

HOUSE BILL NO. 1173

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ARTHUR.

1371H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 188.010, 188.020, 188.021, 188.025, 188.027, 188.031, 188.039, 188.043, 188.047, 188.052, 188.055, 188.060, 188.065, 188.080, 188.085, 188.100, 188.105, 188.110, 188.115, 188.120, 188.200, 188.205, 188.210, 188.215, 188.220, 188.230, 188.250, 188.325, 188.335, 197.032, 197.200, 197.315, and 565.300, 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 188.010, 188.020, 188.021, 188.025, 188.027, 188.031, 188.039, 188.043, 188.047, 188.052, 188.055, 188.060, 188.065, 188.080, 188.085, 188.100, 188.105, 188.110, 188.115, 188.120, 188.200, 188.205, 188.210, 188.215, 188.220, 188.230, 188.250, 188.325, 188.335, 197.032, 197.200, 197.315, and 565.300, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 188.017, 197.200, and 197.315, to read as follows:

- 188.017. 1. No law or regulation relating to abortion that places an undue burden on a woman's access to abortion shall be enforced in this state if the law or regulation does not confer a legitimate health benefit.**
- 2. A law or regulation places an undue burden on access to abortion if the law or regulation:**
- (1) Forces abortion providers to close;**
 - (2) Increases the time a woman must wait to have an abortion;**
 - (3) Requires a meaningful increase in the distance a woman must travel to access care;**
 - (4) Requires medically unnecessary health center visits;**

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.

11 **(5) Requires a health care provider to perform a medical service that the provider**
12 **would not otherwise perform;**

13 **(6) Increases the risk to a woman's health;**

14 **(7) Causes a meaningful increase in procedure costs;**

15 **(8) Has no purpose other than to stigmatize patients and abortion providers;**

16 **(9) Has no purpose or effect other than to decrease or eliminate access to abortion;**

17 **or**

18 **(10) Requires health care providers to provide medically inaccurate information**
19 **to patients seeking an abortion.**

20 **3. Any state or local official who is charged with enforcing or enforces a law or**
21 **regulation passed after the effective date of this section that violates the provisions of this**
22 **section shall be subject to court action for injunctive relief and damages. Such action may**
23 **be brought by any person or entity that is or may be aggrieved by the official's actions.**

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

3 (1) "Ambulatory surgical center", any public or private establishment operated primarily
4 for the purpose of performing surgical procedures or primarily for the purpose of performing
5 childbirths, [~~or any establishment operated for the purpose of performing or inducing any second~~
6 ~~or third trimester abortions or five or more first trimester abortions per month,~~] and which does
7 not provide services or other accommodations for patients to stay more than twenty-three hours
8 within the establishment, provided, however, that nothing in this definition shall be construed
9 to include the offices of dentists currently licensed pursuant to chapter 332;

10 (2) "Dentist", any person currently licensed to practice dentistry pursuant to chapter 332;

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

12 (4) "Governmental unit", any city, county or other political subdivision of this state, or
13 any department, division, board or other agency of any political subdivision of this state;

14 (5) "Person", any individual, firm, partnership, corporation, company, or association and
15 the legal successors thereof;

16 (6) "Physician", any person currently licensed to practice medicine pursuant to chapter
17 334;

18 (7) "Podiatrist", any person currently licensed to practice podiatry pursuant to chapter
19 330.

 197.315. 1. Any person who proposes to develop or offer a new institutional health
2 service within the state must obtain a certificate of need from the committee prior to the time
3 such services are offered.

4 2. Only those new institutional health services which are found by the committee to be
5 needed shall be granted a certificate of need. Only those new institutional health services which
6 are granted certificates of need shall be offered or developed within the state. No expenditures
7 for new institutional health services in excess of the applicable expenditure minimum shall be
8 made by any person unless a certificate of need has been granted.

9 3. After October 1, 1980, no state agency charged by statute to license or certify health
10 care facilities shall issue a license to or certify any such facility, or distinct part of such facility,
11 that is developed without obtaining a certificate of need.

12 4. If any person proposes to develop any new institutional health care service without
13 a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the
14 attorney general, and he shall apply for an injunction or other appropriate legal action in any
15 court of this state against that person.

