

SECOND REGULAR SESSION

HOUSE BILL NO. 2758

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE UNSICKER.

5292H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 188.010, 188.015, 188.017, 188.018, 188.021, 188.023, 188.026, 188.027, 188.028, 188.030, 188.031, 188.033, 188.035, 188.036, 188.037, 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, 188.085, 188.250, 188.375, 208.655, and 610.140, RSMo, and to enact in lieu thereof fifteen new sections relating to the regulation of 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 188.010, 188.015, 188.017, 188.018, 188.021, 188.023, 188.026, 2 188.027, 188.028, 188.030, 188.031, 188.033, 188.035, 188.036, 188.037, 188.038, 188.039, 3 188.043, 188.044, 188.047, 188.052, 188.055, 188.056, 188.057, 188.058, 188.060, 188.065, 4 188.070, 188.075, 188.080, 188.085, 188.250, 188.375, 208.655, and 610.140, RSMo, are 5 repealed and fifteen new sections enacted in lieu thereof, to be known as sections 188.015, 6 188.023, 188.026, 188.027, 188.030, 188.035, 188.036, 188.037, 188.038, 188.055, 188.060, 7 188.065, 188.070, 188.085, and 610.140, to read as follows:

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

2 (1) "Abortion"~~];~~

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

6 ~~(b) The intentional termination of the pregnancy of a mother by using or prescribing~~ 7 ~~any instrument, device, medicine, drug, or other means or substance with an intention other~~ 8 ~~than to increase the probability of a live birth or to remove a dead unborn child];~~

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.

9 (2) "Abortion facility", a clinic, physician's office, or any other place or facility in
10 which abortions are performed or induced other than a hospital;

11 (3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

12 (4) "Department", the department of health and senior services;

13 (5) "Down Syndrome", the same meaning as defined in section 191.923;

14 (6) "Gestational age", length of pregnancy as measured from the first day of the
15 woman's last menstrual period;

16 (7) "Medical emergency" [~~a condition which, based on reasonable medical judgment,~~
17 ~~so complicates the medical condition of a pregnant woman as to necessitate the immediate~~
18 ~~abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will~~
19 ~~create a serious risk of substantial and irreversible physical impairment of a major bodily~~
20 ~~function of the pregnant woman]~~:

21 (a) **A medical condition manifesting itself by acute symptoms of sufficient**
22 **severity, including severe pain, such that the absence of immediate medical attention**
23 **could reasonably be expected to result in:**

24 a. **Placing the health of the individual or, with respect to a pregnant woman, the**
25 **health of the woman or her unborn child in serious jeopardy;**

26 b. **Serious impairment to bodily functions; or**

27 c. **Serious dysfunction of any bodily organ or part; or**

28 (b) **With respect to a pregnant woman who is having contractions:**

29 a. **That there is inadequate time to effect a safe transfer to another hospital**
30 **before delivery; or**

31 b. **That transfer may pose a threat to the health or safety of the woman or the**
32 **unborn child;**

33 (8) "Physician", any person licensed to practice medicine in this state by the state
34 board of registration for the healing arts;

35 (9) "Reasonable medical judgment", a medical judgment that would be made by a
36 reasonably prudent physician, knowledgeable about the case and the treatment possibilities
37 with respect to the medical conditions involved;

38 (10) "Unborn child", the offspring of human beings from the moment of conception
39 until birth and at every stage of its biological development, including the human conceptus,
40 zygote, morula, blastocyst, embryo, and fetus;

41 [~~"Viability" or "viable", that stage of fetal development when the life of the~~
42 ~~unborn child may be continued indefinitely outside the womb by natural or artificial life-~~
43 ~~supportive systems;~~

44 [~~12)] "Viable pregnancy" [~~or "viable intrauterine pregnancy", in the first trimester of~~
45 ~~pregnancy, an intrauterine pregnancy that can potentially result in a liveborn baby], a~~~~

