other~~  
13 ~~overnight or same-day delivery service to an address of such woman's choosing.~~  
14 ~~The department shall furnish such printed materials at no cost and in sufficient~~  
15 ~~quantities to abortion facilities and family planning agencies located within the~~  
16 ~~state.]~~

2 ~~[188.035. Whoever, with intent to do so, shall take the life of a child~~  
3 ~~aborted alive, shall be guilty of murder of the second degree.]~~

2 ~~[188.036. 1. No physician shall perform an abortion on a woman if the~~  
3 ~~physician knows that the woman conceived the unborn child for the purpose of~~  
4 ~~providing fetal organs or tissue for medical transplantation to herself or another,~~  
5 ~~and the physician knows that the woman intends to procure the abortion to utilize~~  
6 ~~those organs or tissue for such use for herself or another.~~  
7 ~~2. No person shall utilize the fetal organs or tissue resulting from an~~  
8 ~~abortion for medical transplantation, if the person knows that the abortion was~~  
9 ~~procured for the purpose of utilizing those organs or tissue for such use.~~  
10 ~~3. No person shall offer any inducement, monetary or otherwise, to a~~  
11 ~~woman or a prospective father of an unborn child for the purpose of conceiving~~  
12 ~~an unborn child for the medical, scientific, experimental or therapeutic use of the~~  
13 ~~fetal organs or tissue.~~  
14 ~~4. No person shall offer any inducement, monetary or otherwise, to the~~  
15 ~~mother or father of an unborn child for the purpose of procuring an abortion for~~  
16 ~~the medical, scientific, experimental or therapeutic use of the fetal organs or~~  
17 ~~tissue.~~  
18 ~~5. No person shall knowingly offer or receive any valuable consideration~~  
19 ~~for the fetal organs or tissue resulting from an abortion, provided that nothing in~~  
20 ~~this subsection shall prohibit payment for burial or other final disposition of the~~  
21 ~~fetal remains, or payment for a pathological examination, autopsy or postmortem~~  
~~examination of the fetal remains.~~

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

27

~~[188.038. 1. The general assembly of this state finds that:~~

2 ~~(1) Removing vestiges of any past bias or discrimination against pregnant~~  
3 ~~women, their partners, and their family members, including their unborn children,~~  
4 ~~is an important task for those in the legal, medical, social services, and human~~  
5 ~~services professions;~~

6 ~~(2) Ending any current bias or discrimination against pregnant women,~~  
7 ~~their partners, and their family members, including their unborn children, is a~~  
8 ~~legitimate purpose of government in order to guarantee that those who "are~~  
9 ~~endowed by their Creator with certain unalienable Rights" can enjoy "Life,~~  
10 ~~Liberty and the pursuit of Happiness";~~

11 ~~(3) The historical relationship of bias or discrimination by some family~~  
12 ~~planning programs and policies towards poor and minority populations,~~  
13 ~~including, but not limited to, the nonconsensual sterilization of mentally ill, poor,~~  
14 ~~minority, and immigrant women and other coercive family planning programs~~  
15 ~~and policies, must be rejected;~~

16 ~~(4) Among Missouri residents, the rate of black or African-American~~  
17 ~~women who undergo abortions is significantly higher, about three and one-half~~  
18 ~~times higher, than the rate of white women who undergo abortions. Among~~  
19 ~~Missouri residents, the rate of black or African-American women who undergo~~  
20 ~~repeat abortions is significantly higher, about one and one-half times higher, than~~  
21 ~~the rate of white women who undergo repeat abortions;~~

22 ~~(5) Performing or inducing an abortion because of the sex of the unborn~~  
23 ~~child is repugnant to the values of equality of females and males and the same~~  
24 ~~opportunities for girls and boys, and furthers a false mindset of female inferiority;~~

25 ~~(6) Government has a legitimate interest in preventing the abortion of~~  
26 ~~unborn children with Down Syndrome because it is a form of bias or disability~~  
27 ~~discrimination and victimizes the disabled unborn child at his or her most~~  
28 ~~vulnerable stage. Eliminating unborn children with Down Syndrome raises grave~~  
29 ~~concerns for the lives of those who do live with disabilities. It sends a message~~  
30 ~~of dwindling support for their unique challenges, fosters a false sense that~~  
31 ~~disability is something that could have been avoidable, and is likely to increase~~  
32 ~~the stigma associated with disability.~~

33 ~~2. No person shall perform or induce an abortion on a woman if the~~  
34 ~~person knows that the woman is seeking the abortion solely because of a prenatal~~  
35 ~~diagnosis, test, or screening indicating Down Syndrome or the potential of Down~~  
36 ~~Syndrome in an unborn child.~~



37 ~~3. No person shall perform or induce an abortion on a woman if the~~  
 38 ~~person knows that the woman is seeking the abortion solely because of the sex~~  
 39 ~~or race of the unborn child.~~

40 ~~4. Any physician or other person who performs or induces or attempts to~~  
 41 ~~perform or induce an abortion prohibited by this section shall be subject to all~~  
 42 ~~applicable civil penalties under this chapter including, but not limited to, sections~~  
 43 ~~188.065 and 188.085.]~~  
 44

~~[188.039. 1. For purposes of this section, "medical emergency" means~~  
 2 ~~a condition which, on the basis of the physician's good faith clinical judgment,~~  
 3 ~~so complicates the medical condition of a pregnant woman as to necessitate the~~  
 4 ~~immediate abortion of her pregnancy to avert her death or for which a delay will~~  
 5 ~~create a serious risk of substantial and irreversible impairment of a major bodily~~  
 6 ~~function.~~

7 ~~2. Except in the case of medical emergency, no person shall perform or~~  
 8 ~~induce an abortion unless at least seventy-two hours prior thereto the physician~~  
 9 ~~who is to perform or induce the abortion, a qualified professional, or the referring~~  
 10 ~~physician has conferred with the patient and discussed with her the indicators and~~  
 11 ~~contraindicators, and risk factors including any physical, psychological, or~~  
 12 ~~situational factors for the proposed procedure and the use of medications,~~  
 13 ~~including but not limited to mifepristone, in light of her medical history and~~  
 14 ~~medical condition. For an abortion performed or an abortion induced by a drug~~  
 15 ~~or drugs, such conference shall take place at least seventy-two hours prior to the~~  
 16 ~~writing or communication of the first prescription for such drug or drugs in~~  
 17 ~~connection with inducing an abortion. Only one such conference shall be~~  
 18 ~~required for each abortion.~~

