

SECOND REGULAR SESSION

HOUSE BILL NO. 2402

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLY (141).

5313H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 188.027, 188.036, and 188.047, RSMo, and to enact in lieu thereof five new sections relating to abortion, with penalty provisions.

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

Section A. Sections 188.027, 188.036, and 188.047, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 188.027, 188.036, 188.047, 188.049, and 188.165, to read as follows:

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

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

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

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

a. A description of the proposed abortion method;

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

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

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

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

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

24 (e) The location of the hospital that offers obstetrical or gynecological care located
25 within thirty miles of the location where the abortion is performed or induced and at which the
26 physician performing or inducing the abortion has clinical privileges and where the woman may
27 receive follow-up care by the physician if complications arise;

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

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

32 (2) The physician who is to perform or induce the abortion or a qualified professional
33 has presented the woman, in person, printed materials provided by the department, which
34 describe the probable anatomical and physiological characteristics of the unborn child at
35 two-week gestational increments from conception to full term, including color photographs or
36 images of the developing unborn child at two-week gestational increments. Such descriptions
37 shall include information about brain and heart functions, the presence of external members and
38 internal organs during the applicable stages of development and information on when the unborn
39 child is viable. The printed materials shall prominently display the following statement: "The
40 life of each human being begins at conception. Abortion will terminate the life of a separate,
41 unique, living human being.";

42 (3) The physician who is to perform or induce the abortion, a qualified professional, or
43 the referring physician has presented the woman, in person, printed materials provided by the
44 department, which describe the various surgical and drug-induced methods of abortion relevant
45 to the stage of pregnancy, as well as the immediate and long-term medical risks commonly
46 associated with each abortion method including, but not limited to, infection, hemorrhage,
47 cervical tear or uterine perforation, harm to subsequent pregnancies or the ability to carry a
48 subsequent child to term, and the possible adverse psychological effects associated with an
49 abortion;

50 (4) The physician who is to perform or induce the abortion or a qualified professional
51 shall provide the woman with the opportunity to view at least seventy-two hours prior to the

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

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

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

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

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

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

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

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

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

91 (a) Identify on a geographical basis public and private agencies available to assist a
92 woman in carrying her unborn child to term, and to assist her in caring for her dependent child
93 or placing her child for adoption, including agencies commonly known and generally referred
94 to as pregnancy resource centers, crisis pregnancy centers, maternity homes, and adoption
95 agencies. Such materials shall provide a comprehensive list by geographical area of the agencies,
96 a description of the services they offer, and the telephone numbers and addresses of the agencies;
97 provided that such materials shall not include any programs, services, organizations, or affiliates
98 of organizations that perform or induce, or assist in the performing or inducing of, abortions or
99 that refer for abortions;

100 (b) Explain the Missouri alternatives to abortion services program under section 188.325,
101 and any other programs and services available to pregnant women and mothers of newborn
102 children offered by public or private agencies which assist a woman in carrying her unborn child
103 to term and assist her in caring for her dependent child or placing her child for adoption,
104 including but not limited to prenatal care; maternal health care; newborn or infant care; mental
105 health services; professional counseling services; housing programs; utility assistance;
106 transportation services; food, clothing, and supplies related to pregnancy; parenting skills;
107 educational programs; job training and placement services; drug and alcohol testing and
108 treatment; and adoption assistance;

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

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

118 (7) The physician who is to perform or induce the abortion or a qualified professional
119 has presented the woman, in person, printed materials provided by the department explaining that
120 the father of the unborn child is liable to assist in the support of the child, even in instances
121 where he has offered to pay for the abortion. Such materials shall include information on the
122 legal duties and support obligations of the father of a child, including, but not limited to, child
123 support payments, and the fact that paternity may be established by the father's name on a birth

124 certificate or statement of paternity, or by court action. Such printed materials shall also state
125 that more information concerning paternity establishment and child support services and
126 enforcement may be obtained by calling the family support division within the Missouri
127 department of social services; ~~and~~