46 **pregnancy during which the life of a fetus can continue post-delivery without the aid of**
47 **life support systems.**

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

188.026. 1. ~~[This section and sections 188.056, 188.057, and 188.058 shall be known~~
2 ~~and may be cited as the "Missouri Stands for the Unborn Act".~~

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

8 (1) ~~At conception, a new genetically distinct human being is formed;~~

9 (2) ~~The fact that the life of an individual human being begins at conception has long~~
10 ~~been recognized in Missouri law: "[T]he child is, in truth, alive from the moment of~~
11 ~~conception". State v. Emerich, 13 Mo. App. 492, 495 (1883), affirmed, 87 Mo. 110 (1885).~~
12 ~~Under section 1.205, the general assembly has recognized that the life of each human being~~
13 ~~begins at conception and that unborn children have protectable interests in life, health, and~~
14 ~~well-being;~~

15 (3) ~~The first prohibition of abortion in Missouri was enacted in 1825. Since then, the~~
16 ~~repeal and reenactment of prohibitions of abortion have made distinctions with respect to~~
17 ~~penalties for performing or inducing abortion on the basis of "quickening"; however, the~~
18 ~~unborn child was still protected from conception onward;~~

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

24 (5) ~~In Webster v. Reproductive Health Services, 492 U.S. 490 (1989), the Supreme~~
25 ~~Court, while considering the "preamble" that set forth "findings" in section 1.205, stated:~~
26 ~~"We think the extent to which the preamble's language might be used to interpret other state~~
27 ~~statutes or regulations is something that only the courts of Missouri can definitively decide.~~
28 ~~State law has offered protections to unborn children in tort and probate law". Id. at 506. Since~~
29 ~~Webster, Missouri courts have construed section 1.205 and have consistently found that an~~

30 unborn child is a person for purposes of Missouri's homicide and assault laws when the
31 unborn child's mother was killed or assaulted by another person. Section 1.205 has even been
32 found applicable to the manslaughter of an unborn child who was eight weeks gestational age
33 or earlier. *State v. Harrison*, 390 S.W.3d 927 (Mo. Ct. App. 2013);

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

38 (7) ~~Depending on the ultrasound equipment being used, the unborn child's heartbeat~~
39 ~~can be visually detected as early as six to eight weeks gestational age. By about twelve weeks~~
40 ~~gestational age, the unborn child's heartbeat can consistently be made audible through the use~~
41 ~~of a handheld Doppler fetal heart rate device;~~

42 (8) ~~Confirmation of a pregnancy can be indicated through the detection of the unborn~~
43 ~~child's heartbeat, while the absence of a heartbeat can be an indicator of the death of the~~
44 ~~unborn child if the child has reached the point of development when a heartbeat should be~~
45 ~~detectable;~~

46 (9) ~~Heart rate monitoring during pregnancy and labor is utilized to measure the heart~~
47 ~~rate and rhythm of the unborn child, at an average rate between one hundred ten and one~~
48 ~~hundred sixty beats per minute, and helps determine the health of the unborn child;~~

49 (10) ~~The Supreme Court in *Roe* discussed "the difficult question of when life begins"~~
50 ~~and wrote: "[p]hysicians and their scientific colleagues have regarded [quickening] with less~~
51 ~~interest and have tended to focus either upon conception, upon live birth, or upon the interim~~
52 ~~point at which the fetus becomes 'viable', that is, potentially able to live outside the mother's~~
53 ~~womb, albeit with artificial aid". *Roe*, 410 U.S. at 160. Today, however, physicians' and~~
54 ~~scientists' interests on life in the womb also focus on other markers of development in the~~
55 ~~unborn child, including, but not limited to, presence of a heartbeat, brain development, a~~
56 ~~viable pregnancy or viable intrauterine pregnancy during the first trimester of pregnancy, and~~
57 ~~the ability to experience pain;~~