19 ~~3. The patient shall be evaluated by the physician who is to perform or~~  
 20 ~~induce the abortion, a qualified professional, or the referring physician during the~~  
 21 ~~conference for indicators and contraindicators, risk factors including any~~  
 22 ~~physical, psychological, or situational factors which would predispose the patient~~  
 23 ~~to or increase the risk of experiencing one or more adverse physical, emotional,~~  
 24 ~~or other health reactions to the proposed procedure or drug or drugs in either the~~  
 25 ~~short or long term as compared with women who do not possess such risk factors.~~

26 ~~4. At the end of the conference, and if the woman chooses to proceed~~  
 27 ~~with the abortion, the physician who is to perform or induce the abortion, a~~  
 28 ~~qualified professional, or the referring physician shall sign and shall cause the~~  
 29 ~~patient to sign a written statement that the woman gave her informed consent~~  
 30 ~~freely and without coercion after the physician or qualified professional had~~  
 31 ~~discussed with her the indicators and contraindicators, and risk factors, including~~  
 32 ~~any physical, psychological, or situational factors. All such executed statements~~  
 33 ~~shall be maintained as part of the patient's medical file, subject to the~~  
 34 ~~confidentiality laws and rules of this state.~~

35 ~~5. The director of the department of health and senior services shall~~  
 36 ~~disseminate a model form that physicians or qualified professionals may use as~~  
 37 ~~the written statement required by this section, but any lack or unavailability of~~  
 38 ~~such a model form shall not affect the duties of the physician or qualified~~  
 39 ~~professional set forth in subsections 2 to 4 of this section.~~

40 ~~6. As used in this section, the term "qualified professional" shall refer to~~  
 41 ~~a physician, physician assistant, registered nurse, licensed practical nurse,~~  
 42 ~~psychologist, licensed professional counselor, or licensed social worker, licensed~~  
 43 ~~or registered under chapter 334, 335, or 337, acting under the supervision of the~~  
 44 ~~physician performing or inducing the abortion, and acting within the course and~~  
 45 ~~scope of his or her authority provided by law. The provisions of this section shall~~  
 46 ~~not be construed to in any way expand the authority otherwise provided by law~~  
 47 ~~relating to the licensure, registration, or scope of practice of any such qualified~~  
 48 ~~professional.~~

49 ~~7. If the provisions in subsection 2 of this section requiring a~~  
 50 ~~seventy-two-hour waiting period for an abortion are ever temporarily or~~  
 51 ~~permanently restrained or enjoined by judicial order, then the waiting period for~~  
 52 ~~an abortion shall be twenty-four hours; provided, however, that if such temporary~~  
 53 ~~or permanent restraining order or injunction is stayed or dissolved, or otherwise~~  
 54 ~~ceases to have effect, the waiting period for an abortion shall be seventy-two~~  
 55 ~~hours.]~~

56  
 [188.043. 1. No person shall perform or induce an abortion on another  
 2 unless such person has medical malpractice insurance with coverage amounts of  
 3 at least one million dollars per occurrence and three million dollars in the annual  
 4 aggregate.

5 ~~2. For the purpose of this section, "medical malpractice insurance" means~~  
 6 ~~insurance coverage against the legal liability of the insured and against loss,~~  
 7 ~~damage, or expense incident to a claim arising out of the death or injury of any~~  
 8 ~~person as a result of the negligence or malpractice in rendering professional~~  
 9 ~~service by any health care provider.~~

10 ~~3. No abortion facility or hospital shall employ or engage the services of~~  
 11 ~~a person to perform or induce an abortion on another if the person does not have~~  
 12 ~~medical malpractice insurance pursuant to this section, except that the abortion~~  
 13 ~~facility or hospital may provide medical malpractice insurance for the services~~  
 14 ~~of persons employed or engaged by such facility or hospital which is no less than~~  
 15 ~~the coverage amounts set forth in this section.~~

16 ~~4. Notwithstanding the provisions of section 334.100, failure of a person~~  
 17 ~~to maintain the medical malpractice insurance required by this section shall be~~  
 18 ~~an additional ground for sanctioning of a person's license, certificate, or permit.]~~

19  
 [188.044. 1. When a drug or chemical, or combination thereof, used by  
 2 a person to induce an abortion carries a warning from its manufacturer or

3 ~~distributor, a peer-reviewed medical journal article, or a Food and Drug~~  
4 ~~Administration label that its use may cause birth defects, disability, or other~~  
5 ~~injury in a child who survives the abortion, then in addition to the requirements~~  
6 ~~of section 188.043, such person shall also carry tail insurance with coverage~~  
7 ~~amounts of at least one million dollars per occurrence and three million dollars~~  
8 ~~in the annual aggregate for personal injury to or death of a child who survives~~  
9 ~~such abortion. Such policy shall be maintained in force or be in effect for a~~  
10 ~~period of twenty-one years after the person used the drug or chemical, or~~  
11 ~~combination thereof, to induce the abortion.~~

12 ~~2. For the purpose of this section, "tail insurance" means insurance which~~  
13 ~~covers the legal liability of the insured once a medical malpractice insurance~~  
14 ~~policy is cancelled, not renewed, or terminated, and covers claims made after~~  
15 ~~such cancellation or termination for acts occurring during the period the prior~~  
16 ~~medical malpractice insurance was in effect.~~

17 ~~3. No abortion facility or hospital shall employ or engage the services of~~  
18 ~~a person to induce an abortion on another using any drug or chemical, or~~  
19 ~~combination thereof, which may cause birth defects, disability, or other injury in~~  
20 ~~a child who survives the abortion if the person does not have tail insurance~~  
21 ~~pursuant to this section, except that the abortion facility or hospital may provide~~  
22 ~~tail insurance for the services of persons employed or engaged by such facility or~~  
23 ~~hospital which is no less than the coverage amounts and duration set forth in this~~  
24 ~~section.~~

25 ~~4. Notwithstanding the provisions of section 334.100 to the contrary,~~  
26 ~~failure of a person to maintain the tail insurance required by this section shall be~~  
27 ~~an additional ground for sanctioning of a person's license, certificate, or permit.]~~  
28

