

# SENATE BILL NO. 101

## 101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

0992S.01H

ADRIANE D. CROUSE, Secretary

### AN ACT

To repeal sections 188.027, 188.036, and 188.047, RSMo, and to enact in lieu thereof five 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 188.027, 188.036, and 188.047, RSMo,  
2 are repealed and five new sections enacted in lieu thereof, to  
3 be known as sections 188.027, 188.036, 188.047, 188.049, and  
4 188.165, to read as follows:

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

7 (1) The physician who is to perform or induce the  
8 abortion, a qualified professional, or the referring  
9 physician has informed the woman orally, reduced to writing,  
10 and in person, of the following:

11 (a) The name of the physician who will perform or  
12 induce the abortion;

13 (b) Medically accurate information that a reasonable  
14 patient would consider material to the decision of whether  
15 or not to undergo the abortion, including:

16 a. A description of the proposed abortion method;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17           b. The immediate and long-term medical risks to the  
18 woman associated with the proposed abortion method  
19 including, but not limited to, infection, hemorrhage,  
20 cervical tear or uterine perforation, harm to subsequent  
21 pregnancies or the ability to carry a subsequent child to  
22 term, and possible adverse psychological effects associated  
23 with the abortion; and

24           c. The immediate and long-term medical risks to the  
25 woman, in light of the anesthesia and medication that is to  
26 be administered, the unborn child's gestational age, and the  
27 woman's medical history and medical condition;

28           (c) Alternatives to the abortion which shall include  
29 making the woman aware that information and materials shall  
30 be provided to her detailing such alternatives to the  
31 abortion;

32           (d) A statement that the physician performing or  
33 inducing the abortion is available for any questions  
34 concerning the abortion, together with the telephone number  
35 that the physician may be later reached to answer any  
36 questions that the woman may have;

37           (e) The location of the hospital that offers  
38 obstetrical or gynecological care located within thirty  
39 miles of the location where the abortion is performed or  
40 induced and at which the physician performing or inducing  
41 the abortion has clinical privileges and where the woman may  
42 receive follow-up care by the physician if complications  
43 arise;

44           (f) The gestational age of the unborn child at the  
45 time the abortion is to be performed or induced; and

46           (g) The anatomical and physiological characteristics  
47 of the unborn child at the time the abortion is to be  
48 performed or induced;

49           (2) The physician who is to perform or induce the  
50 abortion or a qualified professional has presented the  
51 woman, in person, printed materials provided by the  
52 department, which describe the probable anatomical and  
53 physiological characteristics of the unborn child at two-  
54 week gestational increments from conception to full term,  
55 including color photographs or images of the developing  
56 unborn child at two-week gestational increments. Such  
57 descriptions shall include information about brain and heart  
58 functions, the presence of external members and internal  
59 organs during the applicable stages of development and  
60 information on when the unborn child is viable. The printed  
61 materials shall prominently display the following  
62 statement: "The life of each human being begins at  
63 conception. Abortion will terminate the life of a separate,  
64 unique, living human being.";

65           (3) The physician who is to perform or induce the  
66 abortion, a qualified professional, or the referring  
67 physician has presented the woman, in person, printed  
68 materials provided by the department, which describe the  
69 various surgical and drug-induced methods of abortion  
70 relevant to the stage of pregnancy, as well as the immediate  
71 and long-term medical risks commonly associated with each  
72 abortion method including, but not limited to, infection,  
73 hemorrhage, cervical tear or uterine perforation, harm to  
74 subsequent pregnancies or the ability to carry a subsequent  
75 child to term, and the possible adverse psychological  
76 effects associated with an abortion;

77           (4) The physician who is to perform or induce the  
78 abortion or a qualified professional shall provide the woman  
79 with the opportunity to view at least seventy-two hours  
80 prior to the abortion an active ultrasound of the unborn

