

SENATE BILL NO. 699

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

3753S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 1.205, 170.015, 188.010, 188.015, 188.017, 188.018, 188.020, 188.021, 188.023, 188.025, 188.026, 188.027, 188.028, 188.030, 188.031, 188.033, 188.035, 188.036, 188.038, 188.039, 188.043, 188.044, 188.047, 188.052, 188.055, 188.056, 188.057, 188.058, 188.060, 188.065, 188.070, 188.075, 188.080, 188.100, 188.105, 188.110, 188.115, 188.120, 188.125, 188.160, 188.200, 188.205, 188.210, 188.215, 188.220, 188.230, 188.250, 188.325, 188.335, 188.375, 191.211, 191.320, 191.724, 191.831, 191.923, 191.975, 192.665, 192.667, 194.390, 196.1127, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295, 197.315, 208.655, 334.100, 334.245, 376.805, 376.1199, 491.060, 556.061, 562.031, 562.071, 563.026, 565.300, 574.200, 595.027, and 595.120, RSMo, and to enact in lieu thereof forty-six new sections relating to abortion, with penalty provisions and an emergency clause.

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

Section A. Sections 1.205, 170.015, 188.010, 188.015,
2 188.017, 188.018, 188.020, 188.021, 188.023, 188.025, 188.026,
3 188.027, 188.028, 188.030, 188.031, 188.033, 188.035, 188.036,
4 188.038, 188.039, 188.043, 188.044, 188.047, 188.052, 188.055,
5 188.056, 188.057, 188.058, 188.060, 188.065, 188.070, 188.075,
6 188.080, 188.100, 188.105, 188.110, 188.115, 188.120, 188.125,
7 188.160, 188.200, 188.205, 188.210, 188.215, 188.220, 188.230,
8 188.250, 188.325, 188.335, 188.375, 191.211, 191.320, 191.724,
9 191.831, 191.923, 191.975, 192.665, 192.667, 194.390, 196.1127,

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

10 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200,
11 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240,
12 197.285, 197.287, 197.289, 197.293, 197.295, 197.315, 208.655,
13 334.100, 334.245, 376.805, 376.1199, 491.060, 556.061, 562.031,
14 562.071, 563.026, 565.300, 574.200, 595.027, and 595.120, RSMo,
15 are repealed and forty-six new sections enacted in lieu thereof,
16 to be known as sections 1.205, 170.015, 188.010, 188.015,
17 188.020, 188.023, 188.125, 191.211, 191.320, 191.724, 191.831,
18 191.923, 191.975, 192.665, 192.667, 196.1127, 197.150, 197.152,
19 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215,
20 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287,
21 197.289, 197.293, 197.295, 197.315, 334.100, 376.1199, 491.060,
22 556.061, 562.031, 562.071, 563.026, 565.015, 595.027, and
23 595.120, to read as follows:

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

3 (1) The life of each human being begins at conception;

4 (2) Unborn children have protectable interests in
5 life, health, and well-being;

6 (3) The natural parents of unborn children have
7 protectable interests in the life, health, and well-being of
8 their unborn child.

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

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

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

170.015. 1. Any course materials and instruction
2 relating to human sexuality and sexually transmitted
3 diseases shall be medically and factually accurate and shall:

4 (1) Present abstinence from sexual activity as the
5 preferred choice of behavior in relation to all sexual
6 activity for unmarried pupils because it is the only method
7 that is one hundred percent effective in preventing
8 pregnancy, sexually transmitted diseases and the emotional
9 trauma associated with adolescent sexual activity, and
10 advise students that teenage sexual activity places them at
11 a higher risk of dropping out of school because of the
12 consequences of sexually transmitted diseases and unplanned
13 pregnancy;

14 (2) Stress that sexually transmitted diseases are
15 serious, possible, health hazards of sexual activity.
16 Pupils shall be provided with the latest medical information
17 regarding exposure to human immunodeficiency virus, acquired
18 immune deficiency syndrome (AIDS), human papilloma virus,
19 hepatitis and other sexually transmitted diseases;

20 (3) Present students with the latest medically factual
21 information regarding both the possible side effects and
22 health benefits of all forms of contraception, including the

23 success and failure rates for the prevention of pregnancy
24 and sexually transmitted diseases; or shall present students
25 with information on contraceptives and pregnancy in a manner
26 consistent with the provisions of the federal abstinence
27 education law, 42 U.S.C. Section 710;

28 (4) Include a discussion of the possible emotional and
29 psychological consequences of preadolescent and adolescent
30 sexual activity and the consequences of adolescent
31 pregnancy, as well as the advantages of adoption, including
32 the adoption of special needs children, and the processes
33 involved in making an adoption plan;

34 (5) Teach skills of conflict management, personal
35 responsibility and positive self-esteem through discussion
36 and role-playing at appropriate grade levels to emphasize
37 that the pupil has the power to control personal behavior.
38 Pupils shall be encouraged to base their actions on
39 reasoning, self-discipline, sense of responsibility, self-
40 control, and ethical considerations, such as respect for
41 one's self and others. Pupils shall be taught not to make
42 unwanted physical and verbal sexual advances or otherwise
43 exploit another person. Pupils shall be taught to resist
44 unwanted sexual advances and other negative peer pressure;

45 (6) Advise pupils of the laws pertaining to their
46 financial responsibility to children born in and out of
47 wedlock and advise pupils of the provisions of chapter 566
48 pertaining to statutory rape;

49 (7) Teach pupils about the dangers of sexual
50 predators, including online predators when using electronic
51 communication methods such as the internet, cell phones,
52 text messages, chat rooms, email, and instant messaging
53 programs. Pupils shall be taught how to behave responsibly
54 and remain safe on the internet and the importance of having

55 open communication with responsible adults and reporting any
56 inappropriate situation, activity, or abuse to a responsible
57 adult, and depending on intent and content, to local law
58 enforcement, the Federal Bureau of Investigation, or the
59 National Center for Missing & Exploited Children's
60 CyberTipline;

61 (8) Teach pupils about the consequences, both personal
62 and legal, of inappropriate text messaging, even among
63 friends; and

64 (9) Teach pupils about sexual harassment, sexual
65 violence, and consent:

66 (a) For the purposes of this subdivision, the term
67 "consent" shall mean a freely given agreement to the conduct
68 at issue by a competent person. An expression of lack of
69 consent through words or conduct means there is no consent.
70 Lack of verbal or physical resistance or submission
71 resulting from the use of force, threat of force, or placing
72 another person in fear does not constitute consent. A
73 current or previous dating or social or sexual relationship
74 by itself or the manner of dress of the person involved with
75 the accused in the conduct at issue shall not constitute
76 consent;

77 (b) For the purposes of this subdivision, the term
78 "sexual harassment" shall mean uninvited and unwelcome
79 verbal or physical behavior of a sexual nature especially by
80 a person in authority toward a subordinate;

81 (c) For the purposes of this subdivision, the term
82 "sexual violence" shall mean causing or attempting to cause
83 another to engage involuntarily in any sexual act by force,
84 threat of force, duress, or without that person's consent.

85 2. Policies concerning referrals and parental
86 notification regarding contraception shall be determined by

87 local school boards or charter schools, consistent with the
88 provisions of section 167.611.

89 3. A school district or charter school which provides
90 human sexuality instruction may separate students according
91 to gender for instructional purposes.

92 4. The board of a school district or charter school
93 shall determine the specific content of the district's or
94 school's instruction in human sexuality, in accordance with
95 subsections 1 to 3 of this section, and shall ensure that
96 all instruction in human sexuality is appropriate to the age
97 of the students receiving such instruction.

98 5. **Before providing any course materials and**
99 **instruction relating to human sexuality and sexually**
100 **transmitted diseases to any student, regardless of the**
101 **course title or description,** a school district or charter
102 school shall notify the parent or legal guardian of each
103 student enrolled in the district or school of[:

104 (1)] the basic content of the district's or school's
105 human sexuality **and sexually transmitted diseases course**
106 **materials and** instruction to be provided to the student[; and

107 (2) The parent's right to remove]. **After receipt of**
108 **such basic content, the parent or legal guardian of each**
109 **student shall indicate in writing whether the parent or**
110 **legal guardian desires to allow the district or school to**
111 **include** the student [from] in any part of the district's or
112 school's human sexuality **and sexually transmitted diseases**
113 **course materials and** instruction. **No school shall provide**
114 **any course materials and instruction relating to human**
115 **sexuality and sexually transmitted diseases to a student**
116 **until the district or school has received such written**
117 **indication from the student's parent or legal guardian that**

118 **the student may receive such course materials and**
119 **instruction.**

120 6. A school district or charter school shall make all
121 curriculum materials used in the district's or school's
122 human sexuality instruction available for public inspection
123 pursuant to chapter 610 prior to the use of such materials
124 in actual instruction.

125 [7. No school district or charter school, or its
126 personnel or agents, shall provide abortion services, or
127 permit a person or entity to offer, sponsor, or furnish in
128 any manner any course materials or instruction relating to
129 human sexuality or sexually transmitted diseases to its
130 students if such person or entity is a provider of abortion
131 services.]

132 8. As used in this section, the following terms mean:

133 (1) "Abortion", the same meaning as such term is
134 defined in section 188.015;

135 (2) "Abortion services":

136 (a) Performing, inducing, or assisting in the
137 performance or inducing of an abortion which is not
138 necessary to save the life of the mother;

139 (b) Encouraging a patient to have an abortion or
140 referring a patient for an abortion, which is not necessary
141 to save the life of the mother; or

142 (c) Developing or dispensing drugs, chemicals, or
143 devices intended to be used to induce an abortion which is
144 not necessary to save the life of the mother.]

145 **7. (1) Violation of this section is a class C**
146 **misdemeanor.**

147 **(2) In any legal proceeding related to a violation of**
148 **this section, no entity directly or indirectly receiving any**
149 **taxpayer funds shall provide any legal advice, counsel, or**

150 **representation to any person or entity that violates this**
151 **section.**

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

8 (1) Defend the right to life of all humans, born and
9 unborn;

10 (2) Declare that the state and all of its political
11 subdivisions are a "sanctuary of life" that protects
12 pregnant women and their unborn children; and

13 (3) **[Regulate] Abolish** abortion **[to the full extent**
14 **permitted by the Constitution of the United States,**
15 **decisions of the United States Supreme Court, and federal**
16 **statutes] in this state.**

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

3 (1) "Abortion":

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

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

- 13 (2) ["Abortion facility", a clinic, physician's
14 office, or any other place or facility in which abortions
15 are performed or induced other than a hospital;
- 16 (3)] "Conception", the fertilization of the ovum of a
17 female by a sperm of a male;
- 18 [(4) "Department", the department of health and senior
19 services;
- 20 (5) "Down Syndrome", the same meaning as defined in
21 section 191.923;
- 22 (6) "Gestational age", length of pregnancy as measured
23 from the first day of the woman's last menstrual period;
- 24 (7)] (3) "Medical emergency", a condition which, based
25 on reasonable medical judgment, so complicates the medical
26 condition of a pregnant woman as to necessitate the
27 immediate abortion of her pregnancy to avert the death of
28 the pregnant woman or for which a delay will create a
29 serious risk of substantial and irreversible physical
30 impairment of a major bodily function of the pregnant woman;
- 31 [(8) "Physician", any person licensed to practice
32 medicine in this state by the state board of registration
33 for the healing arts;
- 34 (9) "Reasonable medical judgment", a medical judgment
35 that would be made by a reasonably prudent physician,
36 knowledgeable about the case and the treatment possibilities
37 with respect to the medical conditions involved;
- 38 (10)] (4) "Unborn child", the offspring of human
39 beings from the moment of conception until birth and at
40 every stage of its biological development, including the
41 human conceptus, zygote, morula, blastocyst, embryo, and
42 fetus[;
- 43 (11) "Viability" or "viable", that stage of fetal
44 development when the life of the unborn child may be

45 continued indefinitely outside the womb by natural or
46 artificial life-supportive systems;

47 (12) "Viable pregnancy" or "viable intrauterine
48 pregnancy", in the first trimester of pregnancy, an
49 intrauterine pregnancy that can potentially result in a
50 liveborn baby].

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

188.023. Any licensed health care professional who
2 delivers a baby [or performs an abortion], who has prima
3 facie evidence that a patient has been the victim of
4 statutory rape in the first degree or statutory rape in the
5 second degree, or if the patient is under the age of
6 eighteen, that [he or she] **the patient** has been a victim of
7 sexual abuse, including rape in the first or second degree,
8 or incest, shall be required to report such offenses in the
9 same manner as provided for by section 210.115.

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

2. A political subdivision of this state is preempted
13 from enacting, adopting, maintaining, or enforcing any
14 order, ordinance, rule, regulation, policy, or other similar
15 measure that prohibits, restricts, limits, controls,

16 directs, interferes with, or otherwise adversely affects an
17 alternatives to abortion agency or its officers', agents',
18 employees', or volunteers' operations or speech including,
19 but not limited to, counseling, referrals, or education of,
20 advertising or information to, or other communications with,
21 clients, patients, other persons, or the public.

22 3. Nothing in subsection 2 of this section shall
23 preclude or preempt a political subdivision of this state
24 from exercising its lawful authority to regulate zoning or
25 land use or to enforce a building or fire code regulation;
26 provided that, such political subdivision treats an
27 alternatives to abortion agency in the same manner as a
28 similarly situated agency and that such authority is not
29 used to circumvent the intent of subsection 2 of this
30 section.

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

38 5. A political subdivision of this state is preempted
39 from enacting, adopting, maintaining, or enforcing any
40 order, ordinance, rule, regulation, policy, or other similar
41 measure requiring a real estate broker, real estate
42 salesperson, real estate broker-salesperson, appraisal firm,
43 appraiser, as such terms are defined in chapter 339, a
44 property owner, or any other person to buy, sell, exchange,
45 purchase, rent, lease, advertise for, or otherwise conduct
46 real estate transactions for, to, or with an abortion
47 facility or for, to, or with a person for the purpose of

48 performing or inducing an abortion not necessary to save the
49 life of the mother, if such requirement is contrary to the
50 religious beliefs or moral convictions of such real estate
51 broker, real estate salesperson, real estate broker-
52 salesperson, appraisal firm, appraiser, property owner, or
53 other person.

54 6. A political subdivision of this state is preempted
55 from enacting, adopting, maintaining, or enforcing any
56 order, ordinance, rule, regulation, policy, or other similar
57 measure requiring an employer, employee, health plan
58 provider, health plan sponsor, health care provider, or any
59 other person to provide coverage for or to participate in a
60 health plan that includes benefits that are not otherwise
61 required by state law.

62 7. In any action to enforce the provisions of this
63 section, a court of competent jurisdiction may order
64 injunctive or other equitable relief, recovery of damages or
65 other legal remedies, or both, as well as payment of
66 reasonable attorney's fees, costs, and expenses. The relief
67 and remedies set forth shall not be deemed exclusive and
68 shall be in addition to any other relief or remedies
69 permitted by law.

70 8.] In addition to a private cause of action by a
71 person whose rights are violated contrary to the provisions
72 of this section, the attorney general is also authorized to
73 bring a cause of action to defend the rights guaranteed
74 under this section.

75 [9.] 5. Nothing in this section shall be construed to
76 prohibit a political subdivision from enacting, adopting,
77 maintaining, or enforcing any order, ordinance, rule,
78 regulation, policy, or other similar measure to assist
79 pregnant women to carry their unborn children to term or to

80 assist women in caring for their dependent children or
81 placing their children for adoption including, but not
82 limited to, by funding or otherwise assisting an
83 alternatives to abortion agency to provide services to such
84 women and children.

85 **6. An employee of an alternatives to abortion agency**
86 **shall not voluntarily disclose information communicated to**
87 **the employee relating to and in connection with an**
88 **individual who has presented themselves to the agency for**
89 **the purpose of seeking an alternative to an abortion, except**
90 **by permission of the individual. The information shall be**
91 **considered privileged and confidential; provided, that such**
92 **information may be shared with other employees of the agency**
93 **for purposes of providing services to that individual.**

94 [10.] 7. As used in this section, [the following terms
95 mean:

96 (1) "alternatives to abortion agency" shall mean:

97 (a) A maternity home as defined in section 135.600;

98 (b) A pregnancy resource center as defined in section
99 135.630; or

100 (c) An agency or entity that has the primary purpose
101 of providing services or counseling to pregnant women to
102 assist such women in carrying their unborn children to term
103 instead of having abortions and to assist such women in
104 caring for their dependent children or placing their
105 children for adoption, as described in section 188.325,
106 regardless of whether such agency or entity is receiving
107 funding or reimbursement from the state for such purposes[;

108 (2) "Participate in abortion":

109 (a) To undergo an abortion; or

110 (b) To perform or induce, assist in, refer or counsel
111 for, advocate for, promote, procure, reimburse for, or

112 provide health plan coverage for an abortion not necessary
113 to save the life of the mother].

191.211. State expenditures for new programs and
2 initiatives enacted by sections 103.178, 143.999, [188.230,
3 191.231, 191.825 to 191.839, 208.177, 208.178, 208.179 and
4 208.181, 211.490, 285.240, 337.093, 374.126, 376.891 to
5 376.894, 431.064, 660.016, 660.017 and 660.018, and the
6 state expenditures for the new initiatives and expansion of
7 programs enacted by revising sections 105.711 and 105.721,
8 191.520, 191.600, 198.090, 208.151, 208.152 and 208.215, as
9 provided by H.B. 564, 1993, shall be funded exclusively by
10 federal funds and the funding sources established in
11 sections 149.011, 149.015, 149.035, 149.061, 149.065,
12 149.160, 149.170, 149.180, 149.190 and 149.192, and no
13 future general revenue shall be appropriated to fund such
14 new programs or expansions.

191.320. The department may contract with tertiary
2 genetic centers to provide genetic diagnostic and counseling
3 services, to initiate and conduct investigations of the
4 causes, mortality, methods of treatment, prevention and cure
5 of genetic disorders and related birth defects, and to
6 develop and administer programs and activities which aid in
7 the prevention or treatment of a particular genetic
8 disorder. It may establish outreach clinics to be located
9 throughout the state. The department may divide the state
10 into regions for this purpose. The boundaries of such
11 regions, to the extent practicable, shall be contiguous with
12 relevant boundaries of political subdivisions and health
13 service areas. These centers and clinics may provide
14 genetic diagnostic evaluations, treatment, counseling and
15 follow-up for families with or at high risk for a genetic
16 disease, such as sickle cell anemia, cystic fibrosis,

17 inherited cardiovascular disease, inherited forms of mental
18 retardations, or hemophilia, provided that such evaluations,
19 treatment, and counseling shall not include referral for
20 abortions [unless such abortions are certified in writing by
21 a physician that, in his professional judgment, the life of
22 the mother would be endangered if the fetus were carried to
23 term].

191.724. 1. The rights guaranteed under this section
2 are in addition to the rights guaranteed under section
3 376.805, relating to health plan coverage of abortion, and
4 section 376.1199, relating to health plan coverage of
5 certain obstetrical and gynecological benefits and
6 pharmaceutical coverage.

7 2. No employee, self-employed person, or any other
8 person shall be compelled to obtain coverage for, or be
9 discriminated against or penalized for declining or refusing
10 coverage for, [abortion,] contraception[,] or sterilization
11 in a health plan if such items or procedures are contrary to
12 the religious beliefs or moral convictions of such employee
13 or person.

14 3. No employer, health plan provider, health plan
15 sponsor, health care provider, or any other person or entity
16 shall be compelled to provide coverage for, or be
17 discriminated against or penalized for declining or refusing
18 coverage for, [abortion,] contraception[,] or sterilization
19 in a health plan if such items or procedures are contrary to
20 the religious beliefs or moral convictions of such employer,
21 health plan provider, health plan sponsor, health care
22 provider, person, or entity.

23 4. No governmental entity, public official, or entity
24 acting in a governmental capacity shall discriminate against
25 or penalize an employee, self-employed person, employer,

26 health plan provider, health plan sponsor, health care
27 provider, or any other person or entity because of such
28 employee's, self-employed person's, employer's, health plan
29 provider's, health plan sponsor's, health care provider's,
30 or other person's or entity's unwillingness, based on
31 religious beliefs or moral convictions, to obtain or provide
32 coverage for, pay for, participate in, or refer for,
33 [abortion,] contraception[,] or sterilization in a health
34 plan.

35 5. Whenever the attorney general has a reasonable
36 cause to believe that any person or entity or group of
37 persons or entities is being, has been, or is threatened to
38 be denied any of the rights granted by this section or other
39 law that protects the religious beliefs or moral convictions
40 of such persons or entities, and such denial raises an issue
41 of general public importance, the attorney general may bring
42 a civil action in any appropriate state or federal court.
43 Such complaint shall set forth the facts and request such
44 appropriate relief, including but not limited to an
45 application for a permanent or temporary injunction,
46 restraining order, mandamus, an order under the federal
47 Administrative Procedure Act, Religious Freedom Restoration
48 Act, or other federal law, an order under section 1.302
49 relating to free exercise of religion, or other order
50 against the governmental entity, public official, or entity
51 acting in a governmental capacity responsible for such
52 denial or threatened denial of rights, as the attorney
53 general deems necessary to ensure the full enjoyment of the
54 rights granted by law. Nothing contained herein shall
55 preclude a private cause of action against a governmental
56 entity, public official, or entity acting in a governmental
57 capacity by any person or entity or group of persons or

58 entities aggrieved by a violation of this section or other
59 law that protects the religious beliefs or moral convictions
60 of such persons or entities, or be considered a limitation
61 on any other remedy permitted by law. A court may order any
62 appropriate relief, including recovery of damages, payment
63 of reasonable attorney's fees, costs, and expenses.

64 6. For purposes of this section, "sterilization" shall
65 mean any elective medical procedure for which the sole
66 purpose is to make an individual incapable of reproduction.

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

24 drug abuse and the director of the department of corrections
25 as an alternative to incarceration, as provided in
26 subsections 2, 3, and 4 of this section. Such pilot project
27 shall be known as the "Alt-care" program. In addition, some
28 of the proceeds deposited to the health initiatives fund
29 pursuant to sections 149.015 and 149.160 shall be
30 appropriated annually to the division of alcohol and drug
31 abuse of the department of mental health to be used for the
32 administration and oversight of the substance abuse traffic
33 offenders program defined in section 302.010 and section
34 577.001. The provisions of section 33.080 to the contrary
35 notwithstanding, money in the health initiatives fund shall
36 not be transferred at the close of the biennium to the
37 general revenue fund.