58 (11) ~~In *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52 (1976), the~~
59 ~~Supreme Court noted that "we recognized in *Roe* that viability was a matter of medical~~
60 ~~judgment, skill, and technical ability, and we preserved the flexibility of the term". *Id.* at 64.~~
61 ~~Due to advances in medical technology and diagnoses, present-day physicians and scientists~~
62 ~~now describe the viability of an unborn child in an additional manner, by determining whether~~
63 ~~there is a viable pregnancy or viable intrauterine pregnancy during the first trimester of~~
64 ~~pregnancy;~~

65 (12) ~~While the overall risk of miscarriage after clinical recognition of pregnancy is~~
66 ~~twelve to fifteen percent, the incidence decreases significantly if cardiac activity in the unborn~~

67 child has been confirmed. The detection of a heartbeat in an unborn child is a reliable
68 indicator of a viable pregnancy and that the unborn child will likely survive to birth,
69 especially if presenting for a prenatal visit at eight weeks gestational age or later. For
70 asymptomatic women attending a first prenatal visit between six and eleven weeks gestational
71 age where a heartbeat was confirmed through an ultrasound, the subsequent risk of
72 miscarriage is one and six tenths percent. Although the risk is higher at six weeks gestational
73 age at nine and four tenths percent, it declines rapidly to one and five tenths percent at eight
74 weeks gestational age, and less than one percent at nine weeks gestational age or later;

75 (13) The presence of a heartbeat in an unborn child represents a more definable point
76 of ascertaining survivability than the ambiguous concept of viability that has been adopted by
77 the Supreme Court, especially since if a heartbeat is detected at eight weeks gestational age or
78 later in a normal pregnancy, there is likely to be a viable pregnancy and there is a high
79 probability that the unborn child will survive to birth;

80 (14) The placenta begins developing during the early first trimester of pregnancy and
81 performs a respiratory function by making oxygen supply to and carbon dioxide removal
82 from the unborn child possible later in the first trimester and throughout the second and third
83 trimesters of pregnancy;

84 (15) By the fifth week of gestation, the development of the brain of the unborn child
85 is underway. Brain waves have been measured and recorded as early as the eighth week of
86 gestational age in children who were removed during an ectopic pregnancy or hysterectomy.
87 Fetal magnetic resonance imaging (MRI) of an unborn child's brain is used during the second
88 and third trimesters of pregnancy and brain activity has been observed using MRI;

89 (16) Missouri law identifies the presence of circulation, respiration, and brain
90 function as indicia of life under section 194.005, as the presence of circulation, respiration,
91 and brain function indicates that such person is not legally dead, but is legally alive[;].

92 [(17) Unborn children at eight weeks gestational age show spontaneous movements,
93 such as a twitching of the trunk and developing limbs. It has been reported that unborn
94 children at this stage show reflex responses to touch. The perioral area is the first part of the
95 unborn child's body to respond to touch at about eight weeks gestational age and by fourteen
96 weeks gestational age most of the unborn child's body is responsive to touch;

97 (18) Peripheral cutaneous sensory receptors, the receptors that feel pain, develop
98 early in the unborn child. They appear in the perioral cutaneous area at around seven to eight
99 weeks gestational age, in the palmar regions at ten to ten and a half weeks gestational age, the
100 abdominal wall at fifteen weeks gestational age, and over all of the unborn child's body at
101 sixteen weeks gestational age;

102 (19) Substance P, a peptide that functions as a neurotransmitter, especially in the
103 transmission of pain, is present in the dorsal horn of the spinal cord of the unborn child at

104 ~~eight to ten weeks gestational age. Enkephalins, peptides that play a role in~~
105 ~~neurotransmission and pain modulation, are present in the dorsal horn at twelve to~~
106 ~~fourteen weeks gestational age;~~

107 ~~(20) When intrauterine needling is performed on an unborn child at sixteen weeks~~
108 ~~gestational age or later, the reaction to this invasive stimulus is blood flow redistribution to~~
109 ~~the brain. Increased blood flow to the brain is the same type of stress response seen in a born~~
110 ~~child and an adult;~~