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

132 (9) **The physician who is to perform or induce the abortion or a qualified**
133 **professional has presented the woman, in person, printed materials developed and**
134 **provided by the department or by the state board of embalmers and funeral directors, or**
135 **both, to help her decide prior to the abortion on the final disposition of the remains of her**
136 **unborn child, as provided in section 188.049. The physician or the qualified professional**
137 **shall notify her that the cost of final disposition shall be included in the payment for the**
138 **abortion, and that there shall be no difference in cost based on her choice of final**
139 **disposition. The physician or the qualified professional shall also notify her that if the**
140 **abortion is completed outside of the hospital or abortion facility where the abortion**
141 **procedure was initiated, she may bring the remains of her deceased unborn child to the**
142 **hospital or abortion facility for final disposition at no additional cost to her. Prior to the**
143 **abortion, she shall notify the physician or the qualified professional whether she wants to**
144 **have the remains of her deceased unborn child returned to her or have the remains**
145 **transferred to the licensed funeral establishment of her choice for final disposition, and**
146 **shall notify the physician or the qualified professional of the name of the licensed funeral**
147 **establishment, as well as her choice of individual or group burial or individual or**
148 **simultaneous cremation.**

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

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

166 4. No physician shall perform or induce an abortion unless and until the physician has
167 obtained from the woman her voluntary and informed consent given freely and without coercion.
168 If the physician has reason to believe that the woman is being coerced into having an abortion,
169 the physician or qualified professional shall inform the woman that services are available for her
170 and shall provide her with private access to a telephone and information about such services,
171 including but not limited to the following:

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

173 (2) Shelters for victims of domestic violence, as defined in section 455.200; and

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

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

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

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

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

187 7. In the event of a medical emergency, the physician who performed or induced the
188 abortion shall clearly certify in writing the nature and circumstances of the medical emergency.
189 This certification shall be signed by the physician who performed or induced the abortion, and
190 shall be maintained under section 188.060.

191 8. No person or entity shall require, obtain, or accept payment for an abortion **or for**
192 **preoperative or preparatory care or treatment prior to an abortion, including, but not**
193 **limited to, a pregnancy test, ultrasound, counseling, or medical examination,** from or on
194 behalf of a patient until at least seventy-two hours have passed since the time that the

195 information required by subsection 1 of this section has been provided to the patient. Nothing
196 in this subsection shall prohibit a person or entity from notifying the patient that payment for the
197 abortion will be required after the seventy-two-hour period has expired if she voluntarily chooses
198 to have the abortion.

199 9. The term "qualified professional" as used in this section shall refer to a physician,
200 physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional
201 counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting
202 under the supervision of the physician performing or inducing the abortion, and acting within the
203 course and scope of his or her authority provided by law. The provisions of this section shall not
204 be construed to in any way expand the authority otherwise provided by law relating to the
205 licensure, registration, or scope of practice of any such qualified professional.

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

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

224 12. If the provisions in subsections 1 and 8 of this section requiring a seventy-two-hour
225 waiting period for an abortion are ever temporarily or permanently restrained or enjoined by
226 judicial order, then the waiting period for an abortion shall be twenty-four hours; provided,
227 however, that if such temporary or permanent restraining order or injunction is stayed or
228 dissolved, or otherwise ceases to have effect, the waiting period for an abortion shall be
229 seventy-two hours.

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

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

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

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

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

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

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

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

188.047. 1. All tissue, except that tissue needed for purposes described in subsection 5 of this section, removed at the time of abortion shall be submitted within five days to a board-eligible or certified pathologist for gross and histopathological examination. The pathologist shall file a copy of the tissue report with the [state] department [of health and senior services], and shall provide within seventy-two hours a copy of the report to the abortion facility or hospital in which the abortion was performed or induced. The pathologist's report shall be

7 made a part of the patient's permanent record. If the pathological examination fails to identify
8 evidence of a completed abortion, the pathologist shall notify the abortion facility or hospital
9 within twenty-four hours.

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

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

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

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

36 6. The department may adopt rules, regulations, and standards governing the reports
37 required under this section. In doing so, the department shall ensure that these reports contain
38 all information necessary to ensure compliance with all applicable laws and regulations. Any
39 rule or portion of a rule, as that term is defined in section 536.010, that is created under the
40 authority delegated in this section shall become effective only if it complies with and is subject
41 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
42 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant

43 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
44 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
45 or adopted after October 24, 2017, shall be invalid and void.