2 ~~[188.047. 1. All tissue, except that tissue needed for purposes described~~  
3 ~~in subsection 5 of this section, removed at the time of abortion shall be submitted~~  
4 ~~within five days to a board-eligible or certified pathologist for gross and~~  
5 ~~histopathological examination. The pathologist shall file a copy of the tissue~~  
6 ~~report with the state department of health and senior services, and shall provide~~  
7 ~~within seventy-two hours a copy of the report to the abortion facility or hospital~~  
8 ~~in which the abortion was performed or induced. The pathologist's report shall~~  
9 ~~be made a part of the patient's permanent record. If the pathological examination~~  
10 ~~fails to identify evidence of a completed abortion, the pathologist shall notify the~~  
11 ~~abortion facility or hospital within twenty-four hours.~~

12 ~~2. The department shall reconcile each notice of abortion with its~~  
13 ~~corresponding tissue report. If the department does not receive the notice of~~  
14 ~~abortion or the tissue report, the department shall make an inquiry of the abortion~~  
15 ~~facility or hospital. After such inquiry, if the hospital or abortion facility has not~~  
16 ~~satisfactorily responded to said inquiry and the department finds that the abortion~~  
17 ~~facility or hospital where the abortion was performed or induced was not in~~  
18 ~~compliance with the provisions of this section, the department shall consider such~~

18 noncompliance a deficiency requiring an unscheduled inspection of the facility  
 19 to ensure the deficiency is remedied, subject to the provisions of chapter 197  
 20 regarding license suspensions, reviews, and appeals.

21 ~~3. Beginning January 1, 2018, the department shall make an annual report~~  
 22 ~~to the general assembly. The report shall include the number of any deficiencies~~  
 23 ~~and inquiries by the department of each abortion facility in the calendar year and~~  
 24 ~~whether any deficiencies were remedied and, for each abortion facility,~~  
 25 ~~aggregated de-identified data about the total number of abortions performed at~~  
 26 ~~the facility, the termination procedures used, the number and type of~~  
 27 ~~complications reported for each type of termination procedure, whether the~~  
 28 ~~department received the tissue report for each abortion, and the existence and~~  
 29 ~~nature, if any, of any inconsistencies or concerns between the abortion reports~~  
 30 ~~submitted under section 188.052 and the tissue report submitted under this~~  
 31 ~~section. The report shall not contain any personal patient information the~~  
 32 ~~disclosure of which is prohibited by state or federal law.~~

33 ~~4. All reports provided by the department to the general assembly under~~  
 34 ~~this section shall maintain confidentiality of all personal information of patients,~~  
 35 ~~facility personnel, and facility physicians.~~

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

40 ~~6. The department may adopt rules, regulations, and standards governing~~  
 41 ~~the reports required under this section. In doing so, the department shall ensure~~  
 42 ~~that these reports contain all information necessary to ensure compliance with all~~  
 43 ~~applicable laws and regulations. Any rule or portion of a rule, as that term is~~  
 44 ~~defined in section 536.010, that is created under the authority delegated in this~~  
 45 ~~section shall become effective only if it complies with and is subject to all of the~~  
 46 ~~provisions of chapter 536 and, if applicable, section 536.028. This section and~~  
 47 ~~chapter 536 are nonseverable and if any of the powers vested with the general~~  
 48 ~~assembly pursuant to chapter 536 to review, to delay the effective date, or to~~  
 49 ~~disapprove and annul a rule are subsequently held unconstitutional, then the grant~~  
 50 ~~of rulemaking authority and any rule proposed or adopted after October 24, 2017,~~  
 51 ~~shall be invalid and void.]~~

52

2 ~~[188.052. 1. An individual abortion report for each abortion performed~~  
 3 ~~or induced upon a woman shall be completed by the physician who performed or~~  
 4 ~~induced the abortion. Abortion reports shall include, but not be limited to, a~~  
 5 ~~certification that the physician does not have any knowledge that the woman~~  
 6 ~~sought the abortion solely because of a prenatal diagnosis, test, or screening~~  
 7 ~~indicating Down Syndrome or the potential of Down Syndrome in the unborn~~  
 8 ~~child and a certification that the physician does not have any knowledge that the~~  
 woman sought the abortion solely because of the sex or race of the unborn child.

9 ~~2. An individual complication report for any post-abortion care~~  
 10 ~~performed upon a woman shall be completed by the physician providing such~~  
 11 ~~post-abortion care. This report shall include:~~  
 12 ~~(1) The date of the abortion;~~  
 13 ~~(2) The name and address of the abortion facility or hospital where the~~  
 14 ~~abortion was performed or induced;~~  
 15 ~~(3) The nature of the abortion complication diagnosed or treated.~~  
 16 ~~3. All abortion reports shall be signed by the attending physician who~~  
 17 ~~performed or induced the abortion and submitted to the department within~~  
 18 ~~forty-five days from the date of the abortion. All complication reports shall be~~  
 19 ~~signed by the physician providing the post-abortion care and submitted to the~~  
 20 ~~department within forty-five days from the date of the post-abortion care.~~  
 21 ~~4. A copy of the abortion report shall be made a part of the medical~~  
 22 ~~record of the patient of the abortion facility or hospital in which the abortion was~~  
 23 ~~performed or induced.~~  
 24 ~~5. The department shall be responsible for collecting all abortion reports~~  
 25 ~~and complication reports and collating and evaluating all data gathered therefrom~~  
 26 ~~and shall annually publish a statistical report based on such data from abortions~~  
 27 ~~performed or induced in the previous calendar year.]~~  
 28

2 ~~[188.055. 1. Every abortion facility, hospital, and physician shall be~~  
 3 ~~supplied with forms by the department of health and senior services for use in~~  
 4 ~~regards to the consents and reports required by sections 188.010 to 188.085. A~~  
 5 ~~purpose and function of such consents and reports shall be the preservation of~~  
 6 ~~maternal health and life by adding to the sum of medical knowledge through the~~  
 7 ~~compilation of relevant maternal health and life data and to monitor all abortions~~  
 8 ~~performed to assure that they are done only under and in accordance with the~~  
 9 ~~provisions of the law.~~