16 5. After October 1, 1980, no agency of state government may appropriate or grant funds
17 to or make payment of any funds to any person or health care facility which has not first obtained
18 every certificate of need required pursuant to sections 197.300 to 197.366.

19 6. A certificate of need shall be issued only for the premises and persons named in the
20 application and is not transferable except by consent of the committee.

21 7. Project cost increases, due to changes in the project application as approved or due
22 to project change orders, exceeding the initial estimate by more than ten percent shall not be
23 incurred without consent of the committee.

24 8. Periodic reports to the committee shall be required of any applicant who has been
25 granted a certificate of need until the project has been completed. The committee may order the
26 forfeiture of the certificate of need upon failure of the applicant to file any such report.

27 9. A certificate of need shall be subject to forfeiture for failure to incur a capital
28 expenditure on any approved project within six months after the date of the order. The applicant
29 may request an extension from the committee of not more than six additional months based upon
30 substantial expenditure made.

31 10. Each application for a certificate of need must be accompanied by an application fee.
32 The time of filing commences with the receipt of the application and the application fee. The
33 application fee is one thousand dollars, or one-tenth of one percent of the total cost of the
34 proposed project, whichever is greater. All application fees shall be deposited in the state
35 treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the
36 Missouri health facilities review committee.

37 11. In determining whether a certificate of need should be granted, no consideration shall
38 be given to the facilities or equipment of any other health care facility located more than a
39 fifteen-mile radius from the applying facility.

40 12. When a nursing facility shifts from a skilled to an intermediate level of nursing care,
41 it may return to the higher level of care if it meets the licensure requirements, without obtaining
42 a certificate of need.

43 13. ~~[In no event shall a certificate of need be denied because the applicant refuses to~~
44 ~~provide abortion services or information.]~~

45 ~~14.]~~ A certificate of need shall not be required for the transfer of ownership of an
46 existing and operational health facility in its entirety.

47 ~~[15.]~~ 14. A certificate of need may be granted to a facility for an expansion, an addition
48 of services, a new institutional service, or for a new hospital facility which provides for
49 something less than that which was sought in the application.

50 ~~[16.]~~ 15. The provisions of this section shall not apply to facilities operated by the state,
51 and appropriation of funds to such facilities by the general assembly shall be deemed in
52 compliance with this section, and such facilities shall be deemed to have received an appropriate
53 certificate of need without payment of any fee or charge. The provisions of this subsection shall
54 not apply to hospitals operated by the state and licensed under this chapter, except for department
55 of mental health state-operated psychiatric hospitals.

56 ~~[17.]~~ 16. Notwithstanding other provisions of this section, a certificate of need may be
57 issued after July 1, 1983, for an intermediate care facility operated exclusively for the
58 intellectually disabled.

59 ~~[18.]~~ 17. To assure the safe, appropriate, and cost-effective transfer of new medical
60 technology throughout the state, a certificate of need shall not be required for the purchase and
61 operation of:

62 (1) Research equipment that is to be used in a clinical trial that has received written
63 approval from a duly constituted institutional review board of an accredited school of medicine
64 or osteopathy located in Missouri to establish its safety and efficacy and does not increase the
65 bed complement of the institution in which the equipment is to be located. After the clinical trial
66 has been completed, a certificate of need must be obtained for continued use in such facility; or

67 (2) Equipment that is to be used by an academic health center operated by the state in
68 furtherance of its research or teaching missions.

2 ~~[188.010. It is the intention of the general assembly of the state of~~
3 ~~Missouri to grant the right to life to all humans, born and unborn, and to regulate~~
4 ~~abortion to the full extent permitted by the Constitution of the United States,~~
5 ~~decisions of the United States Supreme Court, and federal statutes.]~~

2 ~~[188.020. No person shall perform or induce an abortion except a~~
3 ~~physician.]~~

2 ~~[188.021. When RU-486 (mifepristone) or any drug or chemical is used~~
3 ~~for the purpose of inducing an abortion, the initial dose of the drug or chemical~~

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

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

2 [188.027. 1. Except in the case of medical emergency, no abortion shall
3 be performed or induced on a woman without her voluntary and informed
4 consent, given freely and without coercion. Consent to an abortion is voluntary
5 and informed and given freely and without coercion if, and only if, at least
6 seventy-two hours prior to the abortion:

6 (1) The physician who is to perform or induce the abortion or a qualified
7 professional has informed the woman orally, reduced to writing, and in person,
8 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 or a qualified~~
51 ~~professional has presented the woman, in person, printed materials provided by~~
52 ~~the department, which describe the various surgical and drug-induced methods~~
53 ~~of abortion relevant to the stage of pregnancy, as well as the immediate and~~
54 ~~long-term medical risks commonly associated with each abortion method~~
55 ~~including, but not limited to, infection, hemorrhage, cervical tear or uterine~~
56 ~~perforation, harm to subsequent pregnancies or the ability to carry a subsequent~~
57 ~~child to term, and the possible adverse psychological effects associated with an~~
58 ~~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) Prior to an abortion being performed or induced on an unborn child~~
82 ~~of twenty-two weeks gestational age or older, the physician who is to perform or~~
83 ~~induce the abortion or a qualified professional has presented the woman, in~~
84 ~~person, printed materials provided by the department that offer information on~~
85 ~~the possibility of the abortion causing pain to the unborn child. This information~~
86 ~~shall include, but need not be limited to, the following:~~

87 ~~————— (a) At least by twenty-two weeks of gestational age, the unborn child~~
88 ~~possesses all the anatomical structures, including pain receptors, spinal cord,~~
89 ~~nerve tracts, thalamus, and cortex, that are necessary in order to feel pain;~~

90 ~~————— (b) A description of the actual steps in the abortion procedure to be~~
91 ~~performed or induced, and at which steps the abortion procedure could be painful~~
92 ~~to the unborn child;~~

93 ~~————— (c) There is evidence that by twenty-two weeks of gestational age, unborn~~
94 ~~children seek to evade certain stimuli in a manner that in an infant or an adult~~
95 ~~would be interpreted as a response to pain;~~

96 ~~————— (d) Anesthesia is given to unborn children who are twenty-two weeks or~~
97 ~~more gestational age who undergo prenatal surgery;~~

98 ~~————— (e) Anesthesia is given to premature children who are twenty-two weeks~~
99 ~~or more gestational age who undergo surgery;~~

100 ~~————— (f) Anesthesia or an analgesic is available in order to minimize or~~
101 ~~alleviate the pain to the unborn child;~~

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

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

116 ~~————— (b) Explain the Missouri alternatives to abortion services program under~~
117 ~~section 188.325, and any other programs and services available to pregnant~~
118 ~~women and mothers of newborn children offered by public or private agencies~~
119 ~~which assist a woman in carrying her unborn child to term and assist her in caring~~

120 ~~for her dependent child or placing her child for adoption, including but not~~
121 ~~limited to prenatal care; maternal health care; newborn or infant care; mental~~
122 ~~health services; professional counseling services; housing programs; utility~~
123 ~~assistance; transportation services; food, clothing, and supplies related to~~
124 ~~pregnancy; parenting skills; educational programs; job training and placement~~
125 ~~services; drug and alcohol testing and treatment; and adoption assistance;~~

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

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

136 ~~(7) The physician who is to perform or induce the abortion or a qualified~~
137 ~~professional has presented the woman, in person, printed materials provided by~~
138 ~~the department explaining that the father of the unborn child is liable to assist in~~
139 ~~the support of the child, even in instances where he has offered to pay for the~~
140 ~~abortion. Such materials shall include information on the legal duties and~~
141 ~~support obligations of the father of a child, including, but not limited to, child~~
142 ~~support payments, and the fact that paternity may be established by the father's~~
143 ~~name on a birth certificate or statement of paternity, or by court action. Such~~
144 ~~printed materials shall also state that more information concerning paternity~~
145 ~~establishment and child support services and enforcement may be obtained by~~
146 ~~calling the family support division within the Missouri department of social~~
147 ~~services; and~~

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

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

162 her. ~~Should a woman ask questions concerning any of the information or~~
163 ~~materials, answers shall be provided in a language she can understand.~~

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

172 ~~4. No abortion shall be performed or induced on an unborn child of~~
173 ~~twenty-two weeks gestational age or older unless and until the woman upon~~
174 ~~whom the abortion is to be performed or induced has been provided the~~
175 ~~opportunity to choose to have an anesthetic or analgesic administered to eliminate~~
176 ~~or alleviate pain to the unborn child caused by the particular method of abortion~~
177 ~~to be performed or induced. The administration of anesthesia or analgesics shall~~
178 ~~be performed in a manner consistent with standard medical practice in the~~
179 ~~community.~~