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

113 ~~(22) Physicians provide anesthesia during in utero treatment of unborn children as~~
114 ~~early as sixteen weeks gestational age for certain procedures, including those to correct fetal~~
115 ~~urinary tract obstruction. Anesthesia is administered by ultrasound-guided injection into the~~
116 ~~arm or leg of the unborn child;~~

117 ~~(23) A leading textbook on prenatal development of the human brain states, "It may~~
118 ~~be concluded that, although nocipereception (the actual perception of pain) awaits the~~
119 ~~appearance of consciousness, nocieception (the experience of pain) is present some time before~~
120 ~~birth. In the absence of disproof, it is merely prudent to assume that pain can be experienced~~
121 ~~even early in prenatal life (Dr. J. Wisser, Zürich): the fetus should be given the benefit of the~~
122 ~~doubt". Ronan O'Rahilly & Fabiola Müller. The Embryonic Human Brain: An Atlas of~~
123 ~~Developmental Stages (3d ed. 2005);~~

124 ~~(24) By fourteen or fifteen weeks gestational age or later, the predominant abortion~~
125 ~~method in Missouri is dilation and evacuation (D&E). The D&E abortion method includes~~
126 ~~the dismemberment, disarticulation, and exsanguination of the unborn child, causing the~~
127 ~~unborn child's death;~~

128 ~~(25) The Supreme Court acknowledged in Gonzales v. Carhart, 550 U.S. 124, 160~~
129 ~~(2007), that "the standard D&E is in some respects as brutal, if not more, than the intact~~
130 ~~D&E" partial birth abortion method banned by Congress and upheld as facially constitutional~~
131 ~~by the Supreme Court, even though the federal ban was applicable both before and after~~
132 ~~viability and had no exception for the health of the mother;~~

133 ~~(26) Missouri's ban on the partial birth abortion method, section 565.300, is in effect~~
134 ~~because of Gonzales v. Carhart and the Supreme Court's subsequent decision in Nixon v.~~
135 ~~Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc., 550 U.S.~~
136 ~~901 (2007), to vacate and remand to the appellate court the prior invalidation of section~~
137 ~~565.300. Since section 565.300, like Congress' ban on partial birth abortion, is applicable~~
138 ~~both before and after viability, there is ample precedent for the general assembly to~~
139 ~~constitutionally prohibit the brutal D&E abortion method at fourteen weeks gestational age or~~
140 ~~later, even before the unborn child is viable, with a medical emergency exception;~~

141 ~~(27) In Roper v. Simmons, 543 U.S. 551 (2005), the Supreme Court determined that~~
142 ~~"evolving standards of decency" dictated that a Missouri statute allowing the death penalty~~
143 ~~for a conviction of murder in the first degree for a person under eighteen years of age when~~
144 ~~the crime was committed was unconstitutional under the Eighth and Fourteenth Amendments~~
145 ~~to the United States Constitution because it violated the prohibition against "cruel and unusual~~
146 ~~punishments";~~

147 ~~(28) In Bucklew v. Precythe, 139 S. Ct. 1112, 1123 (2019), the Supreme Court noted~~
148 ~~that "'[d]isgusting' practices" like disemboweling and quartering "readily qualified as 'cruel~~
149 ~~and unusual', as a reader at the time of the Eighth Amendment's adoption would have~~
150 ~~understood those words";~~

151 ~~(29) Evolving standards of decency dictate that Missouri should prohibit the brutal~~
152 ~~and painful D&E abortion method at fourteen weeks gestational age or later, with a medical~~
153 ~~emergency exception, because if a comparable method of killing was used on:~~

154 ~~(a) A person convicted of murder in the first degree, it would be cruel and unusual~~
155 ~~punishment; or~~