10 ~~2. All information obtained by physician, hospital, or abortion facility~~  
 11 ~~from a patient for the purpose of preparing reports to the department of health~~  
 12 ~~and senior services under sections 188.010 to 188.085 or reports received by the~~  
 13 ~~division of health shall be confidential and shall be used only for statistical~~  
 14 ~~purposes. Such records, however, may be inspected and health data acquired by~~  
 15 ~~local, state, or national public health officers.]~~

2 ~~[188.056. 1. Notwithstanding any other provision of law to the contrary,~~  
 3 ~~no abortion shall be performed or induced upon a woman at eight weeks~~  
 4 ~~gestational age or later, except in cases of medical emergency. Any person who~~  
 5 ~~knowingly performs or induces an abortion of an unborn child in violation of this~~  
 6 ~~subsection shall be guilty of a class B felony, as well as subject to suspension or~~  
 7 ~~revocation of his or her professional license by his or her professional licensing~~  
 board. A woman upon whom an abortion is performed or induced in violation

8 of this subsection shall not be prosecuted for a conspiracy to violate the  
 9 provisions of this section:  
 10 ~~2. It shall be an affirmative defense for any person alleged to have~~  
 11 ~~violated the provisions of subsection 1 of this section that the person performed~~  
 12 ~~or induced an abortion because of a medical emergency. The defendant shall~~  
 13 ~~have the burden of persuasion that the defense is more probably true than not.~~  
 14 ~~3. Prosecution under this section shall bar prosecution under section~~  
 15 ~~188.057, 188.058, or 188.375 if prosecution under such sections would violate~~  
 16 ~~the provisions of Amendment V to the Constitution of the United States or~~  
 17 ~~Article I, Section 19 of the Constitution of Missouri.~~  
 18 ~~4. If any one or more provisions, subsections, sentences, clauses, phrases,~~  
 19 ~~or words of this section or the application thereof to any person, circumstance,~~  
 20 ~~or period of gestational age is found to be unenforceable, unconstitutional, or~~  
 21 ~~invalid by a court of competent jurisdiction, the same is hereby declared to be~~  
 22 ~~severable and the balance of the section shall remain effective notwithstanding~~  
 23 ~~such unenforceability, unconstitutionality, or invalidity. The general assembly~~  
 24 ~~hereby declares that it would have passed this section, and each provision,~~  
 25 ~~subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that~~  
 26 ~~any one or more provisions, subsections, sentences, clauses, phrases, or words of~~  
 27 ~~the section, or the application of the section to any person, circumstance, or~~  
 28 ~~period of gestational age, would be declared unenforceable, unconstitutional, or~~  
 29 ~~invalid.]~~  
 30

[188.057. 1. Notwithstanding any other provision of law to the contrary,  
 2 no abortion shall be performed or induced upon a woman at fourteen weeks  
 3 gestational age or later, except in cases of medical emergency. Any person who  
 4 knowingly performs or induces an abortion of an unborn child in violation of this  
 5 subsection shall be guilty of a class B felony, as well as subject to suspension or  
 6 revocation of his or her professional license by his or her professional licensing  
 7 board. A woman upon whom an abortion is performed or induced in violation  
 8 of this subsection shall not be prosecuted for a conspiracy to violate the  
 9 provisions of this section:  
 10 ~~2. It shall be an affirmative defense for any person alleged to have~~  
 11 ~~violated the provisions of subsection 1 of this section that the person performed~~  
 12 ~~or induced an abortion because of a medical emergency. The defendant shall~~  
 13 ~~have the burden of persuasion that the defense is more probably true than not.~~  
 14 ~~3. Prosecution under this section shall bar prosecution under section~~  
 15 ~~188.056, 188.058, or 188.375 if prosecution under such sections would violate~~  
 16 ~~the provisions of Amendment V to the Constitution of the United States or~~  
 17 ~~Article I, Section 19 of the Constitution of Missouri.~~  
 18 ~~4. If any one or more provisions, subsections, sentences, clauses, phrases,~~  
 19 ~~or words of this section or the application thereof to any person, circumstance,~~  
 20 ~~or period of gestational age is found to be unenforceable, unconstitutional, or~~

21 ~~invalid by a court of competent jurisdiction, the same is hereby declared to be~~  
 22 ~~severable and the balance of the section shall remain effective notwithstanding~~  
 23 ~~such unenforceability, unconstitutionality, or invalidity. The general assembly~~  
 24 ~~hereby declares that it would have passed this section, and each provision,~~  
 25 ~~subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that~~  
 26 ~~any one or more provisions, subsections, sentences, clauses, phrases, or words of~~  
 27 ~~the section, or the application of the section to any person, circumstance, or~~  
 28 ~~period of gestational age, would be declared unenforceable, unconstitutional, or~~  
 29 ~~invalid.]~~  
 30

2 ~~[188.058. 1. Notwithstanding any other provision of law to the contrary,~~  
 3 ~~no abortion shall be performed or induced upon a woman at eighteen weeks~~  
 4 ~~gestational age or later, except in cases of medical emergency. Any person who~~  
 5 ~~knowingly performs or induces an abortion of an unborn child in violation of this~~  
 6 ~~subsection shall be guilty of a class B felony, as well as subject to suspension or~~  
 7 ~~revocation of his or her professional license by his or her professional licensing~~  
 8 ~~board. A woman upon whom an abortion is performed or induced in violation~~  
 9 ~~of this section shall not be prosecuted for a conspiracy to violate the provisions~~  
 10 ~~of this section.~~

11 ~~2. It shall be an affirmative defense for any person alleged to have~~  
 12 ~~violated the provisions of subsection 1 of this section that the person performed~~  
 13 ~~or induced an abortion because of a medical emergency. The defendant shall~~  
 14 ~~have the burden of persuasion that the defense is more probably true than not.~~

15 ~~3. Prosecution under this section shall bar prosecution under~~  
 16 ~~section 188.056, 188.057, or 188.375 if prosecution under such sections would~~  
 17 ~~violate the provisions of Amendment V to the Constitution of the United States~~  
 18 ~~or Article I, Section 19 of the Constitution of Missouri.~~

19 ~~4. If any one or more provisions, subsections, sentences, clauses, phrases,~~  
 20 ~~or words of this section or the application thereof to any person, circumstance,~~  
 21 ~~or period of gestational age is found to be unenforceable, unconstitutional, or~~  
 22 ~~invalid by a court of competent jurisdiction, the same is hereby declared to be~~  
 23 ~~severable and the balance of the section shall remain effective notwithstanding~~  
 24 ~~such unenforceability, unconstitutionality, or invalidity. The general assembly~~  
 25 ~~hereby declares that it would have passed this section, and each provision,~~  
 26 ~~subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that~~  
 27 ~~any one or more provisions, subsections, sentences, clauses, phrases, or words of~~  
 28 ~~the section, or the application of the section to any person, circumstance, or~~  
 29 ~~period of gestational age, would be declared unenforceable, unconstitutional, or~~  
 30 ~~invalid.]~~

2 ~~[188.060. All medical records, reports, and other documents required to~~  
~~be kept under sections 188.010 to 188.085 shall be maintained in the permanent~~

3 files of the abortion facility or hospital in which the abortion was performed for  
 4 a period of seven years.]