38 2. The director of the division of alcohol and drug
39 abuse and the director of the department of corrections
40 shall develop and administer a pilot project to provide a
41 comprehensive substance abuse treatment and rehabilitation
42 program as an alternative to incarceration, hereinafter
43 referred to as "Alt-care". Alt-care shall be funded using
44 money provided under subsection 1 of this section through
45 the Missouri Medicaid program, the C-STAR program of the
46 department of mental health, and the division of alcohol and
47 drug abuse's purchase-of-service system. Alt-care shall
48 offer a flexible combination of clinical services and living
49 arrangements individually adapted to each client and her
50 children. Alt-care shall consist of the following
51 components:

- 52 (1) Assessment and treatment planning;
- 53 (2) Community support to provide continuity,
54 monitoring of progress and access to services and resources;
- 55 (3) Counseling from individual to family therapy;

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

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

64 3. Any female who is pregnant or is the custodial
65 parent of a child or children under the age of twelve years,
66 and who has pleaded guilty to or found guilty of violating
67 the provisions of chapter 195, and whose controlled
68 substance abuse was a precipitating or contributing factor
69 in the commission of the offense, and who is placed on
70 probation may be required, as a condition of probation, to
71 participate in Alt-care, if space is available in the pilot
72 project area. Determinations of eligibility for the
73 program, placement, and continued participation shall be
74 made by the division of alcohol and drug abuse, in
75 consultation with the department of corrections.

76 4. The availability of space in Alt-care shall be
77 determined by the director of the division of alcohol and
78 drug abuse in conjunction with the director of the
79 department of corrections. If the sentencing court is
80 advised that there is no space available, the court shall
81 consider other authorized dispositions.

191.923. 1. The general assembly of the state of
2 Missouri hereby finds and declares that pregnant women who
3 choose to undergo prenatal screening should have access to
4 timely and informative counseling about the conditions being
5 tested for, the accuracy of such tests, and resources for
6 obtaining support services for such conditions. Informed

7 consent is a critical component of all genetic testing and
8 prenatal screening[, particularly as the results of such
9 testing or screening and the counseling that follows may
10 lead to the unnecessary abortion of unborn humans with Down
11 Syndrome or other prenately diagnosed conditions].

12 2. As used in this section, the following terms shall
13 mean:

14 (1) "Down Syndrome", a chromosomal disorder caused by
15 an error in cell division that results in the presence of an
16 extra whole or partial copy of chromosome 21;

17 (2) "Health care provider", any person or entity
18 licensed, accredited, or certified by the state of Missouri
19 to perform specified health services;

20 (3) "Prenately diagnosed condition", any adverse
21 fetal health condition identified by prenatal genetic
22 testing or indicated by prenatal screening procedures;

23 (4) "Prenatal test", a diagnostic procedure or
24 screening procedure performed upon a pregnant woman or her
25 unborn offspring to obtain information about her offspring's
26 health or development.

27 3. When a prenately diagnosed condition, including
28 but not limited to Down Syndrome, becomes known as a result
29 of one or more prenatal tests, the physician or other health
30 care professional who requested or ordered prenatal tests,
31 or his or her designee, shall provide the patient with
32 current information about the conditions that were tested
33 for, the accuracy of such tests, and resources for obtaining
34 support services for such conditions, including information
35 hotlines specific to Down Syndrome or other prenately
36 diagnosed conditions, resource centers, and clearinghouses
37 for such conditions, support programs for parents and

38 families, and the alternatives to abortion services program
39 under section 188.325.

40 4. The department of health and senior services shall
41 establish a clearinghouse of information concerning
42 supportive services providers, information hotlines specific
43 to Down Syndrome or other prenatally diagnosed conditions,
44 resource centers, education, other support programs for
45 parents and families, and the alternatives to abortion
46 services program under section 188.325.

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

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

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

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

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

16 (b) Adoption and foster care procedures;

17 (c) Means of financing the cost of adoption and foster
18 care including, but not limited to, adoption subsidies,
19 foster care payments, and adoption tax credits;

20 (d) Options for birth parents in choosing adoptive
21 parents;

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

24 (f) Location of adoption and foster care agencies;
25 (g) Information regarding various state health and
26 social service programs for pregnant women and children,
27 including but not limited to medical assistance programs and
28 temporary assistance for needy families (TANF); and

29 (h) Referrals to appropriate counseling services,
30 including but not be limited to counseling services for
31 parents who are considering retaining custody of their
32 children, placing their children for adoption, or becoming
33 foster or adoptive parents[; but excluding any referrals for
34 abortion or to abortion facilities];

35 (3) Making such educational materials available
36 through state and local public health clinics, public
37 hospitals, family planning clinics, [abortion facilities as
38 defined in section 188.015,] maternity homes as defined in
39 section 135.600, child-placing agencies licensed pursuant to
40 sections 210.481 to 210.536, attorneys whose practice
41 involves private adoptions, in vitro fertilization clinics
42 and private physicians for distribution to their patients
43 who request such educational materials. Such materials
44 shall also be available to the public through the department
45 of social services' internet website;

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

50 3. In addition, the department may establish and
51 implement an ongoing advertising campaign for the
52 recruitment of adoptive and foster care families, with a
53 special emphasis on the recruitment of qualified adoptive
54 and foster care families for special needs children. Such
55 advertising campaign may utilize, but shall not be limited

56 to, the following media: television, radio, outdoor
57 advertising, newspaper, magazines and other print media,
58 websites, and the internet. The department may contract
59 with professional advertising agencies or other professional
60 entities to conduct such advertising campaign on behalf of
61 the department.

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

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

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

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

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

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

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

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

20 (6) "Nosocomial infection", as defined by the federal
21 Centers for Disease Control and Prevention and applied to

22 infections within hospitals, ambulatory surgical centers,
23 abortion facilities, and other facilities;

24 (7) "Nosocomial infection incidence rate", a risk-
25 adjusted measurement of new cases of nosocomial infections
26 by procedure or device within a population over a given
27 period of time, with such measurements defined by rule of
28 the department pursuant to subsection 3 of section 192.667
29 for use by all hospitals, ambulatory surgical centers,
30 [abortion facilities,] and other facilities in complying
31 with the requirements of the Missouri nosocomial infection
32 control act of 2004;

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

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

192.667. 1. All health care providers shall at least
2 annually provide to the department charge data as required
3 by the department. All hospitals shall at least annually
4 provide patient abstract data and financial data as required
5 by the department. Hospitals as defined in section 197.020
6 shall report patient abstract data for outpatients and
7 inpatients. Ambulatory surgical centers [and abortion
8 facilities] as defined in section 197.200 shall provide

9 patient abstract data to the department. The department
10 shall specify by rule the types of information which shall
11 be submitted and the method of submission.

12 2. The department shall collect data on the incidence
13 of health care-associated infections from hospitals,
14 ambulatory surgical centers, [abortion facilities,] and
15 other facilities as necessary to generate the reports
16 required by this section. Hospitals, ambulatory surgical
17 centers, [abortion facilities,] and other facilities shall
18 provide such data in compliance with this section. In order
19 to streamline government and to eliminate duplicative
20 reporting requirements, if the Centers for Medicare and
21 Medicaid Services, or its successor entity, requires
22 hospitals to submit health care-associated infection data,
23 then hospitals and the department shall not be required to
24 comply with the health care-associated infection data
25 reporting requirements of subsections 2 to 17 of this
26 section applicable to hospitals, except that the department
27 shall post a link on its website to publicly reported data
28 by hospitals on the Centers for Medicare and Medicaid
29 Services' Hospital Compare website, or its successor.

30 3. The department shall promulgate rules specifying
31 the standards and procedures for the collection, analysis,
32 risk adjustment, and reporting of the incidence of health
33 care-associated infections and the types of infections and
34 procedures to be monitored pursuant to subsection 13 of this
35 section. In promulgating such rules, the department shall:

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

40 (2) Consider the findings and recommendations of the
41 infection control advisory panel established pursuant to
42 section 197.165.

43 4. By January 1, 2017, the infection control advisory
44 panel created by section 197.165 shall make recommendations
45 to the department regarding the Centers for Medicare and
46 Medicaid Services' health care-associated infection data
47 collection, analysis, and public reporting requirements for
48 hospitals, ambulatory surgical centers, and other facilities
49 in the federal Centers for Disease Control and Prevention's
50 National Healthcare Safety Network, or its successor, in
51 lieu of all or part of the data collection, analysis, and
52 public reporting requirements of this section. The advisory
53 panel recommendations shall address which hospitals shall be
54 required as a condition of licensure to use the National
55 Healthcare Safety Network for data collection; the use of
56 the National Healthcare Safety Network for risk adjustment
57 and analysis of hospital submitted data; and the use of the
58 Centers for Medicare and Medicaid Services' Hospital Compare
59 website, or its successor, for public reporting of the
60 incidence of health care-associated infection metrics. The
61 advisory panel shall consider the following factors in
62 developing its recommendation:

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

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

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

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

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

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

80 5. After considering the recommendations of the
81 infection control advisory panel, and provided that the
82 requirements of subsection 13 of this section can be met,
83 the department shall implement guidelines from the federal
84 Centers for Disease Control and Prevention's National
85 Healthcare Safety Network, or its successor. It shall be a
86 condition of licensure for hospitals that meet the minimum
87 public reporting requirements of the National Healthcare
88 Safety Network and the Centers for Medicare and Medicaid
89 Services to participate in the National Healthcare Safety
90 Network, or its successor. Such hospitals shall permit the
91 National Healthcare Safety Network, or its successor, to
92 disclose facility-specific infection data to the department
93 as required under this section, and as necessary to provide
94 the public reports required by the department. It shall be
95 a condition of licensure for any ambulatory surgical center
96 [or abortion facility] which does not voluntarily
97 participate in the National Healthcare Safety Network, or
98 its successor, to submit facility-specific data to the
99 department as required under this section, and as necessary
100 to provide the public reports required by the department.

101 6. The department shall not require the resubmission
102 of data which has been submitted to the department of health

103 and senior services or the department of social services
104 under any other provision of law. The department of health
105 and senior services shall accept data submitted by
106 associations or related organizations on behalf of health
107 care providers by entering into binding agreements
108 negotiated with such associations or related organizations
109 to obtain data required pursuant to section 192.665 and this
110 section. A health care provider shall submit the required
111 information to the department of health and senior services:

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

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

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

120 7. Information obtained by the department under the
121 provisions of section 192.665 and this section shall not be
122 public information. Reports and studies prepared by the
123 department based upon such information shall be public
124 information and may identify individual health care
125 providers. The department of health and senior services may
126 authorize the use of the data by other research
127 organizations pursuant to the provisions of section
128 192.067. The department shall not use or release any
129 information provided under section 192.665 and this section
130 which would enable any person to determine any health care
131 provider's negotiated discounts with specific preferred
132 provider organizations or other managed care organizations.
133 The department shall not release data in a form which could

134 be used to identify a patient. Any violation of this
135 subsection is a class A misdemeanor.

136 8. The department shall undertake a reasonable number
137 of studies and publish information, including at least an
138 annual consumer guide, in collaboration with health care
139 providers, business coalitions and consumers based upon the
140 information obtained pursuant to the provisions of section
141 192.665 and this section. The department shall allow all
142 health care providers and associations and related
143 organizations who have submitted data which will be used in
144 any publication to review and comment on the publication
145 prior to its publication or release for general use. The
146 publication shall be made available to the public for a
147 reasonable charge.

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

153 10. A hospital, as defined in section 197.020,
154 aggrieved by the department's determination of ineligibility
155 for state moneys pursuant to subsection 9 of this section
156 may appeal as provided in section 197.071. An ambulatory
157 surgical center [or abortion facility] as defined in section
158 197.200 aggrieved by the department's determination of
159 ineligibility for state moneys pursuant to subsection 9 of
160 this section may appeal as provided in section 197.221.

161 11. The department of health may promulgate rules
162 providing for collection of data and publication of the
163 incidence of health care-associated infections for other
164 types of health facilities determined to be sources of

165 infections; except that, physicians' offices shall be exempt
166 from reporting and disclosure of such infections.

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

172 (1) Infections associated with a minimum of four
173 surgical procedures for hospitals and a minimum of two
174 surgical procedures for ambulatory surgical centers that
175 meet the following criteria:

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

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

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

187 (2) Central line-related bloodstream infections;

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

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

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

199 13. In consultation with the infection control
200 advisory panel established pursuant to section 197.165, the
201 department shall develop and disseminate to the public
202 reports based on data compiled for a period of twelve
203 months. Such reports shall be updated quarterly and shall
204 show for each hospital, ambulatory surgical center,
205 [abortion facility,] and other facility metrics on risk-
206 adjusted health care-associated infections under this
207 section.

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

213 15. Reports published pursuant to subsection 13 of
214 this section shall be published and readily accessible on
215 the department's internet website. The reports shall be
216 distributed at least annually to the governor and members of
217 the general assembly. The department shall make such
218 reports available to the public for a period of at least two
219 years.

220 16. The Hospital Industry Data Institute shall publish
221 a report of Missouri hospitals' [,] **and** ambulatory surgical
222 centers' [, and abortion facilities'] compliance with
223 standardized quality of care measures established by the
224 federal Centers for Medicare and Medicaid Services for
225 prevention of infections related to surgical procedures. If
226 the Hospital Industry Data Institute fails to do so by July
227 31, 2008, and annually thereafter, the department shall be

228 authorized to collect information from the Centers for
229 Medicare and Medicaid Services or from hospitals, ambulatory
230 surgical centers, and abortion facilities and publish such
231 information in accordance with this section.

232 17. The data collected or published pursuant to this
233 section shall be available to the department for purposes of
234 licensing hospitals[,] **and** ambulatory surgical centers[, and
235 abortion facilities] pursuant to chapter 197.

236 18. The department shall promulgate rules to implement
237 the provisions of section 192.131 and sections 197.150 to
238 197.160. Any rule or portion of a rule, as that term is
239 defined in section 536.010, that is created under the
240 authority delegated in this section shall become effective
241 only if it complies with and is subject to all of the
242 provisions of chapter 536 and, if applicable, section
243 536.028. This section and chapter 536 are nonseverable and
244 if any of the powers vested with the general assembly
245 pursuant to chapter 536 to review, to delay the effective
246 date, or to disapprove and annul a rule are subsequently
247 held unconstitutional, then the grant of rulemaking
248 authority and any rule proposed or adopted after August 28,
249 2004, shall be invalid and void.

250 19. No later than August 28, 2017, each hospital,
251 excluding mental health facilities as defined in section
252 632.005, and each ambulatory surgical center [and abortion
253 facility] as defined in section 197.200, shall in
254 consultation with its medical staff establish an
255 antimicrobial stewardship program for evaluating the
256 judicious use of antimicrobials, especially antibiotics that
257 are the last line of defense against resistant infections.
258 The hospital's stewardship program and the results of the
259 program shall be monitored and evaluated by hospital quality

260 improvement departments and shall be available upon
261 inspection to the department. At a minimum, the
262 antimicrobial stewardship program shall be designed to
263 evaluate that hospitalized patients receive, in accordance
264 with accepted medical standards of practice, the appropriate
265 antimicrobial, at the appropriate dose, at the appropriate
266 time, and for the appropriate duration.

267 20. Hospitals described in subsection 19 of this
268 section shall meet the National Healthcare Safety Network
269 requirements for reporting antimicrobial usage or resistance
270 by using the Centers for Disease Control and Prevention's
271 Antimicrobial Use and Resistance (AUR) Module when
272 conditions of participation promulgated by the Centers for
273 Medicare and Medicaid Services requiring the electronic
274 reporting of antibiotic use or antibiotic resistance by
275 hospitals become effective. When such antimicrobial usage
276 or resistance reporting takes effect, hospitals shall
277 authorize the National Healthcare Safety Network, or its
278 successor, to disclose to the department facility-specific
279 information reported to the AUR Module. Facility-specific
280 data on antibiotic usage and resistance collected under this
281 subsection shall not be disclosed to the public, but the
282 department may release case-specific information to other
283 facilities, physicians, and the public if the department
284 determines on a case-by-case basis that the release of such
285 information is necessary to protect persons in a public
286 health emergency. Nothing in this section shall prohibit a
287 hospital from voluntarily reporting antibiotic use or
288 antibiotic resistance data through the National Healthcare
289 Safety Network, or its successor, prior to the effective
290 date of the conditions of participation requiring the
291 reporting.

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

 196.1127. 1. The moneys appropriated to the life
2 sciences research board pursuant to sections 196.1100 to
3 196.1124 shall be subject to the provisions of this section.

4 2. As used in this section, the following terms shall
5 mean:

6 (1) ["Abortion services" include performing, inducing,
7 or assisting with abortions, as defined in section 188.015,
8 or encouraging patients to have abortions, referring
9 patients for abortions not necessary to save the life of the
10 mother, or development of drugs, chemicals, or devices
11 intended to be used to induce an abortion;

12 (2) "Child", a human being recognized as a minor
13 pursuant to the laws of this state, including if in vivo, an
14 unborn child as defined in section 188.015 and if in vitro,
15 a human being at any of the stages of biological development
16 of an unborn child from conception or inception onward;

17 (3) "Conception", the same meaning as such term
18 is defined in section 188.015;

19 (4) "Facilities and administrative costs", those
20 costs that are incurred for common or joint objectives and
21 therefore cannot be identified readily and specifically with
22 a particular research project or any other institutional
23 activity;

24 (5) "Human cloning", the creation of a human
25 being by any means other than by the fertilization of an
26 oocyte of a human female by a sperm of a human male;

27 [(6)] (5) "Prohibited human research", research in a
28 research project in which there is the taking or utilization
29 of the organs, tissues, or cellular material of:

30 (a) A deceased child, unless consent is given by the
31 parents in a manner provided in sections 194.210 to 194.290
32 relating to anatomical gifts, and neither parent caused the
33 death of such child or consented to another person causing
34 the death of such child;

35 (b) A living child, when the intended or likely result
36 of such taking or utilization is to kill or cause harm to
37 the health, safety, or welfare of such child, or when the
38 purpose is to target such child for possible destruction in
39 the future;

40 [(7)] (6) "Public funds", include:

41 (a) Any moneys received or controlled by the state of
42 Missouri or any official, department, division, agency, or
43 political subdivision thereof, including but not limited to
44 moneys derived from federal, state, or local taxes, gifts,
45 or grants from any source, settlements of any claims or
46 causes of action, public or private, bond proceeds, federal
47 grants or payments, or intergovernmental transfers;

48 (b) Any moneys received or controlled by an official,
49 department, division, or agency of state government or any
50 political subdivision thereof, or to any person or entity
51 pursuant to appropriation by the general assembly or
52 governing body of any political subdivision of this state;

53 [(8)] (7) "Research project", research proposed to be
54 funded by an award of public funds conducted under the
55 auspices of the entity or entities that applied for and
56 received such award, regardless of whether the research is
57 funded in whole or in part by such award. Such research
58 shall include basic research, including the discovery of new

59 knowledge; translational research, including translational
60 knowledge in a usable form; and clinical research, including
61 but not limited to health research in human development and
62 aging, cancer, endocrine, cardiovascular, neurological,
63 pulmonary, and infectious disease.

64 3. Public funds shall not be expended, paid, or
65 granted to or on behalf of an existing or proposed research
66 project that involves [abortion services,] human cloning[,]
67 or prohibited human research. A research project that
68 receives an award of public funds shall not share costs with
69 another research project, person, or entity not eligible to
70 receive public funds pursuant to this subsection; provided
71 that a research project that receives an award of public
72 funds may pay a pro rata share of facilities and
73 administrative costs determined in the award of public funds
74 according to standards that ensure that public funds do not
75 in any way subsidize facilities and administrative costs of
76 other research projects, persons, or entities not eligible
77 to receive public funds pursuant to this subsection. The
78 application for an award of public funds shall set forth the
79 proposed rates of pro rata cost reimbursement and shall
80 provide supporting data and rationale for such rates. All
81 applicants for and recipients of awards of public funds
82 shall comply with the cost accounting principles set forth
83 in Part 9905 of Title 48 of the Code of Federal Regulations,
84 or successor regulations, in connection with the application
85 for and administration of the research project. All moneys
86 derived from an award of public funds shall be expended only
87 by checks, drafts, or electronic transfers using a separate
88 accounting process maintained for each research project. No
89 moneys derived from an award of public funds shall be used
90 to cover costs for any other research project or to any

91 other person or entity. No moneys derived from an award of
92 public funds shall be passed through to any other research
93 project, person, or entity unless included in the original
94 application for the award of public funds or in subsequent
95 amendments or requests to use separate contractors. A
96 research project that receives an award of public funds
97 shall maintain financial records that demonstrate strict
98 compliance with this subsection. Any audit conducted
99 pursuant to any grant or contract awarding public funds
100 shall also certify whether there is compliance with this
101 subsection and shall note any noncompliance as a material
102 audit finding.

103 4. The provisions of this section shall inure to the
104 benefit of all residents of this state. Any taxpayer of
105 this state or any political subdivision of this state shall
106 have standing to bring suit against the state of Missouri or
107 any official, department, division, agency, or political
108 subdivision of this state, and any recipient of public funds
109 who or which is in violation of this subsection in any
110 circuit court with jurisdiction to enforce the provisions of
111 this section.

112 5. This section shall not be construed to permit or
113 make lawful any conduct that is otherwise unlawful pursuant
114 to the laws of this state.

115 6. Any provision of this section is not severable from
116 any appropriation subject to this section or any application
117 declared by any court to be subject to this section. If any
118 provision of this section is found to be invalid or
119 unconstitutional, any appropriation subject to this section
120 or any appropriation declared by any court to be subject to
121 this section shall be void, invalid, and unenforceable.

197.150. The department shall require that each
2 hospital, ambulatory surgical center, [abortion facility,]
3 and other facility have in place procedures for monitoring
4 and enforcing compliance with infection control regulations
5 and standards. Such procedures shall be coordinated with
6 administrative staff, personnel staff, and the quality
7 improvement program. Such procedures shall include, at a
8 minimum, requirements for the facility's infection control
9 program to conduct surveillance of personnel with a portion
10 of the surveillance to be done in such manner that employees
11 and medical staff are observed without their knowledge of
12 such observation, provided that this unobserved surveillance
13 requirement shall not be considered to be grounds for
14 licensure enforcement action by the department until the
15 department establishes clear and verifiable criteria for
16 determining compliance. Such surveillance also may include
17 monitoring of the rate of use of hand hygiene products.