156 ~~(b) An animal, it would be unlawful under state law because it would not be a humane~~
157 ~~method, humane euthanasia, or humane killing of certain animals under chapters 273 and~~
158 ~~578;~~

159 ~~(30) In Roper, the Supreme Court also found that "[i]t is proper that we acknowledge~~
160 ~~the overwhelming weight of international opinion against the juvenile death penalty.... The~~
161 ~~opinion of the world community, while not controlling our outcome, does provide respected~~
162 ~~and significant confirmation for our own conclusions". Roper, 543 U.S. at 578. In its~~
163 ~~opinion, the Supreme Court was instructed by "international covenants prohibiting the~~
164 ~~juvenile death penalty", such as the International Covenant on Civil and Political Rights, 999~~
165 ~~U.N.T.S. 171. Id. at 577;~~

166 ~~(31) 2. The opinion of the world community, reflected in the laws of the United~~
167 ~~Nation's 193-member states and six other entities, is that in most countries, most abortions are~~
168 ~~prohibited after twelve weeks gestational age or later[;].~~

169 ~~[(32) The opinion of the world community is also shared by most Americans, who~~
170 ~~believe that most abortions in the second and third trimesters of pregnancy should be illegal,~~
171 ~~based on polling that has remained consistent since 1996;~~

172 ~~(33) Abortion procedures performed later in pregnancy have a higher medical risk for~~
173 ~~women. Compared to an abortion at eight weeks gestational age or earlier, the relative risk~~
174 ~~increases exponentially at later gestational ages. The relative risk of death for a pregnant~~
175 ~~woman who had an abortion performed or induced upon her at:~~

176 ~~(a) Eleven to twelve weeks gestational age is between three and four times higher~~
177 ~~than an abortion at eight weeks gestational age or earlier;~~

178 ~~(b) Thirteen to fifteen weeks gestational age is almost fifteen times higher than an~~
179 ~~abortion at eight weeks gestational age or earlier;~~

180 ~~(c) Sixteen to twenty weeks gestational age is almost thirty times higher than an~~
181 ~~abortion at eight weeks gestational age or earlier; and~~

182 ~~(d) Twenty-one weeks gestational age or later is more than seventy-five times higher~~
183 ~~than an abortion at eight weeks gestational age or earlier;~~

184 ~~(34) In addition to the short-term risks of an abortion, studies have found that the~~
185 ~~long-term physical and psychological consequences of abortion for women include, but are~~
186 ~~not limited to, an increased risk of preterm birth, low birthweight babies, and placenta previa~~
187 ~~in subsequent pregnancies, as well as serious behavioral health issues. These risks increase as~~
188 ~~abortions are performed or induced at later gestational ages. These consequences of an~~
189 ~~abortion have a detrimental effect not only on women, their children, and their families, but~~
190 ~~also on an already burdened health care system, taxpayers, and the workforce;~~

191 ~~(35) A large percentage of women who have an abortion performed or induced upon~~
192 ~~them in Missouri each year are at less than eight weeks gestational age, a large majority are at~~
193 ~~less than fourteen weeks gestational age, a larger majority are at less than eighteen weeks~~
194 ~~gestational age, and an even larger majority are at less than twenty weeks gestational age. A~~
195 ~~prohibition on performing or inducing an abortion at eight weeks gestational age or later, with~~
196 ~~a medical emergency exception, does not amount to a substantial obstacle to a large fraction~~
197 ~~of women for whom the prohibition is relevant, which is pregnant women in Missouri who~~
198 ~~are seeking an abortion while not experiencing a medical emergency. The burden that a~~
199 ~~prohibition on performing or inducing an abortion at eight, fourteen, eighteen, or twenty~~
200 ~~weeks gestational age or later, with a medical emergency exception, might impose on~~
201 ~~abortion access, is outweighed by the benefits conferred upon the following:~~

202 ~~(a) Women more advanced in pregnancy who are at greater risk of harm from~~
203 ~~abortion;~~