81 child and hear the heartbeat of the unborn child if the  
82 heartbeat is audible. The woman shall be provided with a  
83 geographically indexed list maintained by the department of  
84 health care providers, facilities, and clinics that perform  
85 ultrasounds, including those that offer ultrasound services  
86 free of charge. Such materials shall provide contact  
87 information for each provider, facility, or clinic including  
88 telephone numbers and, if available, website addresses.  
89 Should the woman decide to obtain an ultrasound from a  
90 provider, facility, or clinic other than the abortion  
91 facility, the woman shall be offered a reasonable time to  
92 obtain the ultrasound examination before the date and time  
93 set for performing or inducing an abortion. The person  
94 conducting the ultrasound shall ensure that the active  
95 ultrasound image is of a quality consistent with standard  
96 medical practice in the community, contains the dimensions  
97 of the unborn child, and accurately portrays the presence of  
98 external members and internal organs, if present or  
99 viewable, of the unborn child. The auscultation of fetal  
100 heart tone must also be of a quality consistent with  
101 standard medical practice in the community. If the woman  
102 chooses to view the ultrasound or hear the heartbeat or both  
103 at the abortion facility, the viewing or hearing or both  
104 shall be provided to her at the abortion facility at least  
105 seventy-two hours prior to the abortion being performed or  
106 induced;

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

111 (a) Unborn children as early as eight weeks  
112 gestational age start to show spontaneous movements and

113 unborn children at this stage in pregnancy show reflex  
114 responses to touch;

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

119 (c) Pain receptors on the unborn child's skin develop  
120 around his or her mouth at around seven to eight weeks  
121 gestational age, around the palms of his or her hands at ten  
122 to ten and a half weeks, on the abdominal wall at fifteen  
123 weeks, and over all of his or her body at sixteen weeks  
124 gestational age;

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

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

133 (f) A description of the actual steps in the abortion  
134 procedure to be performed or induced and at which steps the  
135 abortion procedure could be painful to the unborn child;

136 (6) The physician who is to perform or induce the  
137 abortion or a qualified professional has presented the  
138 woman, in person, printed materials provided by the  
139 department explaining to the woman alternatives to abortion  
140 she may wish to consider. Such materials shall:

141 (a) Identify on a geographical basis public and  
142 private agencies available to assist a woman in carrying her  
143 unborn child to term, and to assist her in caring for her  
144 dependent child or placing her child for adoption, including

145 agencies commonly known and generally referred to as  
146 pregnancy resource centers, crisis pregnancy centers,  
147 maternity homes, and adoption agencies. Such materials  
148 shall provide a comprehensive list by geographical area of  
149 the agencies, a description of the services they offer, and  
150 the telephone numbers and addresses of the agencies;  
151 provided that such materials shall not include any programs,  
152 services, organizations, or affiliates of organizations that  
153 perform or induce, or assist in the performing or inducing  
154 of, abortions or that refer for abortions;

155 (b) Explain the Missouri alternatives to abortion  
156 services program under section 188.325, and any other  
157 programs and services available to pregnant women and  
158 mothers of newborn children offered by public or private  
159 agencies which assist a woman in carrying her unborn child  
160 to term and assist her in caring for her dependent child or  
161 placing her child for adoption, including but not limited to  
162 prenatal care; maternal health care; newborn or infant care;  
163 mental health services; professional counseling services;  
164 housing programs; utility assistance; transportation  
165 services; food, clothing, and supplies related to pregnancy;  
166 parenting skills; educational programs; job training and  
167 placement services; drug and alcohol testing and treatment;  
168 and adoption assistance;

169 (c) Identify the state website for the Missouri  
170 alternatives to abortion services program under section  
171 188.325, and any toll-free number established by the state  
172 operated in conjunction with the program;

173 (d) Prominently display the statement: "There are  
174 public and private agencies willing and able to help you  
175 carry your child to term, and to assist you and your child  
176 after your child is born, whether you choose to keep your