197.152. 1. Infection control officers as defined in
2 federal regulation and other hospital[,] **and** ambulatory
3 surgical center[, and abortion facility] employees shall be
4 protected against retaliation by the hospital[,] **or**
5 ambulatory surgical center[, or abortion facility] for
6 reporting infection control concerns pursuant to section
7 197.285 and shall be entitled to the full benefits of that
8 section. Such infection control officers shall report any
9 interference in the performance of their duties by their
10 supervisors to the hospital[,] **or** ambulatory surgical
11 center[, or abortion facility] compliance officer
12 established by and empowered to act pursuant to section
13 197.285.

14 2. Infection control officers as defined in federal
15 regulation shall also have the authority to order the

16 cessation of a practice that falls outside accepted
17 practices as defined by appropriate state and federal
18 regulatory agencies, accreditation organizations, or the
19 standards adopted by the Centers for Disease Control and
20 Prevention or the Association of Professionals in Infection
21 Control and Epidemiology. The hospital[,] **or** ambulatory
22 surgical center[, or abortion facility] may require that
23 such a cessation order of an infection control officer be
24 endorsed by the hospital[,] **or** ambulatory surgical center[,
25 or abortion facility] chief executive officer or his or her
26 designee before taking effect. The hospital[,] **or**
27 ambulatory surgical center[, or abortion facility] infection
28 control committee shall convene as soon as possible to
29 review such cessation order and may overrule or sustain the
30 directive of the infection control officer. The department
31 shall promulgate rules governing documentation of such
32 events.

33 3. Members of the medical staff who report in good
34 faith infection control concerns to the hospital[,] **or**
35 ambulatory surgical center[, or abortion facility]
36 administration or medical staff leadership shall not be
37 subject to retaliation or discrimination for doing so.
38 Nothing in this section shall prevent or shield medical
39 staff members from being subject to professional review
40 actions for substandard care or breach of standards
41 established in hospital policy, rules, or medical staff
42 bylaws.

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

6 suggestions related to the care they received or their
7 personal observations related to the quality of care
8 provided. The department shall promulgate rules to
9 implement this section.

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

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

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

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

6 (1) Two public members;

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

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

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

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

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

25 (7) Three employees of the department, representing
26 the functions of hospital[,] **and** ambulatory surgical
27 center[, and abortion facility] licensure, epidemiology and
28 health data analysis, who shall serve as ex officio
29 nonvoting members of the panel.

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

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

4 (1) ["Abortion facility", as such term is defined in
5 section 188.015;

6 (2) "Ambulatory surgical center", any public or
7 private establishment operated primarily for the purpose of
8 performing surgical procedures or primarily for the purpose
9 of performing childbirths, and which does not provide
10 services or other accommodations for patients to stay more
11 than twenty-three hours within the establishment, provided,
12 however, that nothing in this definition shall be construed
13 to include the offices of dentists currently licensed
14 pursuant to chapter 332;

15 [(3)] (2) "Dentist", any person currently licensed to
16 practice dentistry pursuant to chapter 332;

17 [(4)] (3) "Department", the department of health and
18 senior services;

19 [(5)] (4) "Governmental unit", any city, county or
20 other political subdivision of this state, or any
21 department, division, board or other agency of any political
22 subdivision of this state;

23 [(6)] (5) "Person", any individual, firm, partnership,
24 corporation, company, or association and the legal
25 successors thereof;

26 [(7)] (6) "Physician", any person currently licensed
27 to practice medicine pursuant to chapter 334;

28 [(8)] (7) "Podiatrist", any person currently licensed
29 to practice podiatry pursuant to chapter 330.

197.205. 1. No person or governmental unit acting
2 severally or jointly with any other person or governmental
3 unit shall establish, conduct or maintain an ambulatory

4 surgical center [or abortion facility] in this state without
5 a license under sections 197.200 to 197.240 issued by the
6 department of health and senior services.

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

197.215. 1. Upon receipt of an application for a
2 license, the department of health and senior services shall
3 issue a license if the applicant and ambulatory surgical
4 center facilities [or abortion facilities] meet the
5 requirements established under sections 197.200 to 197.240,
6 and have provided affirmative evidence that:

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

12 (2) Surgical procedures in ambulatory surgical centers
13 shall be performed only by physicians, dentists or
14 podiatrists, who at the time are privileged to perform
15 surgical procedures in at least one licensed hospital in the
16 community in which the ambulatory surgical center is
17 located, thus providing assurance to the public that
18 patients treated in the center shall receive continuity of
19 care should the services of a hospital be required;
20 alternatively, applicant shall submit a copy of a current
21 working agreement with at least one licensed hospital in the
22 community in which the ambulatory surgical center is

23 located, guaranteeing the transfer and admittance of
24 patients for emergency treatment whenever necessary;

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

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

30 2. Upon receipt of an application for a license, or
31 the renewal thereof, the department shall issue or renew the
32 license if the applicant and program meet the requirements
33 established under sections 197.200 to 197.240. Each license
34 shall be issued only for the persons and premises named in
35 the application. A license, unless sooner suspended or
36 revoked, shall be issued for a period of one year.

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

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

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

7 (1) The applicant, or if the applicant is a firm,
8 partnership or association, any of its members, or if a
9 corporation, any of its officers or directors, or the person
10 designated to manage or supervise the facility, has been
11 finally adjudicated and found guilty, or entered a plea of
12 guilty or nolo contendere, in a criminal prosecution under
13 the laws of any state or of the United States, for any
14 offense reasonably related to the qualifications, functions,
15 or duties of an ambulatory surgical center [or of an
16 abortion facility], or for any offense an essential element
17 of which is fraud, dishonesty, or an act of violence, or for
18 any offense involving moral turpitude, whether or not
19 sentence is imposed;

20 (2) The licensure status or record of the applicant,
21 or if the applicant is a firm, partnership or association,
22 of any of its members, or if a corporation, of any of its
23 officers or directors, or of the person designated to manage
24 or supervise the facility, from any other state, federal
25 district or land, territory or commonwealth of the United
26 States, or of any foreign country where the applicant has
27 done business in a similar capacity indicates that granting
28 a license to the applicant would be detrimental to the
29 interests of the public.

197.225. [1.] The department of health and senior
2 services may adopt such reasonable rules, regulations, and
3 standards for the types of services provided as are
4 necessary to carry out the provisions of sections 197.200 to
5 197.240, and to assure quality patient care and patient
6 safety, which shall include, but not be limited to:

7 (1) Construction of the facility including, but not
8 limited to, plumbing, heating, lighting, and ventilation

9 which should insure the health, safety, comfort, and privacy
10 of patients and protection from fire hazard;

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

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

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

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

24 [2. The department of health and senior services may
25 adopt separate rules, regulations, or standards to apply to
26 ambulatory surgical centers and to apply to abortion
27 facilities.]

28 3. Abortion facilities shall be required to maintain a
29 written protocol for managing medical emergencies and the
30 transfer of patients requiring further emergency care to a
31 hospital within a reasonable distance from the abortion
32 facility.]

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

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

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

20 (1) Compliance with all statutory and regulatory
21 requirements for an abortion facility, including
22 requirements that the facility maintain adequate staffing
23 and equipment to respond to medical emergencies;

24 (2) Compliance with the provisions of chapter 188; and

25 (3) Compliance with the requirement in section 197.215
26 that continuous physician services or registered
27 professional nursing services be provided whenever a patient
28 is in the facility.

29 3.] Inspection, investigation, and quality assurance
30 reports shall be made available to the public. Any portion
31 of a report may be redacted when made publicly available if
32 such portion would disclose information that is not subject
33 to disclosure under the law.

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

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

16 3. Any person operating, conducting, managing, or
17 establishing an ambulatory surgical center [or abortion
18 facility] who, in the course of advertising, promoting, or
19 otherwise publicizing the activities, business, location, or
20 any other matter concerning the operations of said
21 ambulatory surgical center [or abortion facility], uses or
22 employs in any manner the words "State, Missouri, State of
23 Missouri, Department of Health and Senior Services, the
24 initials 'Mo.'," or any emblem of the state of Missouri or
25 the department of health and senior services, for the
26 purpose of conveying or in any manner reasonably calculated
27 to convey the false impression that the state of Missouri or
28 any department, agency, bureau, or instrumentality thereof
29 is involved in the business of said ambulatory surgical
30 center [or abortion facility], or took part in said
31 advertisement, promotion, publicity, or other statement,
32 shall be subject to a fine of one hundred dollars per day
33 for each day during the period beginning with the day said
34 advertisement, promotion, publication, or statement first
35 appears and ending on the day on which it is withdrawn.

 197.240. After September 28, 1975, no individual or
2 group health insurance policy of insurance providing
3 coverage on an expense incurred basis, nor individual or
4 group service or indemnity type contract issued by a

5 nonprofit corporation, nor any self-insured group health
6 benefit plan or trust, of any kind or description, shall be
7 issued or payment accepted therefor in renewal or
8 continuation thereof unless coverage for any service
9 performed in an ambulatory surgical center [or abortion
10 facility] is provided for therein if such service would have
11 been covered under the terms of the policy or contract as an
12 eligible inpatient service, except as provided in section
13 376.805. Nothing in this section shall apply to a group
14 contract, plan or trust which provides health care and
15 surgical care directly to its members and their dependents.
16 Nothing in this section shall be construed to mandate
17 coverage under an individual or group health insurance
18 policy of insurance providing coverage on an expense-
19 incurred basis, or an individual or group service or
20 indemnity type contract issued by a nonprofit corporation,
21 or any self-insured group health benefit plan or trust, of
22 any kind or description, to provide health insurance for
23 services which are usually performed in a physician's office.

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

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

18 (2) No supervisor or individual with authority to hire
19 or fire in a hospital[,] or ambulatory surgical center[, or
20 abortion facility] shall use or threaten to use his or her
21 supervisory authority to knowingly discriminate against,
22 dismiss, penalize or in any way retaliate against or harass
23 an employee because the employee in good faith reported or
24 disclosed any information pursuant to subsection 2 of this
25 section, or in any way attempt to dissuade, prevent or
26 interfere with an employee who wishes to report or disclose
27 such information;

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

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

35 (1) Alleged facility mismanagement or fraudulent
36 activity;

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

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

42 All information disclosed, collected and maintained pursuant
43 to this subsection and pursuant to the written policy
44 requirements of this section shall be accessible to the

45 department of health and senior services at all times and
46 shall be reviewed by the department of health and senior
47 services at least annually. Complainants shall be notified
48 of the department of health and senior services' access to
49 such information and of the complainant's right to notify
50 the department of health and senior services of any
51 information concerning alleged violations of applicable
52 federal or state laws or administrative rules concerning
53 patient care, patient safety or facility safety.

54 3. Prior to any disclosure to individuals or agencies
55 other than the department of health and senior services,
56 employees wishing to make a disclosure pursuant to the
57 provisions of this section shall first report to the
58 individual or individuals designated by the hospital[,] **or**
59 ambulatory surgical center[, or abortion facility] pursuant
60 to subsection 1 of this section.

61 4. If the compliance officer, compliance committee or
62 management official discovers credible evidence of
63 misconduct from any source and, after a reasonable inquiry,
64 has reason to believe that the misconduct may violate
65 criminal, civil or administrative law, then the hospital[,]
66 **or** ambulatory surgical center[, or abortion facility] shall
67 report the existence of misconduct to the appropriate
68 governmental authority within a reasonable period, but not
69 more than seven days after determining that there is
70 credible evidence of a violation.

71 5. Reports made to the department of health and senior
72 services shall be subject to the provisions of section
73 197.477, provided that the restrictions of section 197.477
74 shall not be construed to limit the employee's ability to
75 subpoena from the original source the information reported
76 to the department pursuant to this section.

77 6. Each written policy shall allow employees making a
78 report who wish to remain anonymous to do so, and shall
79 include safeguards to protect the confidentiality of the
80 employee making the report, the confidentiality of patients
81 and the integrity of data, information and medical records.

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

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

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

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

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

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

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

17 (a) Direct the hospital[,] **or** ambulatory surgical
18 center[, or abortion facility] to develop and implement a
19 plan of correction pursuant to subdivision (1) of this
20 subsection; or

21 (b) Require the hospital[,] **or** ambulatory surgical
22 center[, or abortion facility] to implement a plan of
23 correction developed by the department;

24 (3) If there is a continuing deficiency after
25 implementation of the plan of correction pursuant to
26 subdivision (2) of this subsection and the hospital[,] **or**
27 ambulatory surgical center[, or abortion facility] has had
28 an opportunity to correct such deficiency, the department

29 may restrict new inpatient admissions or outpatient entrants
30 to the service or services affected by such deficiency;

31 (4) If there is a continuing deficiency after the
32 department restricts new inpatient admissions or outpatient
33 entrants to the service or services pursuant to subdivision
34 (3) of this subsection and the hospital[,] **or** ambulatory
35 surgical center[, or abortion facility] has had an
36 opportunity to correct such deficiency, the department may
37 suspend operations in all or part of the service or services
38 affected by such deficiency;

39 (5) If there is a continuing deficiency after
40 suspension of operations pursuant to subdivision (4) of this
41 subsection, the department may deny, suspend or revoke the
42 hospital's[,] **or** ambulatory surgical center's[, or abortion
43 facility's] license pursuant to section 197.070 or section
44 197.220.

45 2. Notwithstanding the provisions of subsection 1 of
46 this section to the contrary, if a deficiency in meeting
47 licensure standards presents an immediate and serious threat
48 to the patients' health and safety, the department may,
49 based on the scope and severity of the deficiency, restrict
50 access to the service or services affected by the deficiency
51 until the hospital[,] **or** ambulatory surgical center[, or
52 abortion facility] has developed and implemented an approved
53 plan of correction. Decisions as to whether a deficiency
54 constitutes an immediate and serious threat to the patients'
55 health and safety shall be made in accordance with
56 guidelines established pursuant to regulation of the
57 department of health and senior services and such decisions
58 shall be approved by the bureau of health facility licensing
59 in the department of health and senior services, or its
60 successor agency, or by a person authorized by the

61 regulations to approve such decisions in the absence of the
62 director.

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

17 2. If both the department and the hospital[,] **or**
18 ambulatory surgical center[, or abortion facility] agree to
19 do so, prior to an appeal to the administrative hearing
20 commission pursuant to section 197.071 or section 197.221,
21 an official action of the department made pursuant to
22 sections 197.010 to 197.120 or sections 197.200 to 197.240
23 may be appealed to a departmental hearing officer. The
24 department of health and senior services shall promulgate
25 rules specifying the qualifications of such a hearing
26 officer, establish procedures to ensure impartial decisions
27 and provide for comparable appeal remedies when a
28 departmental hearing officer is unavailable.

197.315. 1. Any person who proposes to develop or
2 offer a new institutional health service within the state

3 must obtain a certificate of need from the committee prior
4 to the time such services are offered.

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

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

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

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

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

32 7. Project cost increases, due to changes in the
33 project application as approved or due to project change
34 orders, exceeding the initial estimate by more than ten

35 percent shall not be incurred without consent of the
36 committee.

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

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

48 10. Each application for a certificate of need must be
49 accompanied by an application fee. The time of filing
50 commences with the receipt of the application and the
51 application fee. The application fee is one thousand
52 dollars, or one-tenth of one percent of the total cost of
53 the proposed project, whichever is greater. All application
54 fees shall be deposited in the state treasury. Because of
55 the loss of federal funds, the general assembly will
56 appropriate funds to the Missouri health facilities review
57 committee.

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

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

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

70 [14.] A certificate of need shall not be required for
71 the transfer of ownership of an existing and operational
72 health facility in its entirety.

73 [15.] 14. A certificate of need may be granted to a
74 facility for an expansion, an addition of services, a new
75 institutional service, or for a new hospital facility which
76 provides for something less than that which was sought in
77 the application.

78 [16.] 15. The provisions of this section shall not
79 apply to facilities operated by the state, and appropriation
80 of funds to such facilities by the general assembly shall be
81 deemed in compliance with this section, and such facilities
82 shall be deemed to have received an appropriate certificate
83 of need without payment of any fee or charge. The
84 provisions of this subsection shall not apply to hospitals
85 operated by the state and licensed under this chapter,
86 except for department of mental health state-operated
87 psychiatric hospitals.

88 [17.] 16. Notwithstanding other provisions of this
89 section, a certificate of need may be issued after July 1,
90 1983, for an intermediate care facility operated exclusively
91 for the intellectually disabled.

92 [18.] 17. To assure the safe, appropriate, and cost-
93 effective transfer of new medical technology throughout the
94 state, a certificate of need shall not be required for the
95 purchase and operation of:

96 (1) Research equipment that is to be used in a
97 clinical trial that has received written approval from a
98 duly constituted institutional review board of an accredited

99 school of medicine or osteopathy located in Missouri to
100 establish its safety and efficacy and does not increase the
101 bed complement of the institution in which the equipment is
102 to be located. After the clinical trial has been completed,
103 a certificate of need must be obtained for continued use in
104 such facility; or

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

334.100. 1. The board may refuse to issue or renew
2 any certificate of registration or authority, permit or
3 license required pursuant to this chapter for one or any
4 combination of causes stated in subsection 2 of this
5 section. The board shall notify the applicant in writing of
6 the reasons for the refusal and shall advise the applicant
7 of the applicant's right to file a complaint with the
8 administrative hearing commission as provided by chapter
9 621. As an alternative to a refusal to issue or renew any
10 certificate, registration or authority, the board may, at
11 its discretion, issue a license which is subject to
12 probation, restriction or limitation to an applicant for
13 licensure for any one or any combination of causes stated in
14 subsection 2 of this section. The board's order of
15 probation, limitation or restriction shall contain a
16 statement of the discipline imposed, the basis therefor, the
17 date such action shall become effective, and a statement
18 that the applicant has thirty days to request in writing a
19 hearing before the administrative hearing commission. If
20 the board issues a probationary, limited or restricted
21 license to an applicant for licensure, either party may file
22 a written petition with the administrative hearing
23 commission within thirty days of the effective date of the

24 probationary, limited or restricted license seeking review
25 of the board's determination. If no written request for a
26 hearing is received by the administrative hearing commission
27 within the thirty-day period, the right to seek review of
28 the board's decision shall be considered as waived.

29 2. The board may cause a complaint to be filed with
30 the administrative hearing commission as provided by chapter
31 621 against any holder of any certificate of registration or
32 authority, permit or license required by this chapter or any
33 person who has failed to renew or has surrendered the
34 person's certificate of registration or authority, permit or
35 license for any one or any combination of the following
36 causes:

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

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

50 (3) Use of fraud, deception, misrepresentation or
51 bribery in securing any certificate of registration or
52 authority, permit or license issued pursuant to this chapter
53 or in obtaining permission to take any examination given or
54 required pursuant to this chapter;

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

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

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

71 (c) Willfully and continually performing inappropriate
72 or unnecessary treatment, diagnostic tests or medical or
73 surgical services;

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

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

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

84 (g) Final disciplinary action by any professional
85 medical or osteopathic association or society or licensed
86 hospital or medical staff of such hospital in this or any

87 other state or territory, whether agreed to voluntarily or
88 not, and including, but not limited to, any removal,
89 suspension, limitation, or restriction of the person's
90 license or staff or hospital privileges, failure to renew
91 such privileges or license for cause, or other final
92 disciplinary action, if the action was in any way related to
93 unprofessional conduct, professional incompetence,
94 malpractice or any other violation of any provision of this
95 chapter;

96 (h) Signing a blank prescription form; or dispensing,
97 prescribing, administering or otherwise distributing any
98 drug, controlled substance or other treatment without
99 sufficient examination including failing to establish a
100 valid physician-patient relationship pursuant to section
101 334.108, or for other than medically accepted therapeutic or
102 experimental or investigative purposes duly authorized by a
103 state or federal agency, or not in the course of
104 professional practice, or not in good faith to relieve pain
105 and suffering, or not to cure an ailment, physical infirmity
106 or disease, except as authorized in section 334.104;

107 (i) Exercising influence within a physician-patient
108 relationship for purposes of engaging a patient in sexual
109 activity;

110 (j) Being listed on any state or federal sexual
111 offender registry;

112 (k) Terminating the medical care of a patient without
113 adequate notice or without making other arrangements for the
114 continued care of the patient;

115 (l) Failing to furnish details of a patient's medical
116 records to other treating physicians or hospitals upon
117 proper request; or failing to comply with any other law
118 relating to medical records;

119 (m) Failure of any applicant or licensee to cooperate
120 with the board during any investigation;

121 (n) Failure to comply with any subpoena or subpoena
122 duces tecum from the board or an order of the board;

123 (o) Failure to timely pay license renewal fees
124 specified in this chapter;

125 (p) Violating a probation agreement, order, or other
126 settlement agreement with this board or any other licensing
127 agency;

128 (q) Failing to inform the board of the physician's
129 current residence and business address;

130 (r) Advertising by an applicant or licensee which is
131 false or misleading, or which violates any rule of the
132 board, or which claims without substantiation the positive
133 cure of any disease, or professional superiority to or
134 greater skill than that possessed by any other physician.
135 An applicant or licensee shall also be in violation of this
136 provision if the applicant or licensee has a financial
137 interest in any organization, corporation or association
138 which issues or conducts such advertising;

139 (s) Any other conduct that is unethical or
140 unprofessional involving a minor;

141 (5) Any conduct or practice which is or might be
142 harmful or dangerous to the mental or physical health of a
143 patient or the public; or incompetency, gross negligence or
144 repeated negligence in the performance of the functions or
145 duties of any profession licensed or regulated by this
146 chapter. For the purposes of this subdivision, "repeated
147 negligence" means the failure, on more than one occasion, to
148 use that degree of skill and learning ordinarily used under
149 the same or similar circumstances by the member of the
150 applicant's or licensee's profession;

151 (6) Violation of, or attempting to violate, directly
152 or indirectly, or assisting or enabling any person to
153 violate, any provision of this chapter or chapter 324, or of
154 any lawful rule or regulation adopted pursuant to this
155 chapter or chapter 324;

156 (7) Impersonation of any person holding a certificate
157 of registration or authority, permit or license or allowing
158 any person to use his or her certificate of registration or
159 authority, permit, license or diploma from any school;

160 (8) Revocation, suspension, restriction, modification,
161 limitation, reprimand, warning, censure, probation or other
162 final disciplinary action against the holder of or applicant
163 for a license or other right to practice any profession
164 regulated by this chapter by another state, territory,
165 federal agency or country, whether or not voluntarily agreed
166 to by the licensee or applicant, including, but not limited
167 to, the denial of licensure, surrender of the license,
168 allowing the license to expire or lapse, or discontinuing or
169 limiting the practice of medicine while subject to an
170 investigation or while actually under investigation by any
171 licensing authority, medical facility, branch of the Armed
172 Forces of the United States of America, insurance company,
173 court, agency of the state or federal government, or
174 employer;