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

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

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

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

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

15 **(5) Recognize and uphold the dignity and humanity of each individual child, born
16 and unborn, because each is unique and valuable;**

17 **(6) Protect public sensibilities and maintain the dignity of patients and the medical
18 profession, including by distinguishing human remains from and treating human remains
19 differently than medical waste so as to counteract the coarsening and dehumanizing effects
20 of abortion practice;**

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

25 **(8) Prevent the discharge, deposit, injection, dumping, spilling, leaking, or placing
26 of any remains of deceased unborn children resulting from abortions into or on any land
27 or body of water so that such remains, or any constituent thereof, shall not enter the
28 environment or be emitted into the air or be discharged into the waters, including
29 groundwaters.**

30 **2. Notwithstanding the provisions of section 194.119 to the contrary, the mother of
31 an unborn child shall have the sole right of sepulcher for the remains of her deceased
32 unborn child resulting from an abortion performed or induced upon her. The mother may**

33 assign the right of sepulcher to any next of kin, as defined in section 194.119, except that
34 the mother shall not assign the right of sepulcher to:

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

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

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

40 3. When giving her informed consent to the abortion under section 188.027, the
41 mother shall decide on the final disposition of the remains of her deceased unborn child.
42 She shall direct that the remains of the unborn child, upon completion of the pathological
43 examination under section 188.047, be:

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

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

50 a. Individual burial of the remains in a burial space, as defined in section 214.270;

51 b. Group burial of the remains with the remains of other deceased unborn or
52 newborn children, whether death was caused by abortion, stillbirth, miscarriage, sudden
53 infant death syndrome, or otherwise, in a burial space; provided, that consent for group
54 burial is first obtained from those persons with the right of sepulcher for such other
55 remains;

56 c. Individual cremation of the remains, with disposition of the cremated remains
57 in accordance with subdivision (4) of section 194.350; or

58 d. Simultaneous cremation of the remains with the remains of other deceased
59 unborn or newborn children, whether death was caused by abortion, stillbirth,
60 miscarriage, sudden infant death syndrome, or otherwise, with disposition of the cremated
61 remains in accordance with subdivision (4) of section 194.350; provided, however, that
62 consent for simultaneous cremation is first obtained from those persons with the right of
63 sepulcher for such other remains.

64 4. Notwithstanding the provisions of this section to the contrary, any remains of a
65 deceased unborn child resulting from an abortion that are used to determine the cause or
66 causes of any anomaly, illness, death, or genetic condition of the unborn child, the
67 paternity of the unborn child, or for law enforcement purposes under section 188.036 or

68 **188.047, shall not be required to be returned or transferred within fourteen days to the**
69 **mother, the next of kin assigned the right of sepulcher, or a licensed funeral establishment.**

70 **5. A hospital or abortion facility that, or pathologist who, does not have possession**
71 **of the remains of a deceased unborn child resulting from an abortion that such hospital or**
72 **abortion facility performed or induced upon a woman shall not be required to assist such**
73 **woman or the next of kin assigned the right of sepulcher in the final disposition of the**
74 **remains; provided, that if the abortion is completed outside of such hospital or abortion**
75 **facility where such abortion was initiated, and the remains of the deceased unborn child**
76 **are brought to such hospital or abortion facility, such hospital or abortion facility shall be**
77 **required to comply with the provisions of this section regarding final disposition.**

78 **6. In order to give the mother of a deceased unborn child freedom of choice in the**
79 **final disposition of the remains of her deceased unborn child as provided in this section,**
80 **the hospital or abortion facility shall:**

81 **(1) Include in the required payment for the abortion, the average cost for final**
82 **disposition;**

83 **(2) Not adjust the price of the abortion based on her choice for final disposition;**
84 **and**

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

87 **7. Notwithstanding any provision of law to the contrary, nothing in this section**
88 **shall require public disclosure of the identity of:**

89 **(1) The woman upon whom the abortion was performed or induced;**

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

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

92 **(4) The hospital or abortion facility where the abortion was performed or induced;**

93 **or**

94 **(5) The licensed funeral establishment that handled the remains of the deceased**
95 **unborn child for final disposition.**

96 **8. The department, in cooperation with the state board of embalmers and funeral**
97 **directors, shall adopt rules, regulations, and standards governing the provisions of this**
98 **section. The department and the state board of embalmers and funeral directors may**
99 **promulgate joint rules. Any rule or portion of a rule, as that term is defined in section**
100 **536.010, that is created under the authority delegated in this section shall become effective**
101 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
102 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
103 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**

104 the effective date, or to disapprove and annul a rule are subsequently held
105 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
106 after August 28, 2020, shall be invalid and void.

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

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

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

✓