177 child or place him or her for adoption. The state of  
178 Missouri encourages you to contact those agencies before  
179 making a final decision about abortion. State law requires  
180 that your physician or a qualified professional give you the  
181 opportunity to call agencies like these before you undergo  
182 an abortion.";

183 (7) The physician who is to perform or induce the  
184 abortion or a qualified professional has presented the  
185 woman, in person, printed materials provided by the  
186 department explaining that the father of the unborn child is  
187 liable to assist in the support of the child, even in  
188 instances where he has offered to pay for the abortion.  
189 Such materials shall include information on the legal duties  
190 and support obligations of the father of a child, including,  
191 but not limited to, child support payments, and the fact  
192 that paternity may be established by the father's name on a  
193 birth certificate or statement of paternity, or by court  
194 action. Such printed materials shall also state that more  
195 information concerning paternity establishment and child  
196 support services and enforcement may be obtained by calling  
197 the family support division within the Missouri department  
198 of social services; [and]

199 (8) The physician who is to perform or induce the  
200 abortion or a qualified professional shall inform the woman  
201 that she is free to withhold or withdraw her consent to the  
202 abortion at any time without affecting her right to future  
203 care or treatment and without the loss of any state or  
204 federally funded benefits to which she might otherwise be  
205 entitled; **and**

206 (9) **The physician who is to perform or induce the**  
207 **abortion or a qualified professional has presented the**  
208 **woman, in person, printed materials developed and provided**

209 by the department or by the state board of embalmers and  
210 funeral directors, or both, to help her decide prior to the  
211 abortion on the final disposition of the remains of her  
212 unborn child, as provided in section 188.049. The physician  
213 or the qualified professional shall notify her that the cost  
214 of final disposition shall be included in the payment for  
215 the abortion, and that there shall be no difference in cost  
216 based on her choice of final disposition. The physician or  
217 the qualified professional shall also notify her that if the  
218 abortion is completed outside of the hospital or abortion  
219 facility where the abortion procedure was initiated, she may  
220 bring the remains of her deceased unborn child to the  
221 hospital or abortion facility for final disposition at no  
222 additional cost to her. Prior to the abortion, she shall  
223 notify the physician or the qualified professional whether  
224 she wants to have the remains of her deceased unborn child  
225 returned to her or have the remains transferred to the  
226 licensed funeral establishment of her choice for final  
227 disposition, and shall notify the physician or the qualified  
228 professional of the name of the licensed funeral  
229 establishment, as well as her choice of individual or group  
230 burial or individual or simultaneous cremation.

231 2. All information required to be provided to a woman  
232 considering abortion by subsection 1 of this section shall  
233 be presented to the woman individually, in the physical  
234 presence of the woman and in a private room, to protect her  
235 privacy, to maintain the confidentiality of her decision, to  
236 ensure that the information focuses on her individual  
237 circumstances, to ensure she has an adequate opportunity to  
238 ask questions, and to ensure that she is not a victim of  
239 coerced abortion. Should a woman be unable to read  
240 materials provided to her, they shall be read to her.



241 Should a woman need an interpreter to understand the  
242 information presented in the written materials, an  
243 interpreter shall be provided to her. Should a woman ask  
244 questions concerning any of the information or materials,  
245 answers shall be provided in a language she can understand.

246 3. No abortion shall be performed or induced unless  
247 and until the woman upon whom the abortion is to be  
248 performed or induced certifies in writing on a checklist  
249 form provided by the department that she has been presented  
250 all the information required in subsection 1 of this  
251 section, that she has been provided the opportunity to view  
252 an active ultrasound image of the unborn child and hear the  
253 heartbeat of the unborn child if it is audible, and that she  
254 further certifies that she gives her voluntary and informed  
255 consent, freely and without coercion, to the abortion  
256 procedure.