5  
 2 [188.065. Any practitioner of medicine, surgery, or nursing, or other  
 3 health personnel who shall willfully and knowingly do or assist any action made  
 4 unlawful by sections 188.010 to 188.085 shall be subject to having his license,  
 5 application for license, or authority to practice his profession as a physician,  
 6 surgeon, or nurse in the state of Missouri rejected or revoked by the appropriate  
 7 state licensing board.]

2 [188.070. Any physician or other person who fails to maintain the  
 3 confidentiality of any records or reports required under sections 188.010 to  
 4 188.085 is guilty of a misdemeanor and, upon conviction, shall be punished as  
 5 provided by law.]

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

2 [188.100. Unless the language or context clearly indicates a different  
 3 meaning is intended, the following words or phrases for the purposes of sections  
 4 188.100 to 188.120 shall mean:

- 4 (1) "Employer", the state, or any political or civil subdivision thereof, or  
 5 any person employing two or more persons within the state, and any person  
 6 acting as an agent of the employer;
- 7 (2) "Participate in abortion", to perform, assist in, refer for, promote,  
 8 procure, or counsel a woman to have an abortion not necessary to save the life of  
 9 the mother, or to undergo an abortion;
- 10 (3) "Person" includes one or more individuals, partnerships, associations,  
 11 organizations, corporations, legal representatives, trustees, trustees in bankruptcy,  
 12 receivers, or other organized groups of persons.]

13  
 2 [188.105. 1. It shall be unlawful:

- 3 (1) For an employer:
- 4 (a) To fail or refuse to hire or to discharge any individual, or otherwise  
 5 to discriminate against any individual with respect to his or her compensation,  
 6 terms, conditions, or privileges of employment, because of such individual's  
 refusal to participate in abortion;



7 ~~————— (b) To limit, segregate, or classify his, her, or its employees or applicants~~  
 8 ~~for employment in any way which would deprive or tend to deprive any~~  
 9 ~~individual of employment opportunities or otherwise adversely affect his or her~~  
 10 ~~status as an employee, because of such individual's refusal to participate in~~  
 11 ~~abortion;~~

12 ~~————— (c) To discharge, expel, or otherwise discriminate against any person~~  
 13 ~~because he or she has opposed any practices forbidden under sections 188.100 to~~  
 14 ~~188.120 or because he or she has filed a complaint, testified, or assisted in any~~  
 15 ~~legal proceeding under sections 188.100 to 188.120;~~

16 ~~————— (2) For any person, whether an employer or employee, or not, to aid, abet,~~  
 17 ~~incite, compel, or coerce the doing of any of the acts forbidden under sections~~  
 18 ~~188.100 to 188.120, or to attempt to do so.~~

19 ~~————— 2. Notwithstanding any other provision of sections 188.100 to 188.120,~~  
 20 ~~the acts proscribed in subsection 1 of this section shall not be unlawful if there~~  
 21 ~~can be demonstrated an inability to reasonably accommodate an individual's~~  
 22 ~~refusal to participate in abortion without undue hardship on the conduct of that~~  
 23 ~~particular business or enterprise, or in those certain instances where participation~~  
 24 ~~in abortion is a bona fide occupational qualification reasonably necessary to the~~  
 25 ~~normal operation of that particular business or enterprise.~~

26 ~~————— 3. Nothing contained in sections 188.100 to 188.120 shall be interpreted~~  
 27 ~~to require any employer to grant preferential treatment to any individual because~~  
 28 ~~of such individual's refusal to participate in abortion.]~~  
 29

~~[188.110. 1. No public or private college, university or hospital shall~~  
 2 ~~discriminate against any person for refusal to participate in abortion.~~

3 ~~————— 2. No applicant, student, teacher, or employee of any school shall be~~  
 4 ~~required to pay any fees that would in whole or in part fund an abortion for any~~  
 5 ~~other applicant, student, teacher, or employee of that school, if the individual~~  
 6 ~~required to pay the fee gives written notice to the proper school authorities that~~  
 7 ~~it would be in violation of his or her conscience or beliefs to pay for or fund~~  
 8 ~~abortions. The school may require the individual to pay that part of the fees not~~  
 9 ~~funding abortions, if the school makes reasonable precautions and gives~~  
 10 ~~reasonable assurance that the fees that are paid are segregated from any fund for~~  
 11 ~~the payment of abortions.]~~  
 12

~~[188.115. If any provision of sections 188.100 to 188.120 is found by a~~  
 2 ~~court of competent jurisdiction to be invalid or unconstitutional as applied to a~~  
 3 ~~specific person or class of persons, the provisions of sections 188.100 to 188.120~~  
 4 ~~shall remain in full force and effect as to every other person or class of persons~~  
 5 ~~who is otherwise covered under these sections.]~~  
 6

~~[188.120. Any individual injured by any person, association, corporation,~~  
 2 ~~or entity by reason of any action prohibited by sections 188.100 to 188.120, as~~

3 now or hereafter amended, may commence a civil cause of action against the  
 4 person, association, corporation, or entity who caused the injury, and shall  
 5 recover treble damages, including pain and suffering, sustained by such  
 6 individual, the costs of the suit and reasonable attorney's fees.]  
 7

2 [188.160. 1. Every hospital, abortion facility, pathology lab, medical  
 3 research entity, and any other facility involved in abortion shall establish and  
 4 implement a written policy relating to the protections for employees who disclose  
 5 information concerning actual, potential, or alleged violations of applicable  
 6 federal or state laws or administrative rules, regulations, or standards:

7 ~~2. The department of health and senior services is authorized to adopt~~  
 8 ~~rules, regulations, and standards regarding the establishment and implementation~~  
 9 ~~of policies created under this section. Any rule or portion of a rule, as that term~~  
 10 ~~is defined in section 536.010, that is created under the authority delegated in this~~  
 11 ~~section shall become effective only if it complies with and is subject to all of the~~  
 12 ~~provisions of chapter 536 and, if applicable, section 536.028. This section and~~  
 13 ~~chapter 536 are nonseverable and if any of the powers vested with the general~~  
 14 ~~assembly pursuant to chapter 536 to review, to delay the effective date, or to~~  
 15 ~~disapprove and annul a rule are subsequently held unconstitutional, then the grant~~  
 16 ~~of rulemaking authority and any rule proposed or adopted after October 24, 2017,~~  
 17 ~~shall be invalid and void.]~~

2 [188.200. As used in sections 188.200 to 188.220, the following terms  
 mean:

- 3 ~~(1) "Public employee", any person employed by this state or any agency~~  
 4 ~~or political subdivision thereof;~~
- 5 ~~(2) "Public facility", any public institution, public facility, public~~  
 6 ~~equipment, or any physical asset owned, leased, or controlled by this state or any~~  
 7 ~~agency or political subdivisions thereof;~~
- 8 ~~(3) "Public funds", any funds received or controlled by this state or any~~  
 9 ~~agency or political subdivision thereof, including, but not limited to, funds~~  
 10 ~~derived from federal, state or local taxes, gifts or grants from any source, public~~  
 11 ~~or private, federal grants or payments, or intergovernmental transfers.]~~  
 12

2 [188.205. It shall be unlawful for any public funds to be expended for the  
 3 purpose of performing or assisting an abortion, not necessary to save the life of  
 4 the mother, or for the purpose of encouraging or counseling a woman to have an  
 5 abortion not necessary to save her life.]

2 [188.210. It shall be unlawful for any public employee within the scope  
 3 of his employment to perform or assist an abortion, not necessary to save the life  
 4 of the mother. It shall be unlawful for a doctor, nurse or other health care  
 personnel, a social worker, a counselor or persons of similar occupation who is

5 a public employee within the scope of his public employment to encourage or  
6 counsel a woman to have an abortion not necessary to save her life.]  
7

2 [188.215. It shall be unlawful for any public facility to be used for the  
3 purpose of performing or assisting an abortion not necessary to save the life of  
4 the mother or for the purpose of encouraging or counseling a woman to have an  
5 abortion not necessary to save her life.]

2 [188.220. Any taxpayer of this state or its political subdivisions shall  
3 have standing to bring suit in a circuit court of proper venue to enforce the  
4 provisions of sections 188.200 to 188.215.]

2 [188.230. Nothing in this act is intended to authorize anyone other than  
3 a physician to perform an abortion.]

2 [188.250. 1. No person shall intentionally cause, aid, or assist a minor  
3 to obtain an abortion without the consent or consents required by section  
4 188.028.

4 2. A person who violates subsection 1 of this section shall be civilly  
5 liable to the minor and to the person or persons required to give the consent or  
6 consents under section 188.028. A court may award damages to the person or  
7 persons adversely affected by a violation of subsection 1 of this section, including  
8 compensation for emotional injury without the need for personal presence at the  
9 act or event, and the court may further award attorneys' fees, litigation costs, and  
10 punitive damages. Any adult who engages in or consents to another person  
11 engaging in a sex act with a minor in violation of the provisions of chapter 566,  
12 567, 568, or 573 which results in the minor's pregnancy shall not be awarded  
13 damages under this section.

14 3. It shall not be a defense to a claim brought under this section that the  
15 abortion was performed or induced pursuant to consent to the abortion given in  
16 a manner that is otherwise lawful in the state or place where the abortion was  
17 performed or induced.

18 4. An unemancipated minor does not have capacity to consent to any  
19 action in violation of this section or section 188.028.

20 5. A court may enjoin conduct that would be in violation of this section  
21 upon petition by the attorney general, a prosecuting or circuit attorney, or any  
22 person adversely affected or who reasonably may be adversely affected by such  
23 conduct, upon a showing that such conduct:

- 24 (1) Is reasonably anticipated to occur in the future; or
- 25 (2) Has occurred in the past, whether with the same minor or others, and  
26 that it is not unreasonable to expect that such conduct will be repeated.]

27  
28

2 ~~[188.335. 1. There is hereby established the "Missouri Alternatives to~~  
3 ~~Abortion Public Awareness Program" which shall be administered by a state~~  
4 ~~agency or agencies, as designated by appropriations to such or each agency.~~

5 ~~2. The purpose of the alternatives to abortion public awareness program~~  
6 ~~is to help pregnant women at risk for having abortions to be made aware of the~~  
7 ~~alternatives to abortion agencies located and alternatives to abortion services~~  
8 ~~available to them in their local communities. The alternatives to abortion public~~  
9 ~~awareness program shall include the development and promotion of a website~~  
10 ~~which provides a geographically indexed list of alternatives to abortion agencies~~  
11 ~~as well as contractors for the alternatives to abortion services program established~~  
12 ~~in section 188.325. As used in this section, "alternatives to abortion agencies"~~  
13 ~~means agencies exempt from income taxation pursuant to the United States~~  
14 ~~Internal Revenue Code that offer alternatives to abortion services as defined~~  
15 ~~within section 188.325, including but not limited to maternity homes, pregnancy~~  
16 ~~resource centers, and agencies commonly known and referred to as crisis~~  
17 ~~pregnancy centers. The alternatives to abortion public awareness program may~~  
18 ~~also include but need not be limited to the use of television, radio, outdoor~~  
19 ~~advertising, newspapers, magazines, and other print media, and the internet to~~  
20 ~~provide information on these alternatives to abortion agencies and services. The~~  
21 ~~state agency or agencies administering the alternatives to abortion public~~  
22 ~~awareness program are encouraged to give first preference to contracting with~~  
23 ~~private agencies or entities, which are exempt from income taxation pursuant to~~  
24 ~~the United States Internal Revenue Code, to conduct the alternatives to abortion~~  
25 ~~public awareness program. Contractors for the alternatives to abortion public~~  
26 ~~awareness program may also be contractors for the alternatives to abortion~~  
27 ~~services program established in section 188.325.~~