180 ~~5. No physician shall perform or induce an abortion unless and until the~~
181 ~~physician has obtained from the woman her voluntary and informed consent~~
182 ~~given freely and without coercion. If the physician has reason to believe that the~~
183 ~~woman is being coerced into having an abortion, the physician or qualified~~
184 ~~professional shall inform the woman that services are available for her and shall~~
185 ~~provide her with private access to a telephone and information about such~~
186 ~~services, including but not limited to the following:~~

187 ~~(1) Rape crisis centers, as defined in section 455.003;~~
188 ~~(2) Shelters for victims of domestic violence, as defined in section~~
189 ~~455.200; and~~

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

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

195 ~~7. In the event of a medical emergency as provided by section 188.039,~~
196 ~~the physician who performed or induced the abortion shall clearly certify in~~
197 ~~writing the nature and circumstances of the medical emergency. This~~
198 ~~certification shall be signed by the physician who performed or induced the~~
199 ~~abortion, and shall be maintained under section 188.060.~~

200 ~~8. No person or entity shall require, obtain, or accept payment for an~~
201 ~~abortion from or on behalf of a patient until at least seventy-two hours have~~
202 ~~passed since the time that the information required by subsection 1 of this section~~
203 ~~has been provided to the patient. Nothing in this subsection shall prohibit a~~
204 ~~person or entity from notifying the patient that payment for the abortion will be~~

205 required after the seventy-two-hour period has expired if she voluntarily chooses
206 to have the abortion.

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

216 ~~10. By November 30, 2010, the department shall produce the written~~
217 ~~materials and forms described in this section. Any written materials produced~~
218 ~~shall be printed in a typeface large enough to be clearly legible. All information~~
219 ~~shall be presented in an objective, unbiased manner designed to convey only~~
220 ~~accurate scientific and medical information. The department shall furnish the~~
221 ~~written materials and forms at no cost and in sufficient quantity to any person~~
222 ~~who performs or induces abortions, or to any hospital or facility that provides~~
223 ~~abortions. The department shall make all information required by subsection 1~~
224 ~~of this section available to the public through its department website. The~~
225 ~~department shall maintain a toll-free, twenty-four-hour hotline telephone number~~
226 ~~where a caller can obtain information on a regional basis concerning the agencies~~
227 ~~and services described in subsection 1 of this section. No identifying information~~
228 ~~regarding persons who use the website shall be collected or maintained. The~~
229 ~~department shall monitor the website on a regular basis to prevent tampering and~~
230 ~~correct any operational deficiencies.~~

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

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

2 [188.031. For purposes of section 188.028, the term "next friend" shall
3 not include another minor child, or any entity or person in an individual or
4 representative capacity that has a financial interest or potential gain from the
proposed abortion, or any employee of or volunteer for such entity or person.]

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

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

19 ~~3. The patient shall be evaluated by the physician who is to perform or~~
20 ~~induce the abortion or a qualified professional during the conference for~~
21 ~~indicators and contraindicators, risk factors including any physical,~~
22 ~~psychological, or situational factors which would predispose the patient to or~~
23 ~~increase the risk of experiencing one or more adverse physical, emotional, or~~
24 ~~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 or a~~
28 ~~qualified professional shall sign and shall cause the patient to sign a written~~
29 ~~statement that the woman gave her informed consent freely and without coercion~~
30 ~~after the physician or qualified professional had discussed with her the indicators~~
31 ~~and contraindicators, and risk factors, including any physical, psychological, or~~
32 ~~situational factors. All such executed statements shall be maintained as part of~~
33 ~~the patient's medical file, subject to the confidentiality laws and rules of this state.~~

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

39 ~~6. As used in this section, the term "qualified professional" shall refer to~~
40 ~~a physician, physician assistant, registered nurse, licensed practical nurse,~~
41 ~~psychologist, licensed professional counselor, or licensed social worker, licensed~~
42 ~~or registered under chapter 334, 335, or 337, acting under the supervision of the~~
43 ~~physician performing or inducing the abortion, and acting within the course and~~
44 ~~scope of his or her authority provided by law. The provisions of this section shall~~

44 not be construed to in any way expand the authority otherwise provided by law
45 relating to the licensure, registration, or scope of practice of any such qualified
46 professional.