257 4. No physician shall perform or induce an abortion  
258 unless and until the physician has obtained from the woman  
259 her voluntary and informed consent given freely and without  
260 coercion. If the physician has reason to believe that the  
261 woman is being coerced into having an abortion, the  
262 physician or qualified professional shall inform the woman  
263 that services are available for her and shall provide her  
264 with private access to a telephone and information about  
265 such services, including but not limited to the following:

- 266 (1) Rape crisis centers, as defined in section 455.003;  
267 (2) Shelters for victims of domestic violence, as  
268 defined in section 455.200; and  
269 (3) Orders of protection, pursuant to chapter 455.

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

273 (1) The immediate and long-term medical risks to the  
274 woman associated with the proposed abortion method  
275 including, but not limited to, infection, hemorrhage,  
276 cervical tear or uterine perforation, harm to subsequent  
277 pregnancies or the ability to carry a subsequent child to  
278 term, and possible adverse psychological effects associated  
279 with the abortion; and

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

284 6. No physician shall perform or induce an abortion  
285 unless and until the physician has received and signed a  
286 copy of the form prescribed in subsection 3 of this  
287 section. The physician shall retain a copy of the form in  
288 the patient's medical record.

289 7. In the event of a medical emergency, the physician  
290 who performed or induced the abortion shall clearly certify  
291 in writing the nature and circumstances of the medical  
292 emergency. This certification shall be signed by the  
293 physician who performed or induced the abortion, and shall  
294 be maintained under section 188.060.

295 8. No person or entity shall require, obtain, or  
296 accept payment for an abortion **or for preoperative or**  
297 **preparatory care or treatment prior to an abortion,**  
298 **including, but not limited to, a pregnancy test, ultrasound,**  
299 **counseling, or medical examination,** from or on behalf of a  
300 patient until at least seventy-two hours have passed since  
301 the time that the information required by subsection 1 of  
302 this section has been provided to the patient. Nothing in  
303 this subsection shall prohibit a person or entity from  
304 notifying the patient that payment for the abortion will be

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

307 9. The term "qualified professional" as used in this  
308 section shall refer to a physician, physician assistant,  
309 registered nurse, licensed practical nurse, psychologist,  
310 licensed professional counselor, or licensed social worker,  
311 licensed or registered under chapter 334, 335, or 337,  
312 acting under the supervision of the physician performing or  
313 inducing the abortion, and acting within the course and  
314 scope of his or her authority provided by law. The  
315 provisions of this section shall not be construed to in any  
316 way expand the authority otherwise provided by law relating  
317 to the licensure, registration, or scope of practice of any  
318 such qualified professional.

319 10. By November 30, 2010, the department shall produce  
320 the written materials and forms described in this section.  
321 Any written materials produced shall be printed in a  
322 typeface large enough to be clearly legible. All  
323 information shall be presented in an objective, unbiased  
324 manner designed to convey only accurate scientific and  
325 medical information. The department shall furnish the  
326 written materials and forms at no cost and in sufficient  
327 quantity to any person who performs or induces abortions, or  
328 to any hospital or facility that provides abortions. The  
329 department shall make all information required by subsection  
330 1 of this section available to the public through its  
331 department website. The department shall maintain a toll-  
332 free, twenty-four-hour hotline telephone number where a  
333 caller can obtain information on a regional basis concerning  
334 the agencies and services described in subsection 1 of this  
335 section. No identifying information regarding persons who  
336 use the website shall be collected or maintained. The

337 department shall monitor the website on a regular basis to  
338 prevent tampering and correct any operational deficiencies.

339 11. In order to preserve the compelling interest of  
340 the state to ensure that the choice to consent to an  
341 abortion is voluntary and informed, and given freely and  
342 without coercion, the department shall use the procedures  
343 for adoption of emergency rules under section 536.025 in  
344 order to promulgate all necessary rules, forms, and other  
345 necessary material to implement this section by November 30,  
346 2010.