28 ~~3. The agency or agencies administering the program shall to the greatest~~  
29 ~~extent possible supplement and match moneys appropriated for the alternatives~~  
30 ~~to abortion public awareness program with federal and other public moneys and~~  
31 ~~with private moneys. The agency or agencies administering the program shall~~  
32 ~~prioritize such additional federal, other public, and private moneys so that they~~  
33 ~~are used preferentially for the alternatives to abortion public awareness program~~  
34 ~~and the alternatives to abortion services program.~~

35 ~~4. The alternatives to abortion public awareness program and the moneys~~  
36 ~~expended under this section shall not be used to perform or induce, assist in the~~  
37 ~~performing or inducing of or refer for abortions. Moneys expended under this~~  
38 ~~section shall not be granted to organizations or affiliates of organizations that~~  
39 ~~perform or induce, assist in the performing or inducing of or refer for abortions.]~~

2 ~~[188.375. 1. This section shall be known and may be cited as the~~  
3 ~~"Late-Term Pain-Capable Unborn Child Protection Act".~~

4 ~~2. As used in this section, the phrase "late-term pain-capable unborn~~  
child" shall mean an unborn child at twenty weeks gestational age or later.

5 ~~3. Notwithstanding any other provision of law to the contrary, no~~  
6 ~~abortion shall be performed or induced upon a woman carrying a late-term~~  
7 ~~pain-capable unborn child, except in cases of medical emergency. Any person~~  
8 ~~who knowingly performs or induces an abortion of a late-term pain-capable~~  
9 ~~unborn child in violation of this subsection shall be guilty of a class B felony, as~~  
10 ~~well as subject to suspension or revocation of his or her professional license by~~  
11 ~~his or her professional licensing board. A woman upon whom an abortion is~~  
12 ~~performed or induced in violation of this subsection shall not be prosecuted for~~  
13 ~~a conspiracy to violate the provisions of this subsection.~~

14 ~~4. It shall be an affirmative defense for any person alleged to have~~  
15 ~~violated the provisions of subsection 3 of this section that the person performed~~  
16 ~~or induced an abortion because of a medical emergency. The defendant shall~~  
17 ~~have the burden of persuasion that the defense is more probably true than not.~~

18 ~~5. Prosecution under subsection 3 of this section shall bar prosecution~~  
19 ~~under section 188.056, 188.057, or 188.058 if prosecution under such sections~~  
20 ~~would violate the provisions of Amendment V to the Constitution of the United~~  
21 ~~States or Article I, Section 19 of the Constitution of Missouri.~~

22 ~~6. When in cases of medical emergency a physician performs or induces~~  
23 ~~an abortion upon a woman in her third trimester carrying a late-term pain-capable~~  
24 ~~unborn child, the physician shall utilize the available method or technique of~~  
25 ~~abortion most likely to preserve the life or health of the unborn child. In cases~~  
26 ~~where the method or technique of abortion most likely to preserve the life or~~  
27 ~~health of the unborn child would present a greater risk to the life or health of the~~  
28 ~~woman than another legally permitted and available method or technique, the~~  
29 ~~physician may utilize such other method or technique. In all cases where the~~  
30 ~~physician performs or induces an abortion upon a woman during her third~~  
31 ~~trimester carrying a late-term pain-capable unborn child, the physician shall~~  
32 ~~certify in writing the available method or techniques considered and the reasons~~  
33 ~~for choosing the method or technique employed.~~

34 ~~7. When in cases of medical emergency a physician performs or induces~~  
35 ~~an abortion upon a woman during her third trimester carrying a late-term~~  
36 ~~pain-capable unborn child, there shall be in attendance a physician other than the~~  
37 ~~physician performing or inducing the abortion who shall take control of and~~  
38 ~~provide immediate medical care for a child born as a result of the abortion.~~

39 ~~8. Any physician who knowingly violates any of the provisions of~~  
40 ~~subsection 6 or 7 of this section shall be guilty of a class D felony, as well as~~  
41 ~~subject to suspension or revocation of his or her professional license by his or her~~  
42 ~~professional licensing board. A woman upon whom an abortion is performed or~~  
43 ~~induced in violation of subsection 6 or 7 of this section shall not be prosecuted~~  
44 ~~for a conspiracy to violate the provisions of those subsections.~~

45 ~~9. If any one or more provisions, subsections, sentences, clauses, phrases,~~  
46 ~~or words of this section or the application thereof to any person, circumstance,~~  
47 ~~or period of gestational age is found to be unenforceable, unconstitutional, or~~

48       invalid by a court of competent jurisdiction, the same is hereby declared to be  
 49       severable and the balance of the section shall remain effective notwithstanding  
 50       such unenforceability, unconstitutionality, or invalidity. The general assembly  
 51       hereby declares that it would have passed this section, and each provision,  
 52       subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that  
 53       any one or more provisions, subsections, sentences, clauses, phrases, or words of  
 54       the section, or the application of the section to any person, circumstance, or  
 55       period of gestational age, would be declared unenforceable, unconstitutional, or  
 56       invalid.]  
 57

2               [194.390. Nothing in sections 194.375 to 194.390 shall be construed to  
 3       prohibit a woman's ability to obtain a legal abortion.]

2               [208.655. No funds used to pay for insurance or for services pursuant to  
 3       sections 208.631 to 208.657 may be expended to encourage, counsel or refer for  
 4       abortion unless the abortion is done to save the life of the mother or if the unborn  
 5       child is the result of rape or incest. No funds may be paid pursuant to sections  
 6       208.631 to 208.657 to any person or organization that performs abortions or  
 7       counsels or refers for abortion unless the abortion is done to save the life of the  
 8       mother or if the unborn child is the result of rape or incest.]

2               [334.245. 1. Notwithstanding any other provision of law to the contrary  
 3       that may allow a person to provide services relating to pregnancy, including  
 4       prenatal, delivery, and postpartum services, no person other than a licensed  
 5       physician is authorized to perform or induce an abortion.

6               2. Any person who violates the provisions of this section is guilty of a  
 7       class B felony.]