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

~~[188.043. 1. No person shall perform or induce a surgical or medical~~
2 ~~abortion unless such person has proof of medical malpractice insurance with~~
3 ~~coverage amounts of at least five hundred thousand dollars.]~~

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

9 ~~3. No abortion facility or hospital shall employ or engage the services of~~
10 ~~a person to perform one or more abortions if the person does not have proof of~~
11 ~~medical malpractice insurance pursuant to this section, except the abortion~~
12 ~~facility or hospital may provide medical malpractice insurance for the services~~
13 ~~of persons employed or engaged by such facility or hospital.]~~

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

~~[188.047. A representative sample of tissue removed at the time of~~
2 ~~abortion shall be submitted to a board eligible or certified pathologist, who shall~~
3 ~~file a copy of the tissue report with the state department of health and senior~~
4 ~~services, and who shall provide a copy of the report to the abortion facility or~~
5 ~~hospital in which the abortion was performed or induced and the pathologist's~~
6 ~~report shall be made a part of the patient's permanent record.]~~

~~[188.052. 1. An individual abortion report for each abortion performed~~
2 ~~or induced upon a woman shall be completed by her attending physician.]~~

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

6 ~~(1) The date of the abortion;~~

7 ~~(2) The name and address of the abortion facility or hospital where the~~
8 ~~abortion was performed;~~

9 ~~(3) The nature of the abortion complication diagnosed or treated.]~~

10 ~~3. All abortion reports shall be signed by the attending physician, and~~
11 ~~submitted to the state department of health and senior services within forty-five~~

12 ~~days from the date of the abortion. All complication reports shall be signed by~~
13 ~~the physician providing the post-abortion care and submitted to the department~~
14 ~~of health and senior services within forty-five days from the date of the~~
15 ~~post-abortion care.~~

16 ~~4. A copy of the abortion report shall be made a part of the medical~~
17 ~~record of the patient of the facility or hospital in which the abortion was~~
18 ~~performed.~~

19 ~~5. The state department of health and senior services shall be responsible~~
20 ~~for collecting all abortion reports and complication reports and collating and~~
21 ~~evaluating all data gathered therefrom and shall annually publish a statistical~~
22 ~~report based on such data from abortions performed in the previous calendar~~
23 ~~year.]~~

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

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

~~[188.060. All medical records, reports, and other documents required to~~
2 ~~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.]~~

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

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

7 shall be guilty of a class A misdemeanor, and, upon conviction shall be punished
8 as provided by law.]

2 [188.085. Nothing in sections 188.010 to 188.085 shall be construed to
3 exempt any person, firm, or corporation from civil liability for medical
malpractice for negligent acts or certification under sections 188.010 to 188.085.]

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
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.]~~

[188.105. 1. It shall be unlawful:

2 ~~(1) For an employer:~~

3 ~~(a) To fail or refuse to hire or to discharge any individual, or otherwise~~
4 ~~to discriminate against any individual with respect to his or her compensation,~~
5 ~~terms, conditions, or privileges of employment, because of such individual's~~
6 ~~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.]~~

2 ~~[188.110. 1. No public or private college, university or hospital shall~~
~~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.]~~

2 ~~[188.115. If any provision of sections 188.100 to 188.120 is found by a~~
~~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.]~~

2 ~~[188.120. Any individual injured by any person, association, corporation,~~
~~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.]~~

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.]~~

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

2 ~~[188.210. It shall be unlawful for any public employee within the scope~~
~~of his employment to perform or assist an abortion, not necessary to save the life~~
 3 ~~of the mother. It shall be unlawful for a doctor, nurse or other health care~~

4 ~~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.]~~

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

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

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

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

~~[188.325. 1. There is hereby established the "Missouri Alternatives to~~
 2 ~~Abortion Services Program" which shall be administered by a state agency or~~
 3 ~~agencies, as designated by appropriations to such or each agency. The~~
 4 ~~alternatives to abortion services program shall consist of services or counseling~~
 5 ~~to pregnant women and continuing for one year after birth to assist women in~~