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

177 (10) Assisting or enabling any person to practice or
178 offer to practice any profession licensed or regulated by
179 this chapter who is not registered and currently eligible to
180 practice pursuant to this chapter; or knowingly performing
181 any act which in any way aids, assists, procures, advises,
182 or encourages any person to practice medicine who is not

183 registered and currently eligible to practice pursuant to
184 this chapter. A physician who works in accordance with
185 standing orders or protocols or in accordance with the
186 provisions of section 334.104 shall not be in violation of
187 this subdivision;

188 (11) Issuance of a certificate of registration or
189 authority, permit or license based upon a material mistake
190 of fact;

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

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

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

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

204 (16) Soliciting patronage in person or by agents or
205 representatives, or by any other means or manner, under the
206 person's own name or under the name of another person or
207 concern, actual or pretended, in such a manner as to
208 confuse, deceive, or mislead the public as to the need or
209 necessity for or appropriateness of health care services for
210 all patients, or the qualifications of an individual person
211 or persons to diagnose, render, or perform health care
212 services;

213 (17) Using, or permitting the use of, the person's
214 name under the designation of "Doctor", "Dr.", "M.D.", or

215 "D.O.", or any similar designation with reference to the
216 commercial exploitation of any goods, wares or merchandise;

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

222 (19) Failure or refusal to properly guard against
223 contagious, infectious or communicable diseases or the
224 spread thereof; maintaining an unsanitary office or
225 performing professional services under unsanitary
226 conditions; or failure to report the existence of an
227 unsanitary condition in the office of a physician or in any
228 health care facility to the board, in writing, within thirty
229 days after the discovery thereof;

230 (20) Any candidate for licensure or person licensed to
231 practice as a physical therapist, paying or offering to pay
232 a referral fee or, notwithstanding section 334.010 to the
233 contrary, practicing or offering to practice professional
234 physical therapy independent of the prescription and
235 direction of a person licensed and registered as a physician
236 and surgeon pursuant to this chapter, as a dentist pursuant
237 to chapter 332, as a podiatrist pursuant to chapter 330, as
238 an advanced practice registered nurse under chapter 335, or
239 any licensed and registered physician, dentist, podiatrist,
240 or advanced practice registered nurse practicing in another
241 jurisdiction, whose license is in good standing;

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

247 (22) Any person licensed to practice as a physician or
248 surgeon, requiring, as a condition of the physician-patient
249 relationship, that the patient receive prescribed drugs,
250 devices or other professional services directly from
251 facilities of that physician's office or other entities
252 under that physician's ownership or control. A physician
253 shall provide the patient with a prescription which may be
254 taken to the facility selected by the patient and a
255 physician knowingly failing to disclose to a patient on a
256 form approved by the advisory commission for professional
257 physical therapists as established by section 334.625 which
258 is dated and signed by a patient or guardian acknowledging
259 that the patient or guardian has read and understands that
260 the physician has a pecuniary interest in a physical therapy
261 or rehabilitation service providing prescribed treatment and
262 that the prescribed treatment is available on a competitive
263 basis. This subdivision shall not apply to a referral by
264 one physician to another physician within a group of
265 physicians practicing together;

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

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

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

277 (26) Revocation, suspension, limitation, probation, or
278 restriction of any kind whatsoever of any controlled

279 substance authority, whether agreed to voluntarily or not,
280 or voluntary termination of a controlled substance authority
281 while under investigation;

282 (27) For a physician to operate, conduct, manage, or
283 establish an abortion facility, or for a physician to
284 perform an abortion in an abortion facility[, if such
285 facility comes under the definition of an ambulatory
286 surgical center pursuant to sections 197.200 to 197.240, and
287 such facility has failed to obtain or renew a license as an
288 ambulatory surgical center].

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

292 4. After the filing of such complaint before the
293 administrative hearing commission, the proceedings shall be
294 conducted in accordance with the provisions of chapter 621.
295 Upon a finding by the administrative hearing commission that
296 the grounds, provided in subsection 2 of this section, for
297 disciplinary action are met, the board may, singly or in
298 combination, warn, censure or place the person named in the
299 complaint on probation on such terms and conditions as the
300 board deems appropriate for a period not to exceed ten
301 years, or may suspend the person's license, certificate or
302 permit for a period not to exceed three years, or restrict
303 or limit the person's license, certificate or permit for an
304 indefinite period of time, or revoke the person's license,
305 certificate, or permit, or administer a public or private
306 reprimand, or deny the person's application for a license,
307 or permanently withhold issuance of a license or require the
308 person to submit to the care, counseling or treatment of
309 physicians designated by the board at the expense of the
310 individual to be examined, or require the person to attend

311 such continuing educational courses and pass such
312 examinations as the board may direct.

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

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

324 7. In any investigation, hearing or other proceeding
325 to determine a licensee's or applicant's fitness to
326 practice, any record relating to any patient of the licensee
327 or applicant shall be discoverable by the board and
328 admissible into evidence, regardless of any statutory or
329 common law privilege which such licensee, applicant, record
330 custodian or patient might otherwise invoke. In addition,
331 no such licensee, applicant, or record custodian may
332 withhold records or testimony bearing upon a licensee's or
333 applicant's fitness to practice on the ground of privilege
334 between such licensee, applicant or record custodian and a
335 patient.

376.1199. 1. Each health carrier or health benefit
2 plan that offers or issues health benefit plans providing
3 obstetrical/gynecological benefits and pharmaceutical
4 coverage, which are delivered, issued for delivery,
5 continued or renewed in this state on or after January 1,
6 2002, shall:

7 (1) Notwithstanding the provisions of subsection 4 of
8 section 354.618, provide enrollees with direct access to the
9 services of a participating obstetrician, participating
10 gynecologist or participating obstetrician/gynecologist of
11 her choice within the provider network for covered
12 services. The services covered by this subdivision shall be
13 limited to those services defined by the published
14 recommendations of the accreditation council for graduate
15 medical education for training an obstetrician, gynecologist
16 or obstetrician/gynecologist, including but not limited to
17 diagnosis, treatment and referral for such services. A
18 health carrier shall not impose additional co-payments,
19 coinsurance or deductibles upon any enrollee who seeks or
20 receives health care services pursuant to this subdivision,
21 unless similar additional co-payments, coinsurance or
22 deductibles are imposed for other types of health care
23 services received within the provider network. Nothing in
24 this subsection shall be construed to require a health
25 carrier to perform, induce, pay for, reimburse, guarantee,
26 arrange, provide any resources for or refer a patient for an
27 abortion, as defined in section 188.015, other than a
28 spontaneous abortion or to prevent the death of the female
29 upon whom the abortion is performed, or to supersede or
30 conflict with section 376.805; and

31 (2) Notify enrollees annually of cancer screenings
32 covered by the enrollees' health benefit plan and the
33 current American Cancer Society guidelines for all cancer
34 screenings or notify enrollees at intervals consistent with
35 current American Cancer Society guidelines of cancer
36 screenings which are covered by the enrollees' health
37 benefit plans. The notice shall be delivered by mail unless

38 the enrollee and health carrier have agreed on another
39 method of notification; and

40 (3) Include coverage for services related to
41 diagnosis, treatment and appropriate management of
42 osteoporosis when such services are provided by a person
43 licensed to practice medicine and surgery in this state, for
44 individuals with a condition or medical history for which
45 bone mass measurement is medically indicated for such
46 individual. In determining whether testing or treatment is
47 medically appropriate, due consideration shall be given to
48 peer-reviewed medical literature. A policy, provision,
49 contract, plan or agreement may apply to such services the
50 same deductibles, coinsurance and other limitations as apply
51 to other covered services; and

52 (4) If the health benefit plan also provides coverage
53 for pharmaceutical benefits, provide coverage for
54 contraceptives either at no charge or at the same level of
55 deductible, coinsurance or co-payment as any other covered
56 drug.

57 No such deductible, coinsurance or co-payment shall be
58 greater than any drug on the health benefit plan's
59 formulary. As used in this section, "contraceptive" shall
60 include all prescription drugs and devices approved by the
61 federal Food and Drug Administration for use as a
62 contraceptive, but shall exclude all drugs and devices that
63 are intended to induce an abortion, as defined in section
64 188.015, which shall be subject to section 376.805. Nothing
65 in this subdivision shall be construed to exclude coverage
66 for prescription contraceptive drugs or devices ordered by a
67 health care provider with prescriptive authority for reasons
68 other than contraceptive or abortion purposes.

69 2. For the purposes of this section, "health carrier"
70 and "health benefit plan" shall have the same meaning as
71 defined in section 376.1350.

72 3. The provisions of this section shall not apply to a
73 supplemental insurance policy, including a life care
74 contract, accident-only policy, specified disease policy,
75 hospital policy providing a fixed daily benefit only,
76 Medicare supplement policy, long-term care policy, short-
77 term major medical policies of six months or less duration,
78 or any other supplemental policy as determined by the
79 director of the department of commerce and insurance.

80 4. Notwithstanding the provisions of subdivision (4)
81 of subsection 1 of this section to the contrary:

82 (1) Any health carrier shall offer and issue to any
83 person or entity purchasing a health benefit plan, a health
84 benefit plan that excludes coverage for contraceptives if
85 the use or provision of such contraceptives is contrary to
86 the moral, ethical or religious beliefs or tenets of such
87 person or entity;

88 (2) Upon request of an enrollee who is a member of a
89 group health benefit plan and who states that the use or
90 provision of contraceptives is contrary to his or her moral,
91 ethical or religious beliefs, any health carrier shall issue
92 to or on behalf of such enrollee a policy form that excludes
93 coverage for contraceptives. Any administrative costs to a
94 group health benefit plan associated with such exclusion of
95 coverage not offset by the decreased costs of providing
96 coverage shall be borne by the group policyholder or group
97 plan holder;

98 (3) Any health carrier which is owned, operated or
99 controlled in substantial part by an entity that is operated
100 pursuant to moral, ethical or religious tenets that are

101 contrary to the use or provision of contraceptives shall be
102 exempt from the provisions of subdivision (4) of subsection
103 1 of this section. For purposes of this subsection, if new
104 premiums are charged for a contract, plan or policy, it
105 shall be determined to be a new contract, plan or policy.

106 5. Except for a health carrier that is exempted from
107 providing coverage for contraceptives pursuant to this
108 section, a health carrier shall allow enrollees in a health
109 benefit plan that excludes coverage for contraceptives
110 pursuant to subsection 4 of this section to purchase a
111 health benefit plan that includes coverage for
112 contraceptives.

113 6. Any health benefit plan issued pursuant to
114 subsection 1 of this section shall provide clear and
115 conspicuous written notice on the enrollment form or any
116 accompanying materials to the enrollment form and the group
117 health benefit plan application and contract:

118 (1) Whether coverage for contraceptives is or is not
119 included;

120 (2) That an enrollee who is a member of a group health
121 benefit plan with coverage for contraceptives has the right
122 to exclude coverage for contraceptives if such coverage is
123 contrary to his or her moral, ethical or religious beliefs;
124 **and**

125 (3) That an enrollee who is a member of a group health
126 benefit plan without coverage for contraceptives has the
127 right to purchase coverage for contraceptives[;]

128 (4) Whether an optional rider for elective abortions
129 has been purchased by the group contract holder pursuant to
130 section 376.805; and

131 (5) That an enrollee who is a member of a group health
132 plan with coverage for elective abortions has the right to

133 exclude and not pay for coverage for elective abortions if
134 such coverage is contrary to his or her moral, ethical, or
135 religious beliefs].

136 For purposes of this subsection, if new premiums are charged
137 for a contract, plan, or policy, it shall be determined to
138 be a new contract, plan, or policy.

139 7. Health carriers shall not disclose to the person or
140 entity who purchased the health benefit plan the names of
141 enrollees who exclude coverage for contraceptives in the
142 health benefit plan or who purchase a health benefit plan
143 that includes coverage for contraceptives. Health carriers
144 and the person or entity who purchased the health benefit
145 plan shall not discriminate against an enrollee because the
146 enrollee excluded coverage for contraceptives in the health
147 benefit plan or purchased a health benefit plan that
148 includes coverage for contraceptives.

149 8. The departments of health and senior services and
150 commerce and insurance may promulgate rules necessary to
151 implement the provisions of this section. No rule or
152 portion of a rule promulgated pursuant to this section shall
153 become effective unless it has been promulgated pursuant to
154 chapter 536. Any rule or portion of a rule, as that term is
155 defined in section 536.010, that is created under the
156 authority delegated in this section shall become effective
157 only if it complies with and is subject to all of the
158 provisions of chapter 536 and, if applicable, section
159 536.028. This section and chapter 536 are nonseverable and
160 if any of the powers vested with the general assembly
161 pursuant to chapter 536 to review, to delay the effective
162 date or to disapprove and annul a rule are subsequently held
163 unconstitutional, then the grant of rulemaking authority and

164 any rule proposed or adopted after August 28, 2001, shall be
165 invalid and void.

491.060. The following persons shall be incompetent to
2 testify:

3 (1) A person who is mentally incapacitated at the time
4 of his or her production for examination;

5 (2) A child under ten years of age, who appears
6 incapable of receiving just impressions of the facts
7 respecting which the child is examined, or of relating them
8 truly; provided, however, that except as provided in
9 subdivision (1) of this section, a child under the age of
10 ten who is alleged to be a victim of an offense pursuant to
11 chapter 565, 566 or 568 shall be considered a competent
12 witness and shall be allowed to testify without
13 qualification in any judicial proceeding involving such
14 alleged offense. The trier of fact shall be permitted to
15 determine the weight and credibility to be given to the
16 testimony;

17 (3) An attorney, concerning any communication made to
18 the attorney by such attorney's client in that relation, or
19 such attorney's advice thereon, without the consent of such
20 client;

21 (4) Any person practicing as a minister of the gospel,
22 priest, rabbi or other person serving in a similar capacity
23 for any organized religion, concerning a communication made
24 to him or her in his or her professional capacity as a
25 spiritual advisor, confessor, counselor or comforter;

26 (5) A physician licensed pursuant to chapter 334, a
27 chiropractor licensed pursuant to chapter 331, a licensed
28 psychologist or a dentist licensed pursuant to chapter 332,
29 concerning any information which he or she may have acquired
30 from any patient while attending the patient in a

31 professional character, and which information was necessary
32 to enable him or her to prescribe and provide treatment for
33 such patient as a physician, chiropractor, psychologist or
34 dentist;

35 **(6) Any employee of an alternatives to abortion**
36 **agency, as defined in section 188.125, concerning a**
37 **communication made to him or her in his or her professional**
38 **capacity by an individual who presents themselves to the**
39 **agency for the purpose of seeking an alternative to an**
40 **abortion, unless such individual consents to the disclosure**
41 **of the communication.**

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

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

7 (2) "Affirmative defense":

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

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

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

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

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

19 (4) "Commercial film and photographic print
20 processor", any person who develops exposed photographic
21 film into negatives, slides or prints, or who makes prints

22 from negatives or slides, for compensation. The term
23 commercial film and photographic print processor shall
24 include all employees of such persons but shall not include
25 a person who develops film or makes prints for a public
26 agency;

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

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

45 (7) "Computer hardware", all equipment which can
46 collect, analyze, create, display, convert, store, conceal
47 or transmit electronic, magnetic, optical or similar
48 computer impulses or data. Hardware includes, but is not
49 limited to, any data processing devices, such as central
50 processing units, memory typewriters and self-contained
51 laptop or notebook computers; internal and peripheral
52 storage devices, transistor-like binary devices and other
53 memory storage devices, such as floppy disks, removable

54 disks, compact disks, digital video disks, magnetic tape,
55 hard drive, optical disks and digital memory; local area
56 networks, such as two or more computers connected together
57 to a central computer server via cable or modem; peripheral
58 input or output devices, such as keyboards, printers,
59 scanners, plotters, video display monitors and optical
60 readers; and related communication devices, such as modems,
61 cables and connections, recording equipment, RAM or ROM
62 units, acoustic couplers, automatic dialers, speed dialers,
63 programmable telephone dialing or signaling devices and
64 electronic tone-generating devices; as well as any devices,
65 mechanisms or parts that can be used to restrict access to
66 computer hardware, such as physical keys and locks;

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

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

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

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

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

86 (13) "Confinement":

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

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

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

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

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

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

99 b. The person is under sentence to serve a term of
100 confinement which is not continuous, or is serving a
101 sentence under a work-release program, and in either such
102 case is not being held in a place of confinement or is not
103 being held under guard by a person having the legal power
104 and duty to transport the person to or from a place of
105 confinement;

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

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

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

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

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

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

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

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

133 (19) "Dangerous felony", the felonies of arson in the
134 first degree, assault in the first degree, attempted rape in
135 the first degree if physical injury results, attempted
136 forcible rape if physical injury results, attempted sodomy
137 in the first degree if physical injury results, attempted
138 forcible sodomy if physical injury results, rape in the
139 first degree, forcible rape, sodomy in the first degree,
140 forcible sodomy, assault in the second degree if the victim
141 of such assault is a special victim as defined in
142 subdivision (14) of section 565.002, kidnapping in the first
143 degree, kidnapping, murder in the second degree, assault of
144 a law enforcement officer in the first degree, domestic
145 assault in the first degree, elder abuse in the first
146 degree, robbery in the first degree, armed criminal action,
147 conspiracy to commit an offense when the offense is a
148 dangerous felony, vehicle hijacking when punished as a class
149 A felony, statutory rape in the first degree when the victim

150 is a child less than twelve years of age at the time of the
151 commission of the act giving rise to the offense, statutory
152 sodomy in the first degree when the victim is a child less
153 than twelve years of age at the time of the commission of
154 the act giving rise to the offense, child molestation in the
155 first or second degree, abuse of a child if the child dies
156 as a result of injuries sustained from conduct chargeable
157 under section 568.060, child kidnapping, parental kidnapping
158 committed by detaining or concealing the whereabouts of the
159 child for not less than one hundred twenty days under
160 section 565.153, and an "intoxication-related traffic
161 offense" or "intoxication-related boating offense" if the
162 person is found to be a "habitual offender" or "habitual
163 boating offender" as such terms are defined in section
164 577.001;

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

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

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

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

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

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

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

196 (27) "Forcible compulsion" either:

197 (a) Physical force that overcomes reasonable
198 resistance; or

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

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

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

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

212 (a) Where any person lives or carries on business or
213 other calling; or

214 (b) Where people assemble for purposes of business,
215 government, education, religion, entertainment, or public
216 transportation; or

217 (c) Which is used for overnight accommodation of
218 persons.

219 Any such vehicle, vessel, or structure is inhabitable
220 regardless of whether a person is actually present. If a
221 building or structure is divided into separately occupied
222 units, any unit not occupied by the actor is an inhabitable
223 structure of another;

224 (31) "Knowingly", when used with respect to:

225 (a) Conduct or attendant circumstances, means a person
226 is aware of the nature of his or her conduct or that those
227 circumstances exist; or

228 (b) A result of conduct, means a person is aware that
229 his or her conduct is practically certain to cause that
230 result;

231 (32) "Law enforcement officer", any public servant
232 having both the power and duty to make arrests for
233 violations of the laws of this state, and federal law
234 enforcement officers authorized to carry firearms and to
235 make arrests for violations of the laws of the United States;

236 (33) "Misdemeanor", an offense so designated or an
237 offense for which persons found guilty thereof may be
238 sentenced to imprisonment for a term of which the maximum is
239 one year or less;

240 (34) "Of another", property that any entity, including
241 but not limited to any natural person, corporation, limited
242 liability company, partnership, association, governmental

243 subdivision or instrumentality, other than the actor, has a
244 possessory or proprietary interest therein, except that
245 property shall not be deemed property of another who has
246 only a security interest therein, even if legal title is in
247 the creditor pursuant to a conditional sales contract or
248 other security arrangement;

249 (35) "Offense", any felony or misdemeanor;

250 (36) **"Person", includes a human being from the moment**
251 **of conception as defined in section 188.015;**

252 (37) "Physical injury", slight impairment of any
253 function of the body or temporary loss of use of any part of
254 the body;

255 [(37)] (38) "Place of confinement", any building or
256 facility and the grounds thereof wherein a court is legally
257 authorized to order that a person charged with or convicted
258 of a crime be held;

259 [(38)] (39) "Possess" or "possessed", having actual or
260 constructive possession of an object with knowledge of its
261 presence. A person has actual possession if such person has
262 the object on his or her person or within easy reach and
263 convenient control. A person has constructive possession if
264 such person has the power and the intention at a given time
265 to exercise dominion or control over the object either
266 directly or through another person or persons. Possession
267 may also be sole or joint. If one person alone has
268 possession of an object, possession is sole. If two or more
269 persons share possession of an object, possession is joint;

270 [(39)] (40) "Property", anything of value, whether
271 real or personal, tangible or intangible, in possession or
272 in action;

273 [(40)] (41) "Public servant", any person employed in
274 any way by a government of this state who is compensated by

275 the government by reason of such person's employment, any
276 person appointed to a position with any government of this
277 state, or any person elected to a position with any
278 government of this state. It includes, but is not limited
279 to, legislators, jurors, members of the judiciary and law
280 enforcement officers. It does not include witnesses;

281 [(41)] (42) "Purposely", when used with respect to a
282 person's conduct or to a result thereof, means when it is
283 his or her conscious object to engage in that conduct or to
284 cause that result;

285 [(42)] (43) "Recklessly", consciously disregarding a
286 substantial and unjustifiable risk that circumstances exist
287 or that a result will follow, and such disregard constitutes
288 a gross deviation from the standard of care which a
289 reasonable person would exercise in the situation;

290 [(43)] (44) "Serious emotional injury", an injury that
291 creates a substantial risk of temporary or permanent medical
292 or psychological damage, manifested by impairment of a
293 behavioral, cognitive or physical condition. Serious
294 emotional injury shall be established by testimony of
295 qualified experts upon the reasonable expectation of
296 probable harm to a reasonable degree of medical or
297 psychological certainty;

298 [(44)] (45) "Serious physical injury", physical injury
299 that creates a substantial risk of death or that causes
300 serious disfigurement or protracted loss or impairment of
301 the function of any part of the body;

302 [(45)] (46) "Services", when used in relation to a
303 computer system or network, means use of a computer,
304 computer system, or computer network and includes, but is
305 not limited to, computer time, data processing, and storage
306 or retrieval functions;

307 [(46)] (47) "Sexual orientation", male or female
308 heterosexuality, homosexuality or bisexuality by
309 inclination, practice, identity or expression, or having a
310 self-image or identity not traditionally associated with
311 one's gender;

312 [(47)] (48) "Vehicle", a self-propelled mechanical
313 device designed to carry a person or persons, excluding
314 vessels or aircraft;

315 [(48)] (49) "Vessel", any boat or craft propelled by a
316 motor or by machinery, whether or not such motor or
317 machinery is a principal source of propulsion used or
318 capable of being used as a means of transportation on water,
319 or any boat or craft more than twelve feet in length which
320 is powered by sail alone or by a combination of sail and
321 machinery, and used or capable of being used as a means of
322 transportation on water, but not any boat or craft having,
323 as the only means of propulsion, a paddle or oars;

324 [(49)] (50) "Voluntary act":

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

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

337 [(50)] (51) "Vulnerable person", any person in the
338 custody, care, or control of the department of mental health

339 who is receiving services from an operated, funded,
340 licensed, or certified program.