2               [376.805. 1. No health insurance contracts, plans, or policies delivered  
 3       or issued for delivery in the state shall provide coverage for elective abortions  
 4       except by an optional rider for which there must be paid an additional premium.  
 5       For purposes of this section, an "elective abortion" means an abortion for any  
 6       reason other than a spontaneous abortion or to prevent the death of the female  
 7       upon whom the abortion is performed.

8               2. Subsection 1 of this section shall be applicable to all contracts, plans  
 9       or policies of:

- 10              (1) All health insurers subject to this chapter; and
- 11              (2) All nonprofit hospital, medical, surgical, dental, and health service  
 12              corporations subject to chapter 354; and
- 13              (3) All health maintenance organizations.

14              3. No health insurance exchange established within this state or any  
 15       health insurance exchange administered by the federal government or its agencies  
 within this state shall offer health insurance contracts, plans, or policies that

16 provide coverage for elective abortions, nor shall any health insurance exchange  
 17 operating within this state offer coverage for elective abortions through the  
 18 purchase of an optional rider.

19 ~~4. This section shall be applicable only to contracts, plans or policies~~  
 20 ~~written, issued, renewed or revised after September 28, 1983. For the purposes~~  
 21 ~~of this subsection, if new premiums are charged for a contract, plan or policy, it~~  
 22 ~~shall be determined to be a new contract, plan or policy.]~~  
 23

~~[565.300. 1. This section shall be known and may be cited as the~~  
 2 ~~"Infant's Protection Act".~~

3 ~~2. As used in this section, and only in this section, the following terms~~  
 4 ~~shall mean:~~

5 ~~(1) "Born", complete separation of an intact child from the mother~~  
 6 ~~regardless of whether the umbilical cord is cut or the placenta detached;~~

7 ~~(2) "Living infant", a human child, born or partially born, who is alive,~~  
 8 ~~as determined in accordance with the usual and customary standards of medical~~  
 9 ~~practice and is not dead as determined pursuant to section 194.005, relating to the~~  
 10 ~~determination of the occurrence of death, and has not attained the age of thirty~~  
 11 ~~days post birth;~~

12 ~~(3) "Partially born", partial separation of a child from the mother with the~~  
 13 ~~child's head intact with the torso. If vaginally delivered, a child is partially~~  
 14 ~~separated from the mother when the head in a cephalic presentation, or any part~~  
 15 ~~of the torso above the navel in a breech presentation, is outside the mother's~~  
 16 ~~external cervical os. If delivered abdominally, a child is partially separated from~~  
 17 ~~the mother when the child's head in a cephalic presentation, or any part of the~~  
 18 ~~torso above the navel in a breech presentation, is outside the mother's external~~  
 19 ~~abdominal wall.~~

20 ~~3. A person commits the offense of infanticide if he or she causes the~~  
 21 ~~death of a living infant with the purpose to cause said death by an overt act~~  
 22 ~~performed when the infant is partially born or born.~~

23 ~~4. The offense of infanticide is a class A felony.~~

24 ~~5. A physician using procedures consistent with the usual and customary~~  
 25 ~~standards of medical practice to save the life of the mother during pregnancy or~~  
 26 ~~birth or to save the life of any unborn or partially born child of the same~~  
 27 ~~pregnancy shall not be criminally responsible under this section. In no event~~  
 28 ~~shall the mother be criminally responsible pursuant to this section for the acts of~~  
 29 ~~the physician if the physician is not held criminally responsible pursuant to this~~  
 30 ~~section.~~

31 ~~6. This section shall not apply to any person who performs or attempts~~  
 32 ~~to perform a legal abortion if the act that causes the death is performed prior to~~  
 33 ~~the child being partially born, even though the death of the child occurs as a result~~  
 34 ~~of the abortion after the child is partially born.~~

35 ~~7. Only that person who performs the overt act required under subsection~~  
 36 ~~3 of this section shall be culpable under this section, unless a person, with the~~  
 37 ~~purpose of committing infanticide, does any act which is a substantial step~~  
 38 ~~towards the commission of the offense which results in the death of the living~~  
 39 ~~infant. A "substantial step" is conduct which is strongly corroborative of the~~  
 40 ~~firmness of the actor's purpose to complete the commission of the offense.~~

41 ~~8. Nothing in this section shall be interpreted to exclude the defenses~~  
 42 ~~otherwise available to any person under the law including defenses provided~~  
 43 ~~pursuant to chapters 562 and 563.]~~  
 44

~~[574.200. 1. A person commits the offense of interference with medical~~  
 2 ~~assistance if he or she, while serving in his or her capacity as an employee of an~~  
 3 ~~abortion facility:~~

4 ~~(1) Knowingly orders or requests medical personnel to deviate from any~~  
 5 ~~applicable standard of care or ordinary practice while providing medical~~  
 6 ~~assistance to a patient for reasons unrelated to the patient's health or welfare; or~~

7 ~~(2) Knowingly attempts to prevent medical personnel from providing~~  
 8 ~~medical assistance to a patient in accordance with all applicable standards of care~~  
 9 ~~or ordinary practice for reasons unrelated to the patient's health or welfare.~~

10 ~~2. The offense of interference with medical assistance is a class A~~  
 11 ~~misdemeanor.~~

12 ~~3. For purposes of this section, the term "medical personnel" shall~~  
 13 ~~include, but not be limited to, the following:~~

14 ~~(1) Physicians and surgeons licensed under chapter 334;~~

15 ~~(2) Nurses licensed under chapter 335;~~

16 ~~(3) Emergency medical services personnel as defined in section 190.600;~~

17 ~~or~~

18 ~~(4) Any person operating under the supervision of such medical~~  
 19 ~~personnel.]~~  
 20

Section B. Notwithstanding the provisions of section 1.140 to the contrary, the provisions of section A of this act shall be nonseverable, and if any provision is for any reason held to be invalid, such decision shall invalidate all of the remaining provisions of this act.

Section C. Any federal act, law, treaty, decision, order, rule, or regulation that purports to supersede, stay, or overrule section A of this act is in violation of the Constitution of the state of Missouri and the Constitution of the United States and is therefore void. The state of Missouri and its political subdivisions, and agents thereof, are not required to enter an appearance, special or otherwise, in any federal suit challenging this act.

Section D. Because immediate action is necessary to protect the unborn children in the state of Missouri, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within



4 the meaning of the constitution, and section A of this act shall be in full force and effect upon  
5 its passage and approval.

✓