6 ~~carrying their unborn children to term instead of having abortions, and to assist~~
7 ~~women in caring for their dependent children or placing their children for~~
8 ~~adoption.~~

9 ~~2. Services provided under the alternatives to abortion program shall~~
10 ~~include but not be limited to the following:~~

- 11 ~~(1) Prenatal care;~~
- 12 ~~(2) Medical and mental health care;~~
- 13 ~~(3) Parenting skills;~~
- 14 ~~(4) Drug and alcohol testing and treatment;~~
- 15 ~~(5) Child care, and newborn and infant care;~~
- 16 ~~(6) Housing and utilities;~~
- 17 ~~(7) Educational services;~~
- 18 ~~(8) Food, clothing, and supplies relating to pregnancy, newborn care, and~~
19 ~~parenting;~~
- 20 ~~(9) Adoption assistance;~~
- 21 ~~(10) Job training and placement;~~
- 22 ~~(11) Establishing and promoting responsible paternity;~~
- 23 ~~(12) Ultrasound services;~~
- 24 ~~(13) Case management;~~
- 25 ~~(14) Domestic abuse protection; and~~
- 26 ~~(15) Transportation.~~

27 ~~3. Actual provision and delivery of services and counseling shall be~~
28 ~~dependent on client needs and not otherwise prioritized by the agency or agencies~~
29 ~~administering the program. Services and counseling shall be available only~~
30 ~~during pregnancy and continuing for one year after birth, and shall exclude any~~
31 ~~family planning services. The agency or agencies administering the program may~~
32 ~~contract with other public or private agencies or entities to provide the services~~
33 ~~or counseling on behalf of the agency or agencies administering the program.~~
34 ~~Such other public or private agencies or entities may provide additional services~~
35 ~~or counseling, or services or counseling for more than one year after birth, that~~
36 ~~are not funded under the alternatives to abortion services program, as long as~~
37 ~~such services or counseling are not inconsistent with the provisions of this~~
38 ~~section. Contractors for the alternatives to abortion services program may also~~
39 ~~be contractors for the alternatives to abortion public awareness program~~
40 ~~established in section 188.335.~~

41 ~~4. The agency or agencies administering the program shall to the greatest~~
42 ~~extent possible supplement and match moneys appropriated for the alternatives~~
43 ~~to abortion services program with federal and other public moneys and with~~
44 ~~private moneys. The agency or agencies administering the program shall~~
45 ~~prioritize such additional federal, other public, and private moneys so that they~~
46 ~~are used preferentially for the alternatives to abortion services program and the~~
47 ~~alternatives to abortion public awareness program.~~

48 ~~5. The alternatives to abortion services program and the moneys~~
49 ~~expended under this section shall not be used to perform or induce, assist in the~~
50 ~~performing or inducing of or refer for abortions. Moneys expended under this~~
51 ~~section shall not be granted to organizations or affiliates of organizations that~~
52 ~~perform or induce, assist in the performing or inducing of or refer for abortions.]~~

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.]~~

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

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

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

~~[197.032. 1. No physician or surgeon, registered nurse, practical nurse, midwife or hospital, public or private, shall be required to treat or admit for treatment any woman for the purpose of abortion if such treatment or admission for treatment is contrary to the established policy of, or the moral, ethical or religious beliefs of, such physician, surgeon, registered nurse, midwife, practical nurse or hospital. No cause of action shall accrue against any such physician, surgeon, registered nurse, midwife, practical nurse or hospital on account of such refusal to treat or admit for treatment any woman for abortion purposes.]~~

~~2. No person or institution shall be denied or discriminated against in the reception of any public benefit, assistance or privilege whatsoever or in any employment, public or private, on the grounds that they refuse to undergo an abortion, to advise, consent to, assist in or perform an abortion.]~~

~~3. Any person who shall deny or discriminate against another for refusal to perform or participate in an abortion shall be liable to the party injured in an action at law, suit in equity or other redress.]~~

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

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

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

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

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

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

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

~~5. A physician using procedures consistent with the usual and customary standards of medical practice to save the life of the mother during pregnancy or birth or to save the life of any unborn or partially born child of the same pregnancy shall not be criminally responsible under this section. In no event 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.]~~

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