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

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

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

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

19 (a) A statute;

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

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

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

29 **4. For purposes of this section, reliance is**
30 **unreasonable if based upon an official statement permitting**

31 **the unjustified homicide of an unborn child as defined in**
32 **section 1.205.**

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

8 2. The defense of "duress" as defined in subsection 1
9 **of this section** is not available:

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

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

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

14 2. The necessity and justifiability of conduct under
15 subsection 1 of this section may not rest upon

16 considerations pertaining only to the morality and
17 advisability of the statute, either in its general
18 application or with respect to its application to a
19 particular class of cases arising thereunder. Whenever
20 evidence relating to the defense of justification under this
21 section is offered, the court shall rule as a matter of law
22 whether the claimed facts and circumstances would, if
23 established, constitute a justification.

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

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

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

13 **3. The attorney general and prosecuting and circuit
14 attorneys shall ensure the enforcement of this chapter in
15 relation to abortion regardless of any contrary or
16 conflicting federal acts, laws, treaties, decisions, orders,
17 rules, or regulations. The attorney general shall have
18 concurrent original jurisdiction throughout the state, along
19 with each prosecuting and circuit attorney within their
20 respective jurisdictions, to commence actions to ensure the
21 enforcement of this chapter in relation to abortion.**

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

46 5. In any investigation or proceeding brought to
47 enforce the provisions of this chapter relating to abortion,
48 as in all other criminal cases, a court on motion of the
49 prosecuting or circuit attorney may order that a witness
50 shall not be excused from giving testimony or producing any
51 papers, documents, or things, on the grounds that such
52 testimony may tend to incriminate or subject the witness to
53 a penalty or forfeiture; but such witness shall not be

54 prosecuted or subjected to criminal penalty or forfeiture
55 for or on account of any transaction, matter, or thing
56 concerning which the witness has been ordered to testify.
57 The prosecuting or circuit attorney shall also have
58 authority to grant such immunity to a witness who
59 voluntarily agrees to give testimony or produce any papers,
60 documents, or things. The witness may nevertheless be
61 prosecuted for failing to comply with the order to answer,
62 perjury, or the giving of false evidence.

63 6. A woman upon whom an abortion is performed or
64 induced or attempted or intended to be performed or induced
65 shall not be held criminally responsible for the death or
66 attempted death of her child if the woman has been coerced,
67 through physical or other means, to undergo the abortion or
68 if, as a result of mental disease or defect, she was
69 incapable of knowing and appreciating the nature, quality,
70 or wrongfulness of her conduct, as described in section
71 562.086.

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

5 2. For purposes of this section, "medical providers"
6 means physicians, dentists, clinical psychologists,
7 optometrists, podiatrists, registered nurses, physician's
8 assistants, chiropractors, physical therapists, hospitals,
9 ambulatory surgical centers, [abortion facilities,] and
10 nursing homes.

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

595.120. 1. Prior to January 1, 2019, the department
2 of public safety shall create a poster that provides

3 information regarding the national human trafficking
4 resource center hotline. The poster shall be no smaller
5 than eight and one-half inches by eleven inches in size and
6 shall include a statement in substantially the following
7 form:

8 "If you or someone you know is being forced to
9 engage in any activity and cannot leave - whether
10 it is commercial sex, housework, farm work, or any
11 other activity - call the National Human
12 Trafficking Resource Center Hotline at 1-888-373-
13 7888 or text 233733 (BEFREE) or visit the
14 following website:
15 www.traffickingresourcecenter.org to access help
16 and services. Victims of human trafficking are
17 protected under U.S. and Missouri law.

18 The toll-free hotline is:

- 19 - Available 24 hours a day, 7 days a week
- 20 - Operated by a nonprofit, nongovernmental
21 organization
- 22 - Anonymous and confidential
- 23 - Accessible in 170 languages
- 24 - Able to provide help, referral to services,
25 training, and general information."

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

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

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

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

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

48 (4) Airports;

49 (5) Train stations that serve passengers;

50 (6) Emergency rooms within general acute care
51 hospitals;

52 (7) Urgent care centers;

53 (8) Privately operated job recruitment centers;

54 (9) Businesses or establishments that offer massage or
55 body work services for compensation by individuals who are
56 not licensed under section 324.265;

57 (10) Women's health centers;

58 (11) [Abortion facilities as defined in section
59 188.015;

60 (12)] Family planning clinics;

61 [(13)] (12) Maternity homes as defined in section
62 135.600;

63 [(14)] (13) Pregnancy resource centers as defined in
64 section 135.630;

65 [(15)] (14) Bus stations;

66 [(16)] (15) Truck stops. For the purposes of this
67 section, "truck stops" shall mean privately owned and
68 operated facilities that provide food, fuel, shower or other
69 sanitary facilities, and lawful overnight parking; and

70 [(17)] (16) Roadside rest areas.

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

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

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

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

19 3. It shall be an affirmative defense for
20 any person alleged to have violated the
21 provisions of subsection 2 of this section that
22 the person performed or induced an abortion
because of a medical emergency. The defendant

23 shall have the burden of persuasion that the
24 defense is more probably true than not.

25 4. The enactment of this section shall
26 only become effective upon notification to the
27 revisor of statutes by an opinion by the
28 attorney general of Missouri, a proclamation by
29 the governor of Missouri, or the adoption of a
30 concurrent resolution by the Missouri general
31 assembly that:

32 (1) The United States Supreme Court has
33 overruled, in whole or in part, *Roe v. Wade*, 410
34 U.S. 113 (1973), restoring or granting to the
35 state of Missouri the authority to regulate
36 abortion to the extent set forth in this
37 section, and that as a result, it is reasonably
38 probable that this section would be upheld by
39 the court as constitutional;

40 (2) An amendment to the Constitution of
41 the United States has been adopted that has the
42 effect of restoring or granting to the state of
43 Missouri the authority to regulate abortion to
44 the extent set forth in this section; or

45 (3) The United States Congress has enacted
46 a law that has the effect of restoring or
47 granting to the state of Missouri the authority
48 to regulate abortion to the extent set forth in
49 this section.]

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

2 [188.021. 1. When RU-486 (mifepristone)
3 or any drug or chemical is used for the purpose
4 of inducing an abortion, the initial dose of the
5 drug or chemical shall be administered in the
6 same room and in the physical presence of the
7 physician who prescribed, dispensed, or
8 otherwise provided the drug or chemical to the
patient. The physician inducing the abortion,

9 or a person acting on such physician's behalf,
10 shall make all reasonable efforts to ensure that
11 the patient returns after the administration or
12 use of RU-486 or any drug or chemical for a
13 follow-up visit unless such termination of the
14 pregnancy has already been confirmed and the
15 patient's medical condition has been assessed by
16 a licensed physician prior to discharge.

17 2. When the Food and Drug Administration
18 label of any drug or chemical used for the
19 purpose of inducing an abortion includes any
20 clinical study in which more than one percent of
21 those administered the drug or chemical required
22 surgical intervention after its administration,
23 no physician may prescribe or administer such
24 drug or chemical to any patient without first
25 obtaining approval from the department of health
26 and senior services of a complication plan from
27 the physician for administration of the drug or
28 chemical to any patient. The complication plan
29 shall include any information deemed necessary
30 by the department to ensure the safety of any
31 patient suffering complications as a result of
32 the administration of the drug or chemical in
33 question. No complication plan shall be
34 required where the patient is administered the
35 drug in a medical emergency at a hospital and is
36 then treated as an inpatient at a hospital under
37 medical monitoring by the hospital until the
38 abortion is completed.

39 3. The department may adopt rules,
40 regulations, and standards governing
41 complication plans to ensure that patients
42 undergoing abortions induced by drugs or
43 chemicals have access to safe and reliable
44 care. Any rule or portion of a rule, as that
45 term is defined in section 536.010, that is
46 created under the authority delegated in this
47 section shall become effective only if it
48 complies with and is subject to all of the
49 provisions of chapter 536 and, if applicable,
50 section 536.028. This section and chapter 536
51 are nonseverable and if any of the powers vested
52 with the general assembly pursuant to chapter
53 536 to review, to delay the effective date, or
54 to disapprove and annul a rule are subsequently
55 held unconstitutional, then the grant of
56 rulemaking authority and any rule proposed or
57 adopted after October 24, 2017, shall be invalid
58 and void.]

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

2 [188.026. 1. This section and sections
188.056, 188.057, and 188.058 shall be known and

3 may be cited as the "Missouri Stands for the
4 Unborn Act".

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

14 (1) At conception, a new genetically
15 distinct human being is formed;

16 (2) The fact that the life of an
17 individual human being begins at conception has
18 long been recognized in Missouri law: "[T]he
19 child is, in truth, alive from the moment of
20 conception". *State v. Emerich*, 13 Mo. App. 492,
21 495 (1883), affirmed, 87 Mo. 110 (1885). Under
22 section 1.205, the general assembly has
23 recognized that the life of each human being
24 begins at conception and that unborn children
25 have protectable interests in life, health, and
26 well-being;

27 (3) The first prohibition of abortion in
28 Missouri was enacted in 1825. Since then, the
29 repeal and reenactment of prohibitions of
30 abortion have made distinctions with respect to
31 penalties for performing or inducing abortion on
32 the basis of "quickening"; however, the unborn
33 child was still protected from conception onward;

34 (4) In ruling that Missouri's prohibition
35 on abortion was constitutional in 1972, the
36 Missouri supreme court accepted as a stipulation
37 of the parties that "[i]nfant Doe, Intervenor
38 Defendant in this case, and all other unborn
39 children have all the qualities and attributes
40 of adult human persons differing only in age or
41 maturity. Medically, human life is a continuum
42 from conception to death." *Rodgers v. Danforth*,
43 486 S.W.2d 258, 259 (1972);

44 (5) In *Webster v. Reproductive Health*
45 *Services*, 492 U.S. 490 (1989), the Supreme
46 Court, while considering the "preamble" that set
47 forth "findings" in section 1.205, stated: "We
48 think the extent to which the preamble's
49 language might be used to interpret other state
50 statutes or regulations is something that only
51 the courts of Missouri can definitively decide.
52 State law has offered protections to unborn
53 children in tort and probate law". *Id.* at 506.
54 Since *Webster*, Missouri courts have construed
55 section 1.205 and have consistently found that
56 an unborn child is a person for purposes of
57 Missouri's homicide and assault laws when the
58 unborn child's mother was killed or assaulted by
59 another person. Section 1.205 has even been

60 found applicable to the manslaughter of an
61 unborn child who was eight weeks gestational age
62 or earlier. *State v. Harrison*, 390 S.W.3d 927
63 (Mo. Ct. App. 2013);

64 (6) In medicine, a special emphasis is
65 placed on the heartbeat. The heartbeat is a
66 discernible sign of life at every stage of human
67 existence. During the fifth week of gestational
68 age, an unborn child's heart begins to beat and
69 blood flow begins during the sixth week;

70 (7) Depending on the ultrasound equipment
71 being used, the unborn child's heartbeat can be
72 visually detected as early as six to eight weeks
73 gestational age. By about twelve weeks
74 gestational age, the unborn child's heartbeat
75 can consistently be made audible through the use
76 of a handheld Doppler fetal heart rate device;

77 (8) Confirmation of a pregnancy can be
78 indicated through the detection of the unborn
79 child's heartbeat, while the absence of a
80 heartbeat can be an indicator of the death of
81 the unborn child if the child has reached the
82 point of development when a heartbeat should be
83 detectable;

84 (9) Heart rate monitoring during pregnancy
85 and labor is utilized to measure the heart rate
86 and rhythm of the unborn child, at an average
87 rate between one hundred ten and one hundred
88 sixty beats per minute, and helps determine the
89 health of the unborn child;

90 (10) The Supreme Court in *Roe* discussed
91 "the difficult question of when life begins" and
92 wrote: "[p]hysicians and their scientific
93 colleagues have regarded [quickening] with less
94 interest and have tended to focus either upon
95 conception, upon live birth, or upon the interim
96 point at which the fetus becomes 'viable', that
97 is, potentially able to live outside the
98 mother's womb, albeit with artificial aid".

99 *Roe*, 410 U.S. at 160. Today, however,
100 physicians' and scientists' interests on life in
101 the womb also focus on other markers of
102 development in the unborn child, including, but
103 not limited to, presence of a heartbeat, brain
104 development, a viable pregnancy or viable
105 intrauterine pregnancy during the first
106 trimester of pregnancy, and the ability to
107 experience pain;

108 (11) In *Planned Parenthood of Central*
109 *Missouri v. Danforth*, 428 U.S. 52 (1976), the
110 Supreme Court noted that "we recognized in *Roe*
111 that viability was a matter of medical judgment,
112 skill, and technical ability, and we preserved
113 the flexibility of the term". *Id.* at 64. Due to
114 advances in medical technology and diagnoses,
115 present-day physicians and scientists now
116 describe the viability of an unborn child in an

117 additional manner, by determining whether there
118 is a viable pregnancy or viable intrauterine
119 pregnancy during the first trimester of
120 pregnancy;

121 (12) While the overall risk of miscarriage
122 after clinical recognition of pregnancy is
123 twelve to fifteen percent, the incidence
124 decreases significantly if cardiac activity in
125 the unborn child has been confirmed. The
126 detection of a heartbeat in an unborn child is a
127 reliable indicator of a viable pregnancy and
128 that the unborn child will likely survive to
129 birth, especially if presenting for a prenatal
130 visit at eight weeks gestational age or later.
131 For asymptomatic women attending a first
132 prenatal visit between six and eleven weeks
133 gestational age where a heartbeat was confirmed
134 through an ultrasound, the subsequent risk of
135 miscarriage is one and six-tenths percent.
136 Although the risk is higher at six weeks
137 gestational age at nine and four-tenths percent,
138 it declines rapidly to one and five-tenths
139 percent at eight weeks gestational age, and less
140 than one percent at nine weeks gestational age
141 or later;

142 (13) The presence of a heartbeat in an
143 unborn child represents a more definable point
144 of ascertaining survivability than the ambiguous
145 concept of viability that has been adopted by
146 the Supreme Court, especially since if a
147 heartbeat is detected at eight weeks gestational
148 age or later in a normal pregnancy, there is
149 likely to be a viable pregnancy and there is a
150 high probability that the unborn child will
151 survive to birth;

152 (14) The placenta begins developing during
153 the early first trimester of pregnancy and
154 performs a respiratory function by making oxygen
155 supply to and carbon dioxide removal from the
156 unborn child possible later in the first
157 trimester and throughout the second and third
158 trimesters of pregnancy;

159 (15) By the fifth week of gestation, the
160 development of the brain of the unborn child is
161 underway. Brain waves have been measured and
162 recorded as early as the eighth week of
163 gestational age in children who were removed
164 during an ectopic pregnancy or hysterectomy.
165 Fetal magnetic resonance imaging (MRI) of an
166 unborn child's brain is used during the second
167 and third trimesters of pregnancy and brain
168 activity has been observed using MRI;

169 (16) Missouri law identifies the presence
170 of circulation, respiration, and brain function
171 as indicia of life under section 194.005, as the
172 presence of circulation, respiration, and brain

173 function indicates that such person is not
174 legally dead, but is legally alive;

175 (17) Unborn children at eight weeks
176 gestational age show spontaneous movements, such
177 as a twitching of the trunk and developing
178 limbs. It has been reported that unborn
179 children at this stage show reflex responses to
180 touch. The perioral area is the first part of
181 the unborn child's body to respond to touch at
182 about eight weeks gestational age and by
183 fourteen weeks gestational age most of the
184 unborn child's body is responsive to touch;

185 (18) Peripheral cutaneous sensory
186 receptors, the receptors that feel pain, develop
187 early in the unborn child. They appear in the
188 perioral cutaneous area at around seven to eight
189 weeks gestational age, in the palmar regions at
190 ten to ten and a half weeks gestational age, the
191 abdominal wall at fifteen weeks gestational age,
192 and over all of the unborn child's body at
193 sixteen weeks gestational age;

194 (19) Substance P, a peptide that functions
195 as a neurotransmitter, especially in the
196 transmission of pain, is present in the dorsal
197 horn of the spinal cord of the unborn child at
198 eight to ten weeks gestational age.
199 Enkephalins, peptides that play a role in
200 neurotransmission and pain modulation, are
201 present in the dorsal horn at twelve to fourteen
202 weeks gestational age;

203 (20) When intrauterine needling is
204 performed on an unborn child at sixteen weeks
205 gestational age or later, the reaction to this
206 invasive stimulus is blood flow redistribution
207 to the brain. Increased blood flow to the brain
208 is the same type of stress response seen in a
209 born child and an adult;

210 (21) By sixteen weeks gestational age,
211 pain transmission from a peripheral receptor to
212 the cortex is possible in the unborn child;

213 (22) Physicians provide anesthesia during
214 in utero treatment of unborn children as early
215 as sixteen weeks gestational age for certain
216 procedures, including those to correct fetal
217 urinary tract obstruction. Anesthesia is
218 administered by ultrasound-guided injection into
219 the arm or leg of the unborn child;

220 (23) A leading textbook on prenatal
221 development of the human brain states, "It may
222 be concluded that, although nociperception (the
223 actual perception of pain) awaits the appearance
224 of consciousness, nociception (the experience of
225 pain) is present some time before birth. In the
226 absence of disproof, it is merely prudent to
227 assume that pain can be experienced even early
228 in prenatal life (Dr. J. Wisser, Zürich): the
229 fetus should be given the benefit of the

230 doubt". Ronan O'Rahilly & Fabiola Müller. The
231 Embryonic Human Brain: An Atlas of
232 Developmental Stages (3d ed. 2005);
233 (24) By fourteen or fifteen weeks
234 gestational age or later, the predominant
235 abortion method in Missouri is dilation and
236 evacuation (D&E). The D&E abortion method
237 includes the dismemberment, disarticulation, and
238 exsanguination of the unborn child, causing the
239 unborn child's death;
240 (25) The Supreme Court acknowledged in
241 *Gonzales v. Carhart*, 550 U.S. 124, 160 (2007),
242 that "the standard D&E is in some respects as
243 brutal, if not more, than the intact D&E"
244 partial birth abortion method banned by Congress
245 and upheld as facially constitutional by the
246 Supreme Court, even though the federal ban was
247 applicable both before and after viability and
248 had no exception for the health of the mother;
249 (26) Missouri's ban on the partial birth
250 abortion method, section 565.300, is in effect
251 because of *Gonzales v. Carhart* and the Supreme
252 Court's subsequent decision in *Nixon v.*
253 *Reproductive Health Services of Planned*
254 *Parenthood of the St. Louis Region, Inc.*, 550
255 U.S. 901 (2007), to vacate and remand to the
256 appellate court the prior invalidation of
257 section 565.300. Since section 565.300, like
258 Congress' ban on partial birth abortion, is
259 applicable both before and after viability,
260 there is ample precedent for the general
261 assembly to constitutionally prohibit the brutal
262 D&E abortion method at fourteen weeks
263 gestational age or later, even before the unborn
264 child is viable, with a medical emergency
265 exception;
266 (27) In *Roper v. Simmons*, 543 U.S. 551
267 (2005), the Supreme Court determined that
268 "evolving standards of decency" dictated that a
269 Missouri statute allowing the death penalty for
270 a conviction of murder in the first degree for a
271 person under eighteen years of age when the
272 crime was committed was unconstitutional under
273 the Eighth and Fourteenth Amendments to the
274 United States Constitution because it violated
275 the prohibition against "cruel and unusual
276 punishments";
277 (28) In *Bucklew v. Precythe*, 139 S. Ct.
278 1112, 1123 (2019), the Supreme Court noted that
279 "'[d]isgusting' practices" like disemboweling
280 and quartering "readily qualified as 'cruel and
281 unusual', as a reader at the time of the Eighth
282 Amendment's adoption would have understood those
283 words";
284 (29) Evolving standards of decency dictate
285 that Missouri should prohibit the brutal and
286 painful D&E abortion method at fourteen weeks

287 gestational age or later, with a medical
288 emergency exception, because if a comparable
289 method of killing was used on:

290 (a) A person convicted of murder in the
291 first degree, it would be cruel and unusual
292 punishment; or

293 (b) An animal, it would be unlawful under
294 state law because it would not be a humane
295 method, humane euthanasia, or humane killing of
296 certain animals under chapters 273 and 578;

297 (30) In Roper, the Supreme Court also
298 found that "[i]t is proper that we acknowledge
299 the overwhelming weight of international opinion
300 against the juvenile death penalty.... The
301 opinion of the world community, while not
302 controlling our outcome, does provide respected
303 and significant confirmation for our own
304 conclusions". Roper, 543 U.S. at 578. In its
305 opinion, the Supreme Court was instructed by
306 "international covenants prohibiting the
307 juvenile death penalty", such as the
308 International Covenant on Civil and Political
309 Rights, 999 U.N.T.S. 171. Id. at 577;

310 (31) The opinion of the world community,
311 reflected in the laws of the United Nation's 193-
312 member states and six other entities, is that in
313 most countries, most abortions are prohibited
314 after twelve weeks gestational age or later;

315 (32) The opinion of the world community is
316 also shared by most Americans, who believe that
317 most abortions in the second and third
318 trimesters of pregnancy should be illegal, based
319 on polling that has remained consistent since
320 1996;