347 12. If the provisions in subsections 1 and 8 of this  
348 section requiring a seventy-two-hour waiting period for an  
349 abortion are ever temporarily or permanently restrained or  
350 enjoined by judicial order, then the waiting period for an  
351 abortion shall be twenty-four hours; provided, however, that  
352 if such temporary or permanent restraining order or  
353 injunction is stayed or dissolved, or otherwise ceases to  
354 have effect, the waiting period for an abortion shall be  
355 seventy-two hours.

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

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

12 3. No person shall offer any inducement, monetary or  
13 otherwise, to a woman or a prospective father of an unborn

14 child for the purpose of conceiving an unborn child for the  
15 medical, scientific, experimental or therapeutic use of the  
16 fetal organs or tissue.

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

22 5. No person shall knowingly offer or receive any  
23 valuable consideration for the fetal organs or tissue  
24 resulting from an abortion, provided that nothing in this  
25 subsection shall prohibit payment for burial or other final  
26 disposition of the fetal remains, or payment for a  
27 pathological examination, autopsy or postmortem examination  
28 of the fetal remains.

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

35 **No person shall knowingly donate or make an anatomical gift**  
36 **of the fetal organs or tissue resulting from an abortion to**  
37 **any person or entity for medical, scientific, experimental,**  
38 **therapeutic, or any other use.**

39 7. **Nothing in this section shall prohibit the**  
40 **utilization of fetal organs or tissue to determine the cause**  
41 **or causes of any anomaly, illness, death, or genetic**  
42 **condition of the unborn child, the paternity of the unborn**  
43 **child, or for law enforcement purposes.**

44 8. **Notwithstanding any other provision of law to the**  
45 **contrary, any person who knowingly violates any provision of**

46 **this section shall be guilty of a class E felony, as well as**  
47 **subject to suspension or revocation of his or her**  
48 **professional license by his or her professional licensing**  
49 **board.**

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

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

29           3. Beginning January 1, 2018, the department shall  
30 make an annual report to the general assembly. The report  
31 shall include the number of any deficiencies and inquiries  
32 by the department of each abortion facility in the calendar  
33 year and whether any deficiencies were remedied and, for  
34 each abortion facility, aggregated de-identified data about  
35 the total number of abortions performed at the facility, the  
36 [termination] **abortion** procedures used, the number and type  
37 of complications reported for each type of [termination]  
38 **abortion** procedure, whether the department received the  
39 tissue report for each abortion, and the existence and  
40 nature, if any, of any inconsistencies or concerns between  
41 the abortion reports submitted under section 188.052 and the  
42 tissue report submitted under this section. The report  
43 shall not contain any personal patient information the  
44 disclosure of which is prohibited by state or federal law.

45           4. All reports provided by the department to the  
46 general assembly under this section shall maintain  
47 confidentiality of all personal information of patients,  
48 facility personnel, and facility physicians.

49           5. Nothing in this section shall prohibit the  
50 utilization of fetal organs or tissue [resulting from an  
51 abortion for medical or scientific purposes] to determine  
52 the cause or causes of any anomaly, illness, death, or  
53 genetic condition of the [fetus] **unborn child**, the paternity  
54 of the [fetus] **unborn child**, or for law enforcement purposes.

55           6. The department may adopt rules, regulations, and  
56 standards governing the reports required under this  
57 section. In doing so, the department shall ensure that  
58 these reports contain all information necessary to ensure  
59 compliance with all applicable laws and regulations. Any  
60 rule or portion of a rule, as that term is defined in

61 section 536.010, that is created under the authority  
62 delegated in this section shall become effective only if it  
63 complies with and is subject to all of the provisions of  
64 chapter 536 and, if applicable, section 536.028. This  
65 section and chapter 536 are nonseverable and if any of the  
66 powers vested with the general assembly pursuant to chapter  
67 536 to review, to delay the effective date, or to disapprove  
68 and annul a rule are subsequently held unconstitutional,  
69 then the grant of rulemaking authority and any rule proposed  
70 or adopted after October 24, 2017, shall be invalid and void.

