

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2012
101ST GENERAL ASSEMBLY

4488H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 188.036 and 188.047, RSMo, and to enact in lieu thereof three new sections relating to abortion, with penalty provisions.

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

Section A. Sections 188.036 and 188.047, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 188.036, 188.047, and 188.165, to read as
3 follows:

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

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

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

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

15 5. No person shall knowingly offer or receive any valuable consideration for the fetal
16 organs or tissue resulting from an abortion, provided that nothing in this subsection shall

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 prohibit payment for burial or other final disposition of the fetal remains, or payment for a
18 pathological examination, autopsy or postmortem examination of the fetal remains.

19 6. ~~[If any provision in this section or the application thereof to any person,
20 circumstance or period of gestation is held invalid, such invalidity shall not affect the
21 provisions or applications which can be given effect without the invalid provision or
22 application, and to this end the provisions of this section are declared severable.]~~ **No person
23 shall knowingly donate or make an anatomical gift of the fetal organs or tissue resulting
24 from an abortion to any person or entity for medical, scientific, experimental,
25 therapeutic, or any other use.**

26 7. **Nothing in this section shall prohibit the utilization of fetal organs or tissue to
27 determine the cause or causes of any anomaly, illness, death, or genetic condition of the
28 unborn child or his or her mother, the paternity of the unborn child, or for law
29 enforcement purposes.**

30 8. **Notwithstanding any other provision of law to the contrary, any person who
31 knowingly violates any provision of this section shall be guilty of a class E felony and
32 subject to suspension or revocation of his or her professional license by his or her
33 professional licensing board.**

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

10 2. The department shall reconcile each notice of abortion with its corresponding
11 tissue report. If the department does not receive the notice of abortion or the tissue report, the
12 department shall make an inquiry of the abortion facility or hospital. After such inquiry, if the
13 hospital or abortion facility has not satisfactorily responded to said inquiry and the
14 department finds that the abortion facility or hospital where the abortion was performed or
15 induced was not in compliance with the provisions of this section, the department shall
16 consider such noncompliance a deficiency requiring an unscheduled inspection of the facility
17 to ensure the deficiency is remedied, subject to the provisions of chapter 197 regarding
18 license suspensions, reviews, and appeals.

19 3. Beginning January 1, 2018, the department shall make an annual report to the
20 general assembly. The report shall include the number of any deficiencies and inquiries by

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

30 4. All reports provided by the department to the general assembly under this section
31 shall maintain confidentiality of all personal information of patients, facility personnel, and
32 facility physicians.

33 5. Nothing in this section shall prohibit the utilization of fetal organs or tissue
34 ~~[resulting from an abortion for medical or scientific purposes]~~ to determine the cause or
35 causes of any anomaly, illness, death, or genetic condition of the ~~[fetus]~~ **unborn child or his**
36 **or her mother**, the paternity of the ~~[fetus]~~ **unborn child**, or for law enforcement purposes.

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

188.165. 1. A person commits the offense of hoarding of aborted human remains
2 **if he or she knowingly possesses, outside of a hospital or abortion facility licensed under**
3 **chapter 197, two or more bodies of unborn children, or the arms, legs, fingers, toes,**
4 **heads, trunks, limbs, appendages, or organs of two or more unborn children, which**
5 **were obtained after he or she had performed or induced abortions upon other persons.**

6 **2. The offense of hoarding of aborted human remains is a class D felony.**

7 **3. The court shall order a person who has been found guilty of or pleaded guilty**
8 **or nolo contendere to the offense of hoarding of aborted human remains to undergo a**
9 **psychological or psychiatric evaluation and to undergo such treatment that the court**
10 **determines to be appropriate after due consideration of the evaluation.**