321 (33) Abortion procedures performed later
322 in pregnancy have a higher medical risk for
323 women. Compared to an abortion at eight weeks
324 gestational age or earlier, the relative risk
325 increases exponentially at later gestational
326 ages. The relative risk of death for a pregnant
327 woman who had an abortion performed or induced
328 upon her at:

329 (a) Eleven to twelve weeks gestational age
330 is between three and four times higher than an
331 abortion at eight weeks gestational age or
332 earlier;

333 (b) Thirteen to fifteen weeks gestational
334 age is almost fifteen times higher than an
335 abortion at eight weeks gestational age or
336 earlier;

337 (c) Sixteen to twenty weeks gestational
338 age is almost thirty times higher than an
339 abortion at eight weeks gestational age or
340 earlier; and

341 (d) Twenty-one weeks gestational age or
342 later is more than seventy-five times higher

343 than an abortion at eight weeks gestational age
344 or earlier;

345 (34) In addition to the short-term risks
346 of an abortion, studies have found that the long-
347 term physical and psychological consequences of
348 abortion for women include, but are not limited
349 to, an increased risk of preterm birth, low
350 birthweight babies, and placenta previa in
351 subsequent pregnancies, as well as serious
352 behavioral health issues. These risks increase
353 as abortions are performed or induced at later
354 gestational ages. These consequences of an
355 abortion have a detrimental effect not only on
356 women, their children, and their families, but
357 also on an already burdened health care system,
358 taxpayers, and the workforce;

359 (35) A large percentage of women who have
360 an abortion performed or induced upon them in
361 Missouri each year are at less than eight weeks
362 gestational age, a large majority are at less
363 than fourteen weeks gestational age, a larger
364 majority are at less than eighteen weeks
365 gestational age, and an even larger majority are
366 at less than twenty weeks gestational age. A
367 prohibition on performing or inducing an
368 abortion at eight weeks gestational age or
369 later, with a medical emergency exception, does
370 not amount to a substantial obstacle to a large
371 fraction of women for whom the prohibition is
372 relevant, which is pregnant women in Missouri
373 who are seeking an abortion while not
374 experiencing a medical emergency. The burden
375 that a prohibition on performing or inducing an
376 abortion at eight, fourteen, eighteen, or twenty
377 weeks gestational age or later, with a medical
378 emergency exception, might impose on abortion
379 access, is outweighed by the benefits conferred
380 upon the following:

381 (a) Women more advanced in pregnancy who
382 are at greater risk of harm from abortion;

383 (b) Unborn children at later stages of
384 development;

385 (c) The medical profession, by preserving
386 its integrity and fulfilling its commitment to
387 do no harm; and

388 (d) Society, by fostering respect for
389 human life, born and unborn, at all stages of
390 development, and by lessening societal tolerance
391 of violence against innocent human life;

392 (36) In Webster, the Supreme Court noted,
393 in upholding a Missouri statute, "that there may
394 be a 4-week error in estimating gestational
395 age". Webster, 492 U.S. at 516. Thus, an
396 unborn child thought to be eight weeks
397 gestational age might in fact be twelve weeks
398 gestational age, when an abortion poses a
399 greater risk to the woman and the unborn child

400 is considerably more developed. An unborn child
401 at fourteen weeks gestational age might be
402 eighteen weeks gestational age and an unborn
403 child at eighteen weeks gestational age might be
404 twenty-two weeks gestational age, when an
405 abortion poses a greater risk to the woman, the
406 unborn child is considerably more developed, the
407 abortion method likely to be employed is more
408 brutal, and the risk of pain experienced by the
409 unborn child is greater. An unborn child at
410 twenty weeks gestational age might be twenty-
411 four weeks gestational age, when an abortion
412 poses a greater risk to the woman, the unborn
413 child is considerably more developed, the
414 abortion method likely to be employed is more
415 brutal, the risk of pain experienced by the
416 unborn child is greater, and the unborn child
417 may be viable.

418 3. The state of Missouri is bound by
419 Article VI, Clause 2 of the Constitution of the
420 United States that "all treaties made, or which
421 shall be made, under the authority of the United
422 States, shall be the supreme law of the land".
423 One such treaty is the International Covenant on
424 Civil and Political Rights, entered into force
425 on March 23, 1976, and adopted by the United
426 States on September 8, 1992. In ratifying the
427 Covenant, the United States declared that while
428 the provisions of Articles 1 through 27 of the
429 Covenant are not self-executing, the United
430 States' understanding is that state governments
431 share responsibility with the federal government
432 in implementing the Covenant.

433 4. Article 6, Paragraph 1, U.N.T.S. at
434 174, of the International Covenant on Civil and
435 Political Rights states, "Every human being has
436 the inherent right to life. This right shall be
437 protected by law. No one shall be arbitrarily
438 deprived of his life". The state of Missouri
439 takes seriously its obligation to comply with
440 the Covenant and to implement this paragraph as
441 it relates to the inherent right to life of
442 unborn human beings, protecting the rights of
443 unborn human beings by law, and ensuring that
444 such unborn human beings are not arbitrarily
445 deprived of life. The state of Missouri hereby
446 implements Article 6, Paragraph 1 of the
447 Covenant by the regulation of abortion in this
448 state.

449 5. The state of Missouri has interests
450 that include, but are not limited to:

- 451 (1) Protecting unborn children throughout
452 pregnancy and preserving and promoting their
453 lives from conception to birth;
- 454 (2) Encouraging childbirth over abortion;
- 455 (3) Ensuring respect for all human life
456 from conception to natural death;

457 (4) Safeguarding an unborn child from the
 458 serious harm of pain by an abortion method that
 459 would cause the unborn child to experience pain
 460 while she or he is being killed;

461 (5) Preserving the integrity of the
 462 medical profession and regulating and
 463 restricting practices that might cause the
 464 medical profession or society as a whole to
 465 become insensitive, even disdainful, to life.
 466 This includes regulating and restricting
 467 abortion methods that are not only brutal and
 468 painful, but if allowed to continue, will
 469 further coarsen society to the humanity of not
 470 only unborn children, but all vulnerable and
 471 innocent human life, making it increasingly
 472 difficult to protect such life;

473 (6) Ending the incongruities in state law
 474 by permitting some unborn children to be killed
 475 by abortion, while requiring that unborn
 476 children be protected in nonabortion
 477 circumstances through, including, but not
 478 limited to, homicide, assault, self-defense, and
 479 defense of another statutes; laws guaranteeing
 480 prenatal health care, emergency care, and
 481 testing; state-sponsored health insurance for
 482 unborn children; the prohibition of restraints
 483 in correctional institutions to protect pregnant
 484 offenders and their unborn children; and
 485 protecting the interests of unborn children by
 486 the appointment of conservators, guardians, and
 487 representatives;

488 (7) Reducing the risks of harm to pregnant
 489 women who obtain abortions later in pregnancy;
 490 and

491 (8) Avoiding burdens on the health care
 492 system, taxpayers, and the workforce because of
 493 increased preterm births, low birthweight
 494 babies, compromised pregnancies, extended
 495 postpartum recoveries, and behavioral health
 496 problems caused by the long-term effects of
 497 abortions performed or induced later in the
 498 pregnancy.]

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

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

14 (a) The name of the physician who will
15 perform or induce the abortion;

16 (b) Medically accurate information that a
17 reasonable patient would consider material to
18 the decision of whether or not to undergo the
19 abortion, including:

20 a. A description of the proposed abortion
21 method;

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

30 c. The immediate and long-term medical
31 risks to the woman, in light of the anesthesia
32 and medication that is to be administered, the
33 unborn child's gestational age, and the woman's
34 medical history and medical condition;

35 (c) Alternatives to the abortion which
36 shall include making the woman aware that
37 information and materials shall be provided to
38 her detailing such alternatives to the abortion;

39 (d) A statement that the physician
40 performing or inducing the abortion is available
41 for any questions concerning the abortion,
42 together with the telephone number that the
43 physician may be later reached to answer any
44 questions that the woman may have;

45 (e) The location of the hospital that
46 offers obstetrical or gynecological care located
47 within thirty miles of the location where the
48 abortion is performed or induced and at which
49 the physician performing or inducing the
50 abortion has clinical privileges and where the
51 woman may receive follow-up care by the
52 physician if complications arise;

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

56 (g) The anatomical and physiological
57 characteristics of the unborn child at the time
58 the abortion is to be performed or induced;

59 (2) The physician who is to perform or
60 induce the abortion or a qualified professional
61 has presented the woman, in person, printed
62 materials provided by the department, which
63 describe the probable anatomical and
64 physiological characteristics of the unborn
65 child at two-week gestational increments from
66 conception to full term, including color
67 photographs or images of the developing unborn
68 child at two-week gestational increments. Such
69 descriptions shall include information about
70 brain and heart functions, the presence of

71 external members and internal organs during the
72 applicable stages of development and information
73 on when the unborn child is viable. The printed
74 materials shall prominently display the
75 following statement: "The life of each human
76 being begins at conception. Abortion will
77 terminate the life of a separate, unique, living
78 human being.";

79 (3) The physician who is to perform or
80 induce the abortion, a qualified professional,
81 or the referring physician has presented the
82 woman, in person, printed materials provided by
83 the department, which describe the various
84 surgical and drug-induced methods of abortion
85 relevant to the stage of pregnancy, as well as
86 the immediate and long-term medical risks
87 commonly associated with each abortion method
88 including, but not limited to, infection,
89 hemorrhage, cervical tear or uterine
90 perforation, harm to subsequent pregnancies or
91 the ability to carry a subsequent child to term,
92 and the possible adverse psychological effects
93 associated with an abortion;

94 (4) The physician who is to perform or
95 induce the abortion or a qualified professional
96 shall provide the woman with the opportunity to
97 view at least seventy-two hours prior to the
98 abortion an active ultrasound of the unborn
99 child and hear the heartbeat of the unborn child
100 if the heartbeat is audible. The woman shall be
101 provided with a geographically indexed list
102 maintained by the department of health care
103 providers, facilities, and clinics that perform
104 ultrasounds, including those that offer
105 ultrasound services free of charge. Such
106 materials shall provide contact information for
107 each provider, facility, or clinic including
108 telephone numbers and, if available, website
109 addresses. Should the woman decide to obtain an
110 ultrasound from a provider, facility, or clinic
111 other than the abortion facility, the woman
112 shall be offered a reasonable time to obtain the
113 ultrasound examination before the date and time
114 set for performing or inducing an abortion. The
115 person conducting the ultrasound shall ensure
116 that the active ultrasound image is of a quality
117 consistent with standard medical practice in the
118 community, contains the dimensions of the unborn
119 child, and accurately portrays the presence of
120 external members and internal organs, if present
121 or viewable, of the unborn child. The
122 auscultation of fetal heart tone must also be of
123 a quality consistent with standard medical
124 practice in the community. If the woman chooses
125 to view the ultrasound or hear the heartbeat or
126 both at the abortion facility, the viewing or
127 hearing or both shall be provided to her at the

128 abortion facility at least seventy-two hours
129 prior to the abortion being performed or induced;

130 (5) The printed materials provided by the
131 department shall include information on the
132 possibility of an abortion causing pain in the
133 unborn child. This information shall include,
134 but need not be limited to, the following:

135 (a) Unborn children as early as eight
136 weeks gestational age start to show spontaneous
137 movements and unborn children at this stage in
138 pregnancy show reflex responses to touch;

139 (b) In the unborn child, the area around
140 his or her mouth and lips is the first part of
141 the unborn child's body to respond to touch and
142 by fourteen weeks gestational age most of the
143 unborn child's body is responsive to touch;

144 (c) Pain receptors on the unborn child's
145 skin develop around his or her mouth at around
146 seven to eight weeks gestational age, around the
147 palms of his or her hands at ten to ten and a
148 half weeks, on the abdominal wall at fifteen
149 weeks, and over all of his or her body at
150 sixteen weeks gestational age;

151 (d) Beginning at sixteen weeks gestational
152 age and later, it is possible for pain to be
153 transmitted from receptors to the cortex of the
154 unborn child's brain, where thinking and
155 perceiving occur;

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

161 (f) A description of the actual steps in
162 the abortion procedure to be performed or
163 induced and at which steps the abortion
164 procedure could be painful to the unborn child;

165 (6) The physician who is to perform or
166 induce the abortion or a qualified professional
167 has presented the woman, in person, printed
168 materials provided by the department explaining
169 to the woman alternatives to abortion she may
170 wish to consider. Such materials shall:

171 (a) Identify on a geographical basis
172 public and private agencies available to assist
173 a woman in carrying her unborn child to term,
174 and to assist her in caring for her dependent
175 child or placing her child for adoption,
176 including agencies commonly known and generally
177 referred to as pregnancy resource centers,
178 crisis pregnancy centers, maternity homes, and
179 adoption agencies. Such materials shall provide
180 a comprehensive list by geographical area of the
181 agencies, a description of the services they
182 offer, and the telephone numbers and addresses
183 of the agencies; provided that such materials
184 shall not include any programs, services,

185 organizations, or affiliates of organizations
186 that perform or induce, or assist in the
187 performing or inducing of, abortions or that
188 refer for abortions;

189 (b) Explain the Missouri alternatives to
190 abortion services program under section 188.325,
191 and any other programs and services available to
192 pregnant women and mothers of newborn children
193 offered by public or private agencies which
194 assist a woman in carrying her unborn child to
195 term and assist her in caring for her dependent
196 child or placing her child for adoption,
197 including but not limited to prenatal care;
198 maternal health care; newborn or infant care;
199 mental health services; professional counseling
200 services; housing programs; utility assistance;
201 transportation services; food, clothing, and
202 supplies related to pregnancy; parenting skills;
203 educational programs; job training and placement
204 services; drug and alcohol testing and
205 treatment; and adoption assistance;

206 (c) Identify the state website for the
207 Missouri alternatives to abortion services
208 program under section 188.325, and any toll-free
209 number established by the state operated in
210 conjunction with the program;

211 (d) Prominently display the statement:
212 "There are public and private agencies willing
213 and able to help you carry your child to term,
214 and to assist you and your child after your
215 child is born, whether you choose to keep your
216 child or place him or her for adoption. The
217 state of Missouri encourages you to contact
218 those agencies before making a final decision
219 about abortion. State law requires that your
220 physician or a qualified professional give you
221 the opportunity to call agencies like these
222 before you undergo an abortion.";

223 (7) The physician who is to perform or
224 induce the abortion or a qualified professional
225 has presented the woman, in person, printed
226 materials provided by the department explaining
227 that the father of the unborn child is liable to
228 assist in the support of the child, even in
229 instances where he has offered to pay for the
230 abortion. Such materials shall include
231 information on the legal duties and support
232 obligations of the father of a child, including,
233 but not limited to, child support payments, and
234 the fact that paternity may be established by
235 the father's name on a birth certificate or
236 statement of paternity, or by court action.
237 Such printed materials shall also state that
238 more information concerning paternity
239 establishment and child support services and
240 enforcement may be obtained by calling the

241 family support division within the Missouri
242 department of social services; and
243 (8) The physician who is to perform or
244 induce the abortion or a qualified professional
245 shall inform the woman that she is free to
246 withhold or withdraw her consent to the abortion
247 at any time without affecting her right to
248 future care or treatment and without the loss of
249 any state or federally funded benefits to which
250 she might otherwise be entitled.

251 2. All information required to be provided
252 to a woman considering abortion by subsection 1
253 of this section shall be presented to the woman
254 individually, in the physical presence of the
255 woman and in a private room, to protect her
256 privacy, to maintain the confidentiality of her
257 decision, to ensure that the information focuses
258 on her individual circumstances, to ensure she
259 has an adequate opportunity to ask questions,
260 and to ensure that she is not a victim of
261 coerced abortion. Should a woman be unable to
262 read materials provided to her, they shall be
263 read to her. Should a woman need an interpreter
264 to understand the information presented in the
265 written materials, an interpreter shall be
266 provided to her. Should a woman ask questions
267 concerning any of the information or materials,
268 answers shall be provided in a language she can
269 understand.

270 3. No abortion shall be performed or
271 induced unless and until the woman upon whom the
272 abortion is to be performed or induced certifies
273 in writing on a checklist form provided by the
274 department that she has been presented all the
275 information required in subsection 1 of this
276 section, that she has been provided the
277 opportunity to view an active ultrasound image
278 of the unborn child and hear the heartbeat of
279 the unborn child if it is audible, and that she
280 further certifies that she gives her voluntary
281 and informed consent, freely and without
282 coercion, to the abortion procedure.

283 4. No physician shall perform or induce an
284 abortion unless and until the physician has
285 obtained from the woman her voluntary and
286 informed consent given freely and without
287 coercion. If the physician has reason to
288 believe that the woman is being coerced into
289 having an abortion, the physician or qualified
290 professional shall inform the woman that
291 services are available for her and shall provide
292 her with private access to a telephone and
293 information about such services, including but
294 not limited to the following:

295 (1) Rape crisis centers, as defined in
296 section 455.003;

297 (2) Shelters for victims of domestic
298 violence, as defined in section 455.200; and
299 (3) Orders of protection, pursuant to
300 chapter 455.

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

305 (1) The immediate and long-term medical
306 risks to the woman associated with the proposed
307 abortion method including, but not limited to,
308 infection, hemorrhage, cervical tear or uterine
309 perforation, harm to subsequent pregnancies or
310 the ability to carry a subsequent child to term,
311 and possible adverse psychological effects
312 associated with the abortion; and

313 (2) The immediate and long-term medical
314 risks to the woman, in light of the anesthesia
315 and medication that is to be administered, the
316 unborn child's gestational age, and the woman's
317 medical history and medical conditions.

318 6. No physician shall perform or induce an
319 abortion unless and until the physician has
320 received and signed a copy of the form
321 prescribed in subsection 3 of this section. The
322 physician shall retain a copy of the form in the
323 patient's medical record.

324 7. In the event of a medical emergency,
325 the physician who performed or induced the
326 abortion shall clearly certify in writing the
327 nature and circumstances of the medical
328 emergency. This certification shall be signed
329 by the physician who performed or induced the
330 abortion, and shall be maintained under section
331 188.060.

332 8. No person or entity shall require,
333 obtain, or accept payment for an abortion from
334 or on behalf of a patient until at least seventy-
335 two hours have passed since the time that the
336 information required by subsection 1 of this
337 section has been provided to the patient.
338 Nothing in this subsection shall prohibit a
339 person or entity from notifying the patient that
340 payment for the abortion will be required after
341 the seventy-two-hour period has expired if she
342 voluntarily chooses to have the abortion.

343 9. The term "qualified professional" as
344 used in this section shall refer to a physician,
345 physician assistant, registered nurse, licensed
346 practical nurse, psychologist, licensed
347 professional counselor, or licensed social
348 worker, licensed or registered under chapter
349 334, 335, or 337, acting under the supervision
350 of the physician performing or inducing the
351 abortion, and acting within the course and scope
352 of his or her authority provided by law. The
353 provisions of this section shall not be

354 construed to in any way expand the authority
355 otherwise provided by law relating to the
356 licensure, registration, or scope of practice of
357 any such qualified professional.

358 10. By November 30, 2010, the department
359 shall produce the written materials and forms
360 described in this section. Any written
361 materials produced shall be printed in a
362 typeface large enough to be clearly legible.
363 All information shall be presented in an
364 objective, unbiased manner designed to convey
365 only accurate scientific and medical
366 information. The department shall furnish the
367 written materials and forms at no cost and in
368 sufficient quantity to any person who performs
369 or induces abortions, or to any hospital or
370 facility that provides abortions. The
371 department shall make all information required
372 by subsection 1 of this section available to the
373 public through its department website. The
374 department shall maintain a toll-free, twenty-
375 four-hour hotline telephone number where a
376 caller can obtain information on a regional
377 basis concerning the agencies and services
378 described in subsection 1 of this section. No
379 identifying information regarding persons who
380 use the website shall be collected or
381 maintained. The department shall monitor the
382 website on a regular basis to prevent tampering
383 and correct any operational deficiencies.

384 11. In order to preserve the compelling
385 interest of the state to ensure that the choice
386 to consent to an abortion is voluntary and
387 informed, and given freely and without coercion,
388 the department shall use the procedures for
389 adoption of emergency rules under section
390 536.025 in order to promulgate all necessary
391 rules, forms, and other necessary material to
392 implement this section by November 30, 2010.

393 12. If the provisions in subsections 1 and
394 8 of this section requiring a seventy-two-hour
395 waiting period for an abortion are ever
396 temporarily or permanently restrained or
397 enjoined by judicial order, then the waiting
398 period for an abortion shall be twenty-four
399 hours; provided, however, that if such temporary
400 or permanent restraining order or injunction is
401 stayed or dissolved, or otherwise ceases to have
402 effect, the waiting period for an abortion shall
403 be seventy-two hours.]

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

6 (1) The attending physician has secured
the informed written consent of the minor and

7 one parent or guardian, and the consenting
8 parent or guardian of the minor has notified any
9 other custodial parent in writing prior to the
10 securing of the informed written consent of the
11 minor and one parent or guardian. For purposes
12 of this subdivision, "custodial parent" shall
13 only mean a parent of a minor who has been
14 awarded joint legal custody or joint physical
15 custody of such minor by a court of competent
16 jurisdiction. Notice shall not be required for
17 any parent:

18 (a) Who has been found guilty of any
19 offense in violation of chapter 565, relating to
20 offenses against the person; chapter 566,
21 relating to sexual offenses; chapter 567,
22 relating to prostitution; chapter 568, relating
23 to offenses against the family; or chapter 573,
24 related to pornography and related offenses, if
25 a child was a victim;

26 (b) Who has been found guilty of any
27 offense in any other state or foreign country,
28 or under federal, tribal, or military
29 jurisdiction if a child was a victim, which
30 would be a violation of chapters 565, 566, 567,
31 568, or 573 if committed in this state;

32 (c) Who is listed on the sexual offender
33 registry under sections 589.400 to 589.425;

34 (d) Against whom an order of protection
35 has been issued, including a foreign order of
36 protection given full faith and credit in this
37 state under section 455.067;

38 (e) Whose custodial, parental, or
39 guardianship rights have been terminated by a
40 court of competent jurisdiction; or

41 (f) Whose whereabouts are unknown after
42 reasonable inquiry, who is a fugitive from
43 justice, who is habitually in an intoxicated or
44 drugged condition, or who has been declared
45 mentally incompetent or incapacitated by a court
46 of competent jurisdiction;

47 (2) The minor is emancipated and the
48 attending physician has received the informed
49 written consent of the minor;

50 (3) The minor has been granted the right
51 to self-consent to the abortion by court order
52 pursuant to subsection 2 of this section, and
53 the attending physician has received the
54 informed written consent of the minor; or

55 (4) The minor has been granted consent to
56 the abortion by court order, and the court has
57 given its informed written consent in accordance
58 with subsection 2 of this section, and the minor
59 is having the abortion willingly, in compliance
60 with subsection 3 of this section.