**188.049. 1. This section and sections 188.027,  
2 188.036, 188.047, and 188.165 shall be known and may be  
3 cited as the "Safeguarding All Children's Remains to Ensure  
4 Dignity Act" or the "SACRED Act". It is the intent of the  
5 general assembly of this state to:**

6 (1) Regulate the custody, control, and disposition of  
7 deceased human remains, including the remains of deceased  
8 unborn children resulting from abortions;

9 (2) Inhibit the commodification of human body parts,  
10 including the remains of deceased unborn children resulting  
11 from abortions, by controlling their sale, purchase, or  
12 trade;

13 (3) Support family members of deceased children, born  
14 and unborn, so they can properly mourn their deaths,  
15 especially since the loss of a child may be followed by more  
16 intense and long-lasting grief;

17 (4) Preserve long-established legal and cultural  
18 traditions on the proper disposition of human remains as a  
19 sign of respect for and a duty owed to the deceased;

20 (5) Recognize and uphold the dignity and humanity of  
21 each individual child, born and unborn, because each is  
22 unique and valuable;



23           (6) Protect public sensibilities and maintain the  
24 dignity of patients and the medical profession, including by  
25 distinguishing human remains from and treating human remains  
26 differently than medical waste so as to counteract the  
27 coarsening and dehumanizing effects of abortion practice;

28           (7) Ensure that so grave a choice to undergo an  
29 abortion is well informed, so that a mother may not come to  
30 regret her choice after the abortion, and to express the  
31 state's value judgment favoring childbirth over abortion to  
32 encourage more women to carry their unborn children to term;  
33 and

34           (8) Prevent the discharge, deposit, injection,  
35 dumping, spilling, leaking, or placing of any remains of  
36 deceased unborn children resulting from abortions into or on  
37 any land or body of water so that such remains, or any  
38 constituent thereof, shall not enter the environment or be  
39 emitted into the air or be discharged into the waters,  
40 including groundwaters.

41           2. Notwithstanding the provisions of section 194.119  
42 to the contrary, the mother of an unborn child shall have  
43 the sole right of sepulcher for the remains of her deceased  
44 unborn child resulting from an abortion performed or induced  
45 upon her. The mother may assign the right of sepulcher to  
46 any next of kin, as defined in section 194.119, except that  
47 the mother shall not assign the right of sepulcher to:

48           (1) The person who will perform or induce the abortion  
49 upon her;

50           (2) An employee or agent of the hospital, as defined  
51 in section 197.020, or abortion facility where the abortion  
52 is to be performed or induced; or

53           (3) The pathologist or his or her employee or agent to  
54 whom the remains are to be submitted under section 188.047.

55           3. When giving her informed consent to the abortion  
56 under section 188.027, the mother shall decide on the final  
57 disposition of the remains of her deceased unborn child.  
58 She shall direct that the remains of the unborn child, upon  
59 completion of the pathological examination under section  
60 188.047, be:

61           (1) Returned, within fourteen days after the remains  
62 were submitted to the pathologist, to her or the next of kin  
63 assigned the right of sepulcher for final disposition; or

64           (2) Transferred, within fourteen days after the  
65 remains were submitted to the pathologist, to a licensed  
66 funeral establishment, as defined in section 333.011, chosen  
67 by the mother, for:

68           (a) Individual burial of the remains in a burial  
69 space, as defined in section 214.270;

70           (b) Group burial of the remains with the remains of  
71 other deceased unborn or newborn children, whether death was  
72 caused by abortion, stillbirth, miscarriage, sudden infant  
73 death syndrome, or otherwise, in a burial space; provided,  
74 that consent for group burial is first obtained from those  
75 persons with the right of sepulcher for such other remains;

76           (c) Individual cremation of the remains, with  
77 disposition of the cremated remains in accordance with  
78 subdivision (4) of section 194.350; or

79           (d) Simultaneous cremation of the remains with the  
80 remains of other deceased unborn or newborn children,  
81 whether death was caused by abortion, stillbirth,  
82 miscarriage, sudden infant death syndrome, or otherwise,  
83 with disposition of the cremated remains in accordance with  
84 subdivision (4) of section 194.350; provided, however, that  
85 consent for simultaneous cremation is first obtained from

86 those persons with the right of sepulcher for such other  
87 remains.