61 2. The right of a minor to self-consent to
62 an abortion under subdivision (3) of subsection
63 1 of this section or court consent under

64 subdivision (4) of subsection 1 of this section
65 may be granted by a court pursuant to the
66 following procedures:

67 (1) The minor or next friend shall make an
68 application to the juvenile court which shall
69 assist the minor or next friend in preparing the
70 petition and notices required pursuant to this
71 section. The minor or the next friend of the
72 minor shall thereafter file a petition setting
73 forth the initials of the minor; the age of the
74 minor; the names and addresses of each parent,
75 guardian, or, if the minor's parents are
76 deceased and no guardian has been appointed, any
77 other person standing in loco parentis of the
78 minor; that the minor has been fully informed of
79 the risks and consequences of the abortion; that
80 the minor is of sound mind and has sufficient
81 intellectual capacity to consent to the
82 abortion; that, if the court does not grant the
83 minor majority rights for the purpose of consent
84 to the abortion, the court should find that the
85 abortion is in the best interest of the minor
86 and give judicial consent to the abortion; that
87 the court should appoint a guardian ad litem of
88 the child; and if the minor does not have
89 private counsel, that the court should appoint
90 counsel. The petition shall be signed by the
91 minor or the next friend;

92 (2) A hearing on the merits of the
93 petition, to be held on the record, shall be
94 held as soon as possible within five days of the
95 filing of the petition. If any party is unable
96 to afford counsel, the court shall appoint
97 counsel at least twenty-four hours before the
98 time of the hearing. At the hearing, the court
99 shall hear evidence relating to the emotional
100 development, maturity, intellect and
101 understanding of the minor; the nature, possible
102 consequences, and alternatives to the abortion;
103 and any other evidence that the court may find
104 useful in determining whether the minor should
105 be granted majority rights for the purpose of
106 consenting to the abortion or whether the
107 abortion is in the best interests of the minor;

108 (3) In the decree, the court shall for
109 good cause:

110 (a) Grant the petition for majority rights
111 for the purpose of consenting to the abortion;

112 (b) Find the abortion to be in the best
113 interests of the minor and give judicial consent
114 to the abortion, setting forth the grounds for
115 so finding; or

116 (c) Deny the petition, setting forth the
117 grounds on which the petition is denied;

118 (4) If the petition is allowed, the
119 informed consent of the minor, pursuant to a
120 court grant of majority rights, or the judicial

121 consent, shall bar an action by the parents or
122 guardian of the minor on the grounds of battery
123 of the minor by those performing or inducing the
124 abortion. The immunity granted shall only
125 extend to the performance or induction of the
126 abortion in accordance herewith and any
127 necessary accompanying services which are
128 performed in a competent manner. The costs of
129 the action shall be borne by the parties;

130 (5) An appeal from an order issued under
131 the provisions of this section may be taken to
132 the court of appeals of this state by the minor
133 or by a parent or guardian of the minor. The
134 notice of intent to appeal shall be given within
135 twenty-four hours from the date of issuance of
136 the order. The record on appeal shall be
137 completed and the appeal shall be perfected
138 within five days from the filing of notice to
139 appeal. Because time may be of the essence
140 regarding the performance or induction of the
141 abortion, the supreme court of this state shall,
142 by court rule, provide for expedited appellate
143 review of cases appealed under this section.

144 3. If a minor desires an abortion, then
145 she shall be orally informed of and, if
146 possible, sign the written consent required
147 under this chapter in the same manner as an
148 adult person. No abortion shall be performed or
149 induced on any minor against her will, except
150 that an abortion may be performed or induced
151 against the will of a minor pursuant to a court
152 order described in subdivision (4) of subsection
153 1 of this section that the abortion is necessary
154 to preserve the life of the minor.]

2 [188.030. 1. Except in the case of a
3 medical emergency, no abortion of a viable
4 unborn child shall be performed or induced
5 unless the abortion is necessary to preserve the
6 life of the pregnant woman whose life is
7 endangered by a physical disorder, physical
8 illness, or physical injury, including a life-
9 endangering physical condition caused by or
10 arising from the pregnancy itself, or when
11 continuation of the pregnancy will create a
12 serious risk of substantial and irreversible
13 physical impairment of a major bodily function
14 of the pregnant woman. For purposes of this
15 section, "major bodily function" includes, but
16 is not limited to, functions of the immune
17 system, normal cell growth, digestive, bowel,
18 bladder, neurological, brain, respiratory,
19 circulatory, endocrine, and reproductive
20 functions.

21 2. Except in the case of a medical
emergency:

22 (1) Prior to performing or inducing an
23 abortion upon a woman, the physician shall
24 determine the gestational age of the unborn
25 child in a manner consistent with accepted
26 obstetrical and neonatal practices and
27 standards. In making such determination, the
28 physician shall make such inquiries of the
29 pregnant woman and perform or cause to be
30 performed such medical examinations, imaging
31 studies, and tests as a reasonably prudent
32 physician, knowledgeable about the medical facts
33 and conditions of both the woman and the unborn
34 child involved, would consider necessary to
35 perform and consider in making an accurate
36 diagnosis with respect to gestational age;

37 (2) If the physician determines that the
38 gestational age of the unborn child is twenty
39 weeks or more, prior to performing or inducing
40 an abortion upon the woman, the physician shall
41 determine if the unborn child is viable by using
42 and exercising that degree of care, skill, and
43 proficiency commonly exercised by a skillful,
44 careful, and prudent physician. In making this
45 determination of viability, the physician shall
46 perform or cause to be performed such medical
47 examinations and tests as are necessary to make
48 a finding of the gestational age, weight, and
49 lung maturity of the unborn child and shall
50 enter such findings and determination of
51 viability in the medical record of the woman;

52 (3) If the physician determines that the
53 gestational age of the unborn child is twenty
54 weeks or more, and further determines that the
55 unborn child is not viable and performs or
56 induces an abortion upon the woman, the
57 physician shall report such findings and
58 determinations and the reasons for such
59 determinations to the health care facility in
60 which the abortion is performed and to the state
61 board of registration for the healing arts, and
62 shall enter such findings and determinations in
63 the medical records of the woman and in the
64 individual abortion report submitted to the
65 department under section 188.052;

66 (4) (a) If the physician determines that
67 the unborn child is viable, the physician shall
68 not perform or induce an abortion upon the woman
69 unless the abortion is necessary to preserve the
70 life of the pregnant woman or that a
71 continuation of the pregnancy will create a
72 serious risk of substantial and irreversible
73 physical impairment of a major bodily function
74 of the woman.

75 (b) Before a physician may proceed with
76 performing or inducing an abortion upon a woman
77 when it has been determined that the unborn
78 child is viable, the physician shall first

79 certify in writing the medical threat posed to
80 the life of the pregnant woman, or the medical
81 reasons that continuation of the pregnancy would
82 cause a serious risk of substantial and
83 irreversible physical impairment of a major
84 bodily function of the pregnant woman. Upon
85 completion of the abortion, the physician shall
86 report the reasons and determinations for the
87 abortion of a viable unborn child to the health
88 care facility in which the abortion is performed
89 and to the state board of registration for the
90 healing arts, and shall enter such findings and
91 determinations in the medical record of the
92 woman and in the individual abortion report
93 submitted to the department under section
94 188.052.

95 (c) Before a physician may proceed with
96 performing or inducing an abortion upon a woman
97 when it has been determined that the unborn
98 child is viable, the physician who is to perform
99 the abortion shall obtain the agreement of a
100 second physician with knowledge of accepted
101 obstetrical and neonatal practices and standards
102 who shall concur that the abortion is necessary
103 to preserve the life of the pregnant woman, or
104 that continuation of the pregnancy would cause a
105 serious risk of substantial and irreversible
106 physical impairment of a major bodily function
107 of the pregnant woman. This second physician
108 shall also report such reasons and
109 determinations to the health care facility in
110 which the abortion is to be performed and to the
111 state board of registration for the healing
112 arts, and shall enter such findings and
113 determinations in the medical record of the
114 woman and the individual abortion report
115 submitted to the department under section
116 188.052. The second physician shall not have
117 any legal or financial affiliation or
118 relationship with the physician performing or
119 inducing the abortion, except that such
120 prohibition shall not apply to physicians whose
121 legal or financial affiliation or relationship
122 is a result of being employed by or having staff
123 privileges at the same hospital as the term
124 "hospital" is defined in section 197.020.

125 (d) Any physician who performs or induces
126 an abortion upon a woman when it has been
127 determined that the unborn child is viable shall
128 utilize the available method or technique of
129 abortion most likely to preserve the life or
130 health of the unborn child. In cases where the
131 method or technique of abortion most likely to
132 preserve the life or health of the unborn child
133 would present a greater risk to the life or
134 health of the woman than another legally
135 permitted and available method or technique, the

136 physician may utilize such other method or
137 technique. In all cases where the physician
138 performs an abortion upon a viable unborn child,
139 the physician shall certify in writing the
140 available method or techniques considered and
141 the reasons for choosing the method or technique
142 employed.

143 (e) No physician shall perform or induce
144 an abortion upon a woman when it has been
145 determined that the unborn child is viable
146 unless there is in attendance a physician other
147 than the physician performing or inducing the
148 abortion who shall take control of and provide
149 immediate medical care for a child born as a
150 result of the abortion. During the performance
151 of the abortion, the physician performing it,
152 and subsequent to the abortion, the physician
153 required to be in attendance, shall take all
154 reasonable steps in keeping with good medical
155 practice, consistent with the procedure used, to
156 preserve the life or health of the viable unborn
157 child; provided that it does not pose an
158 increased risk to the life of the woman or does
159 not pose an increased risk of substantial and
160 irreversible physical impairment of a major
161 bodily function of the woman.

162 3. Any person who knowingly performs or
163 induces an abortion of an unborn child in
164 violation of the provisions of this section is
165 guilty of a class D felony, and, upon a finding
166 of guilt or plea of guilty, shall be imprisoned
167 for a term of not less than one year, and,
168 notwithstanding the provisions of section
169 558.002, shall be fined not less than ten
170 thousand nor more than fifty thousand dollars.

171 4. Any physician who pleads guilty to or
172 is found guilty of performing or inducing an
173 abortion of an unborn child in violation of this
174 section shall be subject to suspension or
175 revocation of his or her license to practice
176 medicine in the state of Missouri by the state
177 board of registration for the healing arts under
178 the provisions of sections 334.100 and 334.103.

179 5. Any hospital licensed in the state of
180 Missouri that knowingly allows an abortion of an
181 unborn child to be performed or induced in
182 violation of this section may be subject to
183 suspension or revocation of its license under
184 the provisions of section 197.070.

185 6. Any abortion facility licensed in the
186 state of Missouri that knowingly allows an
187 abortion of an unborn child to be performed or
188 induced in violation of this section may be
189 subject to suspension or revocation of its
190 license under the provisions of section 197.220.

191 7. A woman upon whom an abortion is
192 performed or induced in violation of this

193 section shall not be prosecuted for a conspiracy
194 to violate the provisions of this section.

195 8. Nothing in this section shall be
196 construed as creating or recognizing a right to
197 abortion, nor is it the intention of this
198 section to make lawful any abortion that is
199 currently unlawful.

200 9. It is the intent of the legislature
201 that this section be severable as noted in
202 section 1.140. In the event that any section,
203 subsection, subdivision, paragraph, sentence, or
204 clause of this section be declared invalid under
205 the Constitution of the United States or the
206 Constitution of the State of Missouri, it is the
207 intent of the legislature that the remaining
208 provisions of this section remain in force and
209 effect as far as capable of being carried into
210 execution as intended by the legislature.

211 10. The general assembly may, by
212 concurrent resolution, appoint one or more of
213 its members who sponsored or co-sponsored this
214 act in his or her official capacity to intervene
215 as a matter of right in any case in which the
216 constitutionality of this law is challenged.]

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

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

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

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

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

16 3. No person shall offer any inducement,
17 monetary or otherwise, to a woman or a
18 prospective father of an unborn child for the
19 purpose of conceiving an unborn child for the
20 medical, scientific, experimental or therapeutic
21 use of the fetal organs or tissue.

22 4. No person shall offer any inducement,
23 monetary or otherwise, to the mother or father
24 of an unborn child for the purpose of procuring
25 an abortion for the medical, scientific,
26 experimental or therapeutic use of the fetal
27 organs or tissue.

28 5. No person shall knowingly offer or
29 receive any valuable consideration for the fetal
30 organs or tissue resulting from an abortion,
31 provided that nothing in this subsection shall
32 prohibit payment for burial or other final
33 disposition of the fetal remains, or payment for
34 a pathological examination, autopsy or
35 postmortem examination of the fetal remains.

36 6. If any provision in this section or the
37 application thereof to any person, circumstance
38 or period of gestation is held invalid, such
39 invalidity shall not affect the provisions or
40 applications which can be given effect without
41 the invalid provision or application, and to
42 this end the provisions of this section are
declared severable.]

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

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

8 (2) Ending any current bias or
9 discrimination against pregnant women, their
10 partners, and their family members, including
11

12 their unborn children, is a legitimate purpose
13 of government in order to guarantee that those
14 who "are endowed by their Creator with certain
15 unalienable Rights" can enjoy "Life, Liberty and
16 the pursuit of Happiness";

17 (3) The historical relationship of bias or
18 discrimination by some family planning programs
19 and policies towards poor and minority
20 populations, including, but not limited to, the
21 nonconsensual sterilization of mentally ill,
22 poor, minority, and immigrant women and other
23 coercive family planning programs and policies,
24 must be rejected;

25 (4) Among Missouri residents, the rate of
26 black or African-American women who undergo
27 abortions is significantly higher, about three
28 and one-half times higher, than the rate of
29 white women who undergo abortions. Among
30 Missouri residents, the rate of black or African-
31 American women who undergo repeat abortions is
32 significantly higher, about one and one-half
33 times higher, than the rate of white women who
34 undergo repeat abortions;

35 (5) Performing or inducing an abortion
36 because of the sex of the unborn child is
37 repugnant to the values of equality of females
38 and males and the same opportunities for girls
39 and boys, and furthers a false mindset of female
40 inferiority;

41 (6) Government has a legitimate interest
42 in preventing the abortion of unborn children
43 with Down Syndrome because it is a form of bias
44 or disability discrimination and victimizes the
45 disabled unborn child at his or her most
46 vulnerable stage. Eliminating unborn children
47 with Down Syndrome raises grave concerns for the
48 lives of those who do live with disabilities.
49 It sends a message of dwindling support for
50 their unique challenges, fosters a false sense
51 that disability is something that could have
52 been avoidable, and is likely to increase the
53 stigma associated with disability.

54 2. No person shall perform or induce an
55 abortion on a woman if the person knows that the
56 woman is seeking the abortion solely because of
57 a prenatal diagnosis, test, or screening
58 indicating Down Syndrome or the potential of
59 Down Syndrome in an unborn child.

60 3. No person shall perform or induce an
61 abortion on a woman if the person knows that the
62 woman is seeking the abortion solely because of
63 the sex or race of the unborn child.

64 4. Any physician or other person who
65 performs or induces or attempts to perform or
66 induce an abortion prohibited by this section
67 shall be subject to all applicable civil

68 penalties under this chapter including, but not
69 limited to, sections 188.065 and 188.085.]

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

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

32 3. The patient shall be evaluated by the
33 physician who is to perform or induce the
34 abortion, a qualified professional, or the
35 referring physician during the conference for
36 indicators and contraindicators, risk factors
37 including any physical, psychological, or
38 situational factors which would predispose the
39 patient to or increase the risk of experiencing
40 one or more adverse physical, emotional, or
41 other health reactions to the proposed procedure
42 or drug or drugs in either the short or long
43 term as compared with women who do not possess
44 such risk factors.

45 4. At the end of the conference, and if
46 the woman chooses to proceed with the abortion,
47 the physician who is to perform or induce the
48 abortion, a qualified professional, or the
49 referring physician shall sign and shall cause
50 the patient to sign a written statement that the
51 woman gave her informed consent freely and
52 without coercion after the physician or
53 qualified professional had discussed with her
54 the indicators and contraindicators, and risk
factors, including any physical, psychological,

55 or situational factors. All such executed
56 statements shall be maintained as part of the
57 patient's medical file, subject to the
58 confidentiality laws and rules of this state.

59 5. The director of the department of
60 health and senior services shall disseminate a
61 model form that physicians or qualified
62 professionals may use as the written statement
63 required by this section, but any lack or
64 unavailability of such a model form shall not
65 affect the duties of the physician or qualified
66 professional set forth in subsections 2 to 4 of
67 this section.

68 6. As used in this section, the term
69 "qualified professional" shall refer to a
70 physician, physician assistant, registered
71 nurse, licensed practical nurse, psychologist,
72 licensed professional counselor, or licensed
73 social worker, licensed or registered under
74 chapter 334, 335, or 337, acting under the
75 supervision of the physician performing or
76 inducing the abortion, and acting within the
77 course and scope of his or her authority
78 provided by law. The provisions of this section
79 shall not be construed to in any way expand the
80 authority otherwise provided by law relating to
81 the licensure, registration, or scope of
82 practice of any such qualified professional.

83 7. If the provisions in subsection 2 of
84 this section requiring a seventy-two-hour
85 waiting period for an abortion are ever
86 temporarily or permanently restrained or
87 enjoined by judicial order, then the waiting
88 period for an abortion shall be twenty-four
89 hours; provided, however, that if such temporary
90 or permanent restraining order or injunction is
91 stayed or dissolved, or otherwise ceases to have
92 effect, the waiting period for an abortion shall
93 be seventy-two hours.]

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

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

16 3. No abortion facility or hospital shall
17 employ or engage the services of a person to
perform or induce an abortion on another if the

18 person does not have medical malpractice
19 insurance pursuant to this section, except that
20 the abortion facility or hospital may provide
21 medical malpractice insurance for the services
22 of persons employed or engaged by such facility
23 or hospital which is no less than the coverage
24 amounts set forth in this section.

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

2 [188.044. 1. When a drug or chemical, or
3 combination thereof, used by a person to induce
4 an abortion carries a warning from its
5 manufacturer or distributor, a peer-reviewed
6 medical journal article, or a Food and Drug
7 Administration label that its use may cause
8 birth defects, disability, or other injury in a
9 child who survives the abortion, then in
10 addition to the requirements of section 188.043,
11 such person shall also carry tail insurance with
12 coverage amounts of at least one million dollars
13 per occurrence and three million dollars in the
14 annual aggregate for personal injury to or death
15 of a child who survives such abortion. Such
16 policy shall be maintained in force or be in
17 effect for a period of twenty-one years after
18 the person used the drug or chemical, or
19 combination thereof, to induce the abortion.

20 2. For the purpose of this section, "tail
21 insurance" means insurance which covers the
22 legal liability of the insured once a medical
23 malpractice insurance policy is cancelled, not
24 renewed, or terminated, and covers claims made
25 after such cancellation or termination for acts
26 occurring during the period the prior medical
27 malpractice insurance was in effect.

28 3. No abortion facility or hospital shall
29 employ or engage the services of a person to
30 induce an abortion on another using any drug or
31 chemical, or combination thereof, which may
32 cause birth defects, disability, or other injury
33 in a child who survives the abortion if the
34 person does not have tail insurance pursuant to
35 this section, except that the abortion facility
36 or hospital may provide tail insurance for the
37 services of persons employed or engaged by such
38 facility or hospital which is no less than the
39 coverage amounts and duration set forth in this
40 section.

41 4. Notwithstanding the provisions of
42 section 334.100 to the contrary, failure of a
43 person to maintain the tail insurance required
by this section shall be an additional ground

44 for sanctioning of a person's license,
45 certificate, or permit.]

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

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

38 3. Beginning January 1, 2018, the
39 department shall make an annual report to the
40 general assembly. The report shall include the
41 number of any deficiencies and inquiries by the
42 department of each abortion facility in the
43 calendar year and whether any deficiencies were
44 remedied and, for each abortion facility,
45 aggregated de-identified data about the total
46 number of abortions performed at the facility,
47 the termination procedures used, the number and
48 type of complications reported for each type of
49 termination procedure, whether the department
50 received the tissue report for each abortion,
51 and the existence and nature, if any, of any
52 inconsistencies or concerns between the abortion
53 reports submitted under section 188.052 and the
54 tissue report submitted under this section. The
report shall not contain any personal patient

55 information the disclosure of which is
56 prohibited by state or federal law.

57 4. All reports provided by the department
58 to the general assembly under this section shall
59 maintain confidentiality of all personal
60 information of patients, facility personnel, and
61 facility physicians.

62 5. Nothing in this section shall prohibit
63 the utilization of fetal organs or tissue
64 resulting from an abortion for medical or
65 scientific purposes to determine the cause or
66 causes of any anomaly, illness, death, or
67 genetic condition of the fetus, the paternity of
68 the fetus, or for law enforcement purposes.

69 6. The department may adopt rules,
70 regulations, and standards governing the reports
71 required under this section. In doing so, the
72 department shall ensure that these reports
73 contain all information necessary to ensure
74 compliance with all applicable laws and
75 regulations. Any rule or portion of a rule, as
76 that term is defined in section 536.010, that is
77 created under the authority delegated in this
78 section shall become effective only if it
79 complies with and is subject to all of the
80 provisions of chapter 536 and, if applicable,
81 section 536.028. This section and chapter 536
82 are nonseverable and if any of the powers vested
83 with the general assembly pursuant to chapter
84 536 to review, to delay the effective date, or
85 to disapprove and annul a rule are subsequently
86 held unconstitutional, then the grant of
87 rulemaking authority and any rule proposed or
88 adopted after October 24, 2017, shall be invalid
89 and void.]

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

16 2. An individual complication report for
17 any post-abortion care performed upon a woman
18 shall be completed by the physician providing
19 such post-abortion care. This report shall
20 include:

(1) The date of the abortion;

21 (2) The name and address of the abortion
22 facility or hospital where the abortion was
23 performed or induced;

24 (3) The nature of the abortion
25 complication diagnosed or treated.

26 3. All abortion reports shall be signed by
27 the attending physician who performed or induced
28 the abortion and submitted to the department
29 within forty-five days from the date of the
30 abortion. All complication reports shall be
31 signed by the physician providing the post-
32 abortion care and submitted to the department
33 within forty-five days from the date of the post-
34 abortion care.

35 4. A copy of the abortion report shall be
36 made a part of the medical record of the patient
37 of the abortion facility or hospital in which
38 the abortion was performed or induced.

39 5. The department shall be responsible for
40 collecting all abortion reports and complication
41 reports and collating and evaluating all data
42 gathered therefrom and shall annually publish a
43 statistical report based on such data from
44 abortions performed or induced in the previous
45 calendar year.]

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

15 2. All information obtained by physician,
16 hospital, or abortion facility from a patient
17 for the purpose of preparing reports to the
18 department of health and senior services under
19 sections 188.010 to 188.085 or reports received
20 by the division of health shall be confidential
21 and shall be used only for statistical
22 purposes. Such records, however, may be
23 inspected and health data acquired by local,
state, or national public health officers.]

2 [188.056. 1. Notwithstanding any other
3 provision of law to the contrary, no abortion
4 shall be performed or induced upon a woman at
5 eight weeks gestational age or later, except in
6 cases of medical emergency. Any person who
7 knowingly performs or induces an abortion of an
8 unborn child in violation of this subsection
shall be guilty of a class B felony, as well as

9 subject to suspension or revocation of his or
10 her professional license by his or her
11 professional licensing board. A woman upon whom
12 an abortion is performed or induced in violation
13 of this subsection shall not be prosecuted for a
14 conspiracy to violate the provisions of this
15 section.

16 2. It shall be an affirmative defense for
17 any person alleged to have violated the
18 provisions of subsection 1 of this section that
19 the person performed or induced an abortion
20 because of a medical emergency. The defendant
21 shall have the burden of persuasion that the
22 defense is more probably true than not.

23 3. Prosecution under this section shall
24 bar prosecution under section* 188.057, 188.058,
25 or 188.375 if prosecution under such sections
26 would violate the provisions of Amendment V to
27 the Constitution of the United States or Article
28 I, Section 19 of the Constitution of Missouri.

29 4. If any one or more provisions,
30 subsections, sentences, clauses, phrases, or
31 words of this section or the application thereof
32 to any person, circumstance, or period of
33 gestational age is found to be unenforceable,
34 unconstitutional, or invalid by a court of
35 competent jurisdiction, the same is hereby
36 declared to be severable and the balance of the
37 section shall remain effective notwithstanding
38 such unenforceability, unconstitutionality, or
39 invalidity. The general assembly hereby
40 declares that it would have passed this section,
41 and each provision, subsection, sentence,
42 clause, phrase, or word thereof, irrespective of
43 the fact that any one or more provisions,
44 subsections, sentences, clauses, phrases, or
45 words of the section, or the application of the
46 section to any person, circumstance, or period
47 of gestational age, would be declared
48 unenforceable, unconstitutional, or invalid.]

2 [188.057. 1. Notwithstanding any other
3 provision of law to the contrary, no abortion
4 shall be performed or induced upon a woman at
5 fourteen weeks gestational age or later, except
6 in cases of medical emergency. Any person who
7 knowingly performs or induces an abortion of an
8 unborn child in violation of this subsection
9 shall be guilty of a class B felony, as well as
10 subject to suspension or revocation of his or
11 her professional license by his or her
12 professional licensing board. A woman upon whom
13 an abortion is performed or induced in violation
14 of this subsection shall not be prosecuted for a
15 conspiracy to violate the provisions of this
section.

16 2. It shall be an affirmative defense for
17 any person alleged to have violated the
18 provisions of subsection 1 of this section that
19 the person performed or induced an abortion
20 because of a medical emergency. The defendant
21 shall have the burden of persuasion that the
22 defense is more probably true than not.

23 3. Prosecution under this section shall
24 bar prosecution under section 188.056, 188.058,
25 or 188.375 if prosecution under such sections
26 would violate the provisions of Amendment V to
27 the Constitution of the United States or Article
28 I, Section 19 of the Constitution of Missouri.

29 4. If any one or more provisions,
30 subsections, sentences, clauses, phrases, or
31 words of this section or the application thereof
32 to any person, circumstance, or period of
33 gestational age is found to be unenforceable,
34 unconstitutional, or invalid by a court of
35 competent jurisdiction, the same is hereby
36 declared to be severable and the balance of the
37 section shall remain effective notwithstanding
38 such unenforceability, unconstitutionality, or
39 invalidity. The general assembly hereby
40 declares that it would have passed this section,
41 and each provision, subsection, sentence,
42 clause, phrase, or word thereof, irrespective of
43 the fact that any one or more provisions,
44 subsections, sentences, clauses, phrases, or
45 words of the section, or the application of the
46 section to any person, circumstance, or period
47 of gestational age, would be declared
48 unenforceable, unconstitutional, or invalid.]

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

16 2. It shall be an affirmative defense for
17 any person alleged to have violated the
18 provisions of subsection 1 of this section that
19 the person performed or induced an abortion
20 because of a medical emergency. The defendant
21 shall have the burden of persuasion that the
22 defense is more probably true than not.

23 3. Prosecution under this section shall
24 bar prosecution under section 188.056, 188.057,
25 or 188.375 if prosecution under such sections
26 would violate the provisions of Amendment V to
27 the Constitution of the United States or Article
28 I, Section 19 of the Constitution of Missouri.

29 4. If any one or more provisions,
30 subsections, sentences, clauses, phrases, or
31 words of this section or the application thereof
32 to any person, circumstance, or period of
33 gestational age is found to be unenforceable,
34 unconstitutional, or invalid by a court of
35 competent jurisdiction, the same is hereby
36 declared to be severable and the balance of the
37 section shall remain effective notwithstanding
38 such unenforceability, unconstitutionality, or
39 invalidity. The general assembly hereby
40 declares that it would have passed this section,
41 and each provision, subsection, sentence,
42 clause, phrase, or word thereof, irrespective of
43 the fact that any one or more provisions,
44 subsections, sentences, clauses, phrases, or
45 words of the section, or the application of the
46 section to any person, circumstance, or period
47 of gestational age, would be declared
48 unenforceable, unconstitutional, or invalid.]

 [188.060. All medical records, reports,
2 and other documents required to be kept under
3 sections 188.010 to 188.085 shall be maintained
4 in the permanent files of the abortion facility
5 or hospital in which the abortion was performed
6 for a period of seven years.]

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

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

 [188.075. 1. Any person who contrary to
2 the provisions of sections 188.010 to 188.085
3 knowingly performs, induces, or aids in the
4 performance or inducing of any abortion or
5 knowingly fails to perform any action required
6 by sections 188.010 to 188.085 shall be guilty
7 of a class A misdemeanor, unless a different

8 penalty is provided for in state law, and, upon
9 conviction, shall be punished as provided by law.

10 2. It shall be an affirmative defense for
11 any person alleged to have violated any
12 provision of this chapter that the person
13 performed an action or did not perform an action
14 because of a medical emergency. This
15 affirmative defense shall be available in
16 criminal, civil, and administrative actions or
17 proceedings. The defendant shall have the
18 burden of persuasion that the defense is more
19 probably true than not.

20 3. The attorney general shall have
21 concurrent original jurisdiction throughout the
22 state, along with each prosecuting attorney and
23 circuit attorney within their respective
24 jurisdictions, to commence actions for a
25 violation of any provision of this chapter, for
26 a violation of any state law on the use of
27 public funds for an abortion, or for a violation
28 of any state law which regulates an abortion
29 facility or a person who performs or induces an
30 abortion. The attorney general, or prosecuting
31 attorney or circuit attorney within their
32 respective jurisdictions, may seek injunctive or
33 other relief against any person who, or entity
34 which, is in violation of any provision of this
35 chapter, misuses public funds for an abortion,
36 or violates any state law which regulates an
37 abortion facility or a person who performs or
38 induces an abortion.]

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

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

7 (1) "Employer", the state, or any
8 political or civil subdivision thereof, or any
9 person employing two or more persons within the
10 state, and any person acting as an agent of the
11 employer;

12 (2) "Participate in abortion", to perform,
assist in, refer for, promote, procure, or

13 counsel a woman to have an abortion not
 14 necessary to save the life of the mother; or to
 15 undergo an abortion;

16 (3) "Person" includes one or more
 17 individuals, partnerships, associations,
 18 organizations, corporations, legal
 19 representatives, trustees, trustees in
 20 bankruptcy, receivers, or other organized groups
 21 of persons.]

[188.105. 1. It shall be unlawful:

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

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

16 (c) To discharge, expel, or otherwise
 17 discriminate against any person because he or
 18 she has opposed any practices forbidden under
 19 sections 188.100 to 188.120 or because he or she
 20 has filed a complaint, testified, or assisted in
 21 any legal proceeding under sections 188.100 to
 22 188.120;

23 (2) For any person, whether an employer or
 24 employee, or not, to aid, abet, incite, compel,
 25 or coerce the doing of any of the acts forbidden
 26 under sections 188.100 to 188.120, or to attempt
 27 to do so.

28 2. Notwithstanding any other provision of
 29 sections 188.100 to 188.120, the acts proscribed
 30 in subsection 1 of this section shall not be
 31 unlawful if there can be demonstrated an
 32 inability to reasonably accommodate an
 33 individual's refusal to participate in abortion
 34 without undue hardship on the conduct of that
 35 particular business or enterprise, or in those
 36 certain instances where participation in
 37 abortion is a bona fide occupational
 38 qualification reasonably necessary to the normal
 39 operation of that particular business or
 40 enterprise.

41 3. Nothing contained in sections 188.100
 42 to 188.120 shall be interpreted to require any
 43 employer to grant preferential treatment to any
 44 individual because of such individual's refusal
 45 to participate in abortion.]

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

3 discriminate against any person for refusal to
4 participate in abortion.

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

2 [188.115. If any provision of sections
3 188.100 to 188.120 is found by a court of
4 competent jurisdiction to be invalid or
5 unconstitutional as applied to a specific person
6 or class of persons, the provisions of sections
7 188.100 to 188.120 shall remain in full force
8 and effect as to every other person or class of
9 persons who is otherwise covered under these
sections.]

2 [188.120. Any individual injured by any
3 person, association, corporation, or entity by
4 reason of any action prohibited by sections
5 188.100 to 188.120, as now or hereafter amended,
6 may commence a civil cause of action against the
7 person, association, corporation, or entity who
8 caused the injury, and shall recover treble
9 damages, including pain and suffering, sustained
10 by such individual, the costs of the suit and
reasonable attorney's fees.]

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

10 2. The department of health and senior
11 services is authorized to adopt rules,
12 regulations, and standards regarding the
13 establishment and implementation of policies
14 created under this section. Any rule or portion
15 of a rule, as that term is defined in section
16 536.010, that is created under the authority
17 delegated in this section shall become effective
18 only if it complies with and is subject to all
19 of the provisions of chapter 536 and, if

20 applicable, section 536.028. This section and
21 chapter 536 are nonseverable and if any of the
22 powers vested with the general assembly pursuant
23 to chapter 536 to review, to delay the effective
24 date, or to disapprove and annul a rule are
25 subsequently held unconstitutional, then the
26 grant of rulemaking authority and any rule
27 proposed or adopted after October 24, 2017,
28 shall be invalid and void.]

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

(1) "Public employee", any person employed
by this state or any agency or political
subdivision thereof;

(2) "Public facility", any public
institution, public facility, public equipment,
or any physical asset owned, leased, or
controlled by this state or any agency or
political subdivisions thereof;

(3) "Public funds", any funds received or
controlled by this state or any agency or
political subdivision thereof, including, but
not limited to, funds derived from federal,
state or local taxes, gifts or grants from any
source, public or private, federal grants or
payments, or intergovernmental transfers.]

[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 the mother, or for
the purpose of encouraging or counseling a woman
to have an abortion not necessary to save her
life.]

[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 of the mother. It
shall be unlawful for a doctor, nurse or other
health care personnel, a social worker, a
counselor or persons of similar occupation who
is a public employee within the scope of his
public employment to encourage or 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 purpose of
performing or assisting an abortion not
necessary to save the life of the mother or for
the purpose of encouraging or counseling a woman
to have an abortion not necessary to save her
life.]

[188.220. Any taxpayer of this state or
its political subdivisions shall have standing
to bring suit in a circuit court of proper venue

4 to enforce the provisions of sections 188.200 to
5 188.215.]

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

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

6 2. A person who violates subsection 1 of
7 this section shall be civilly liable to the
8 minor and to the person or persons required to
9 give the consent or consents under section
10 188.028. A court may award damages to the
11 person or persons adversely affected by a
12 violation of subsection 1 of this section,
13 including compensation for emotional injury
14 without the need for personal presence at the
15 act or event, and the court may further award
16 attorneys' fees, litigation costs, and punitive
17 damages. Any adult who engages in or consents
18 to another person engaging in a sex act with a
19 minor in violation of the provisions of chapter
20 566, 567, 568, or 573 which results in the
21 minor's pregnancy shall not be awarded damages
under this section.

22 3. It shall not be a defense to a claim
23 brought under this section that the abortion was
24 performed or induced pursuant to consent to the
25 abortion given in a manner that is otherwise
26 lawful in the state or place where the abortion
27 was performed or induced.

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

31 5. A court may enjoin conduct that would
32 be in violation of this section upon petition by
33 the attorney general, a prosecuting or circuit
34 attorney, or any person adversely affected or
35 who reasonably may be adversely affected by such
36 conduct, upon a showing that such conduct:

37 (1) Is reasonably anticipated to occur in
38 the future; or

39 (2) Has occurred in the past, whether with
40 the same minor or others, and that it is not
41 unreasonable to expect that such conduct will be
42 repeated.]

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

9 assist women in carrying their unborn children
10 to term instead of having abortions, and to
11 assist women in caring for their dependent
12 children or placing their children for adoption.

13 2. Services provided under the
14 alternatives to abortion program shall include
15 but not be limited to the following:

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

34 3. Actual provision and delivery of
35 services and counseling shall be dependent on
36 client needs and not otherwise prioritized by
37 the agency or agencies administering the
38 program. Services and counseling shall be
39 available only during pregnancy and continuing
40 for one year after birth, and shall exclude any
41 family planning services. The agency or
42 agencies administering the program may contract
43 with other public or private agencies or
44 entities to provide the services or counseling
45 on behalf of the agency or agencies
46 administering the program. Such other public or
47 private agencies or entities may provide
48 additional services or counseling, or services
49 or counseling for more than one year after
50 birth, that are not funded under the
51 alternatives to abortion services program, as
52 long as such services or counseling are not
53 inconsistent with the provisions of this
54 section. Contractors for the alternatives to
55 abortion services program may also be
56 contractors for the alternatives to abortion
57 public awareness program established in section
58 188.335.

59 4. The agency or agencies administering
60 the program shall to the greatest extent
61 possible supplement and match moneys
62 appropriated for the alternatives to abortion
63 services program with federal and other public
64 moneys and with private moneys. The agency or
65 agencies administering the program shall

66 prioritize such additional federal, other
67 public, and private moneys so that they are used
68 preferentially for the alternatives to abortion
69 services program and the alternatives to
70 abortion public awareness program.

71 5. The alternatives to abortion services
72 program and the moneys expended under this
73 section shall not be used to perform or induce,
74 assist in the performing or inducing of or refer
75 for abortions. Moneys expended under this
76 section shall not be granted to organizations or
77 affiliates of organizations that perform or
78 induce, assist in the performing or inducing of
79 or refer for abortions.]

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

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

43 program may also be contractors for the
44 alternatives to abortion services program
45 established in section 188.325.

46 3. The agency or agencies administering
47 the program shall to the greatest extent
48 possible supplement and match moneys
49 appropriated for the alternatives to abortion
50 public awareness program with federal and other
51 public moneys and with private moneys. The
52 agency or agencies administering the program
53 shall prioritize such additional federal, other
54 public, and private moneys so that they are used
55 preferentially for the alternatives to abortion
56 public awareness program and the alternatives to
57 abortion services program.

58 4. The alternatives to abortion public
59 awareness program and the moneys expended under
60 this section shall not be used to perform or
61 induce, assist in the performing or inducing of
62 or refer for abortions. Moneys expended under
63 this section shall not be granted to
64 organizations or affiliates of organizations
65 that perform or induce, assist in the performing
66 or inducing of or refer for abortions.]

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

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

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

24 4. It shall be an affirmative defense for
25 any person alleged to have violated the
26 provisions of subsection 3 of this section that
27 the person performed or induced an abortion
28 because of a medical emergency. The defendant
29 shall have the burden of persuasion that the
30 defense is more probably true than not.

31 5. Prosecution under subsection 3 of this
32 section shall bar prosecution under
section 188.056, 188.057, or 188.058 if

33 prosecution under such sections would violate
34 the provisions of Amendment V to the
35 Constitution of the United States or Article I,
36 Section 19 of the Constitution of Missouri.

37 6. When in cases of medical emergency a
38 physician performs or induces an abortion upon a
39 woman in her third trimester carrying a late-
40 term pain-capable unborn child, the physician
41 shall utilize the available method or technique
42 of abortion most likely to preserve the life or
43 health of the unborn child. In cases where the
44 method or technique of abortion most likely to
45 preserve the life or health of the unborn child
46 would present a greater risk to the life or
47 health of the woman than another legally
48 permitted and available method or technique, the
49 physician may utilize such other method or
50 technique. In all cases where the physician
51 performs or induces an abortion upon a woman
52 during her third trimester carrying a late-term
53 pain-capable unborn child, the physician shall
54 certify in writing the available method or
55 techniques considered and the reasons for
56 choosing the method or technique employed.

57 7. When in cases of medical emergency a
58 physician performs or induces an abortion upon a
59 woman during her third trimester carrying a late-
60 term pain-capable unborn child, there shall be
61 in attendance a physician other than the
62 physician performing or inducing the abortion
63 who shall take control of and provide immediate
64 medical care for a child born as a result of the
65 abortion.

66 8. Any physician who knowingly violates
67 any of the provisions of subsection 6 or 7 of
68 this section shall be guilty of a class D
69 felony, as well as subject to suspension or
70 revocation of his or her professional license by
71 his or her professional licensing board. A
72 woman upon whom an abortion is performed or
73 induced in violation of subsection 6 or 7 of
74 this section shall not be prosecuted for a
75 conspiracy to violate the provisions of those
76 subsections.

77 9. If any one or more provisions,
78 subsections, sentences, clauses, phrases, or
79 words of this section or the application thereof
80 to any person, circumstance, or period of
81 gestational age is found to be unenforceable,
82 unconstitutional, or invalid by a court of
83 competent jurisdiction, the same is hereby
84 declared to be severable and the balance of the
85 section shall remain effective notwithstanding
86 such unenforceability, unconstitutionality, or
87 invalidity. The general assembly hereby
88 declares that it would have passed this section,
89 and each provision, subsection, sentence,

90 clause, phrase, or word thereof, irrespective of
91 the fact that any one or more provisions,
92 subsections, sentences, clauses, phrases, or
93 words of the section, or the application of the
94 section to any person, circumstance, or period
95 of gestational age, would be declared
96 unenforceable, unconstitutional, or invalid.]

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

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

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

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

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

11 2. Subsection 1 of this section shall be
12 applicable to all contracts, plans or policies
13 of:

14 (1) All health insurers subject to this
15 chapter; and

16 (2) All nonprofit hospital, medical,
17 surgical, dental, and health service
18 corporations subject to chapter 354; and

19 (3) All health maintenance organizations.

20 3. No health insurance exchange
21 established within this state or any health
22 insurance exchange administered by the federal
23 government or its agencies within this state
24 shall offer health insurance contracts, plans,

25 or policies that provide coverage for elective
26 abortions, nor shall any health insurance
27 exchange operating within this state offer
28 coverage for elective abortions through the
29 purchase of an optional rider.

30 4. This section shall be applicable only
31 to contracts, plans or policies written, issued,
32 renewed or revised after September 28, 1983.
33 For the purposes of this subsection, if new
34 premiums are charged for a contract, plan or
35 policy, it shall be determined to be a new
36 contract, plan or policy.]

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

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

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

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

19 (3) "Partially born", partial separation
20 of a child from the mother with the child's head
21 intact with the torso. If vaginally delivered,
22 a child is partially separated from the mother
23 when the head in a cephalic presentation, or any
24 part of the torso above the navel in a breech
25 presentation, is outside the mother's external
26 cervical os. If delivered abdominally, a child
27 is partially separated from the mother when the
28 child's head in a cephalic presentation, or any
29 part of the torso above the navel in a breech
30 presentation, is outside the mother's external
31 abdominal wall.

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

37 4. The offense of infanticide is a class A
38 felony.

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

45 mother be criminally responsible pursuant to
46 this section for the acts of the physician if
47 the physician is not held criminally responsible
48 pursuant to this section.

49 6. This section shall not apply to any
50 person who performs or attempts to perform a
51 legal abortion if the act that causes the death
52 is performed prior to the child being partially
53 born, even though the death of the child occurs
54 as a result of the abortion after the child is
55 partially born.

56 7. Only that person who performs the overt
57 act required under subsection 3 of this section
58 shall be culpable under this section, unless a
59 person, with the purpose of committing
60 infanticide, does any act which is a substantial
61 step towards the commission of the offense which
62 results in the death of the living infant. A
63 "substantial step" is conduct which is strongly
64 corroborative of the firmness of the actor's
65 purpose to complete the commission of the
66 offense.

67 8. Nothing in this section shall be
68 interpreted to exclude the defenses otherwise
69 available to any person under the law including
70 defenses provided pursuant to chapters 562 and
71 563.]

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

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

11 (2) Knowingly attempts to prevent medical
12 personnel from providing medical assistance to a
13 patient in accordance with all applicable
14 standards of care or ordinary practice for
15 reasons unrelated to the patient's health or
16 welfare.

17 2. The offense of interference with
18 medical assistance is a class A misdemeanor.

19 3. For purposes of this section, the term
20 "medical personnel" shall include, but not be
21 limited to, the following:

22 (1) Physicians and surgeons licensed under
23 chapter 334;

24 (2) Nurses licensed under chapter 335;

25 (3) Emergency medical services personnel
26 as defined in section 190.600; or

27 (4) Any person operating under the
28 supervision of such medical personnel.]

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

Section C. Because immediate action is necessary to
2 protect the unborn children in the state of Missouri,
3 section A of this act is deemed necessary for the immediate
4 preservation of the public health, welfare, peace, and
5 safety, and is hereby declared to be an emergency act within
6 the meaning of the constitution, and section A of this act
7 shall be in full force and effect upon its passage and
8 approval.

✓