88 4. Notwithstanding the provisions of this section to  
89 the contrary, any remains of a deceased unborn child  
90 resulting from an abortion that are used to determine the  
91 cause or causes of any anomaly, illness, death, or genetic  
92 condition of the unborn child, the paternity of the unborn  
93 child, or for law enforcement purposes under section 188.036  
94 or 188.047, shall not be required to be returned or  
95 transferred within fourteen days to the mother, the next of  
96 kin assigned the right of sepulcher, or a licensed funeral  
97 establishment.

98 5. A hospital or abortion facility that, or  
99 pathologist who, does not have possession of the remains of  
100 a deceased unborn child resulting from an abortion that such  
101 hospital or abortion facility performed or induced upon a  
102 woman shall not be required to assist such woman or the next  
103 of kin assigned the right of sepulcher in the final  
104 disposition of the remains; provided, that if the abortion  
105 is completed outside of such hospital or abortion facility  
106 where such abortion was initiated, and the remains of the  
107 deceased unborn child are brought to such hospital or  
108 abortion facility, such hospital or abortion facility shall  
109 be required to comply with the provisions of this section  
110 regarding final disposition.

111 6. In order to give the mother of a deceased unborn  
112 child freedom of choice in the final disposition of the  
113 remains of her deceased unborn child as provided in this  
114 section, the hospital or abortion facility shall:

115 (1) Include in the required payment for the abortion,  
116 the average cost for final disposition;

117 (2) Not adjust the price of the abortion based on her  
118 choice for final disposition; and

119 (3) Not incite, compel, coerce, or unduly influence  
120 her to direct that final disposition be by less-costly means.

121 7. Notwithstanding any provision of law to the  
122 contrary, nothing in this section shall require public  
123 disclosure of the identity of:

124 (1) The woman upon whom the abortion was performed or  
125 induced;

126 (2) Any next of kin to whom the mother may have  
127 assigned the right of sepulcher;

128 (3) The person who performed or induced the abortion;

129 (4) The hospital or abortion facility where the  
130 abortion was performed or induced; or

131 (5) The licensed funeral establishment that handled  
132 the remains of the deceased unborn child for final  
133 disposition.

134 8. The department, in cooperation with the state board  
135 of embalmers and funeral directors, shall adopt rules,  
136 regulations, and standards governing the provisions of this  
137 section. The department and the state board of embalmers  
138 and funeral directors may promulgate joint rules. Any rule  
139 or portion of a rule, as that term is defined in section  
140 536.010, that is created under the authority delegated in  
141 this section shall become effective only if it complies with  
142 and is subject to all of the provisions of chapter 536 and,  
143 if applicable, section 536.028. This section and chapter  
144 536 are nonseverable and if any of the powers vested with  
145 the general assembly pursuant to chapter 536 to review, to  
146 delay the effective date, or to disapprove and annul a rule  
147 are subsequently held unconstitutional, then the grant of

148 rulemaking authority and any rule proposed or adopted after  
149 August 28, 2021, shall be invalid and void.

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

9 2. The offense of hoarding of aborted human remains is  
10 a class D felony.

11 3. The court shall order a person who has been found  
12 guilty of or pleaded guilty or nolo contendere to the  
13 offense of hoarding of aborted human remains to undergo a  
14 psychological or psychiatric evaluation and to undergo such  
15 treatment that the court determines to be appropriate after  
16 due consideration of the evaluation.

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