204 ~~(b) Unborn children at later stages of development;~~

205 ~~(c) The medical profession, by preserving its integrity and fulfilling its commitment~~
206 ~~to do no harm; and~~

207 ~~(d) Society, by fostering respect for human life, born and unborn, at all stages of~~
208 ~~development, and by lessening societal tolerance of violence against innocent human life;~~

209 ~~(36) In Webster, the Supreme Court noted, in upholding a Missouri statute, "that there~~
210 ~~may be a 4-week error in estimating gestational age". Webster, 492 U.S. at 516. Thus, an~~
211 ~~unborn child thought to be eight weeks gestational age might in fact be twelve weeks~~
212 ~~gestational age, when an abortion poses a greater risk to the woman and the unborn child is~~
213 ~~considerably more developed. An unborn child at fourteen weeks gestational age might be~~
214 ~~eighteen weeks gestational age and an unborn child at eighteen weeks gestational age might~~

215 ~~be twenty-two weeks gestational age, when an abortion poses a greater risk to the woman, the~~
216 ~~unborn child is considerably more developed, the abortion method likely to be employed is~~
217 ~~more brutal, and the risk of pain experienced by the unborn child is greater. An unborn child~~
218 ~~at twenty weeks gestational age might be twenty-four weeks gestational age, when an~~
219 ~~abortion poses a greater risk to the woman, the unborn child is considerably more developed,~~
220 ~~the abortion method likely to be employed is more brutal, the risk of pain experienced by the~~
221 ~~unborn child is greater, and the unborn child may be viable.~~

222 ~~3. The state of Missouri is bound by Article VI, Clause 2 of the Constitution of the~~
223 ~~United States that "all treaties made, or which shall be made, under the authority of the United~~
224 ~~States, shall be the supreme law of the land". One such treaty is the International Covenant~~
225 ~~on Civil and Political Rights, entered into force on March 23, 1976, and adopted by the~~
226 ~~United States on September 8, 1992. In ratifying the Covenant, the United States declared~~
227 ~~that while the provisions of Articles 1 through 27 of the Covenant are not self-executing, the~~
228 ~~United States' understanding is that state governments share responsibility with the federal~~
229 ~~government in implementing the Covenant.~~

230 ~~4. Article 6, Paragraph 1, U.N.T.S. at 174, of the International Covenant on Civil and~~
231 ~~Political Rights states, "Every human being has the inherent right to life. This right shall be~~
232 ~~protected by law. No one shall be arbitrarily deprived of his life". The state of Missouri takes~~
233 ~~seriously its obligation to comply with the Covenant and to implement this paragraph as it~~
234 ~~relates to the inherent right to life of unborn human beings, protecting the rights of unborn~~
235 ~~human beings by law, and ensuring that such unborn human beings are not arbitrarily~~
236 ~~deprived of life. The state of Missouri hereby implements Article 6, Paragraph 1 of the~~
237 ~~Covenant by the regulation of abortion in this state.~~

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

239 ~~(1) Protecting unborn children throughout pregnancy and preserving and promoting~~
240 ~~their lives from conception to birth;~~

241 ~~(2) Encouraging childbirth over abortion;~~

242 ~~(3) Ensuring respect for all human life from conception to natural death;~~

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

245 ~~(5) Preserving the integrity of the medical profession and regulating and restricting~~
246 ~~practices that might cause the medical profession or society as a whole to become insensitive,~~
247 ~~even disdainful, to life. This includes regulating and restricting abortion methods that are not~~
248 ~~only brutal and painful, but if allowed to continue, will further coarsen society to the~~
249 ~~humanity of not only unborn children, but all vulnerable and innocent human life, making it~~
250 ~~increasingly difficult to protect such life;~~

251 ~~(6) Ending the incongruities in state law by permitting some unborn children to be~~
252 ~~killed by abortion, while requiring that unborn children be protected in nonabortion~~
253 ~~circumstances through, including, but not limited to, homicide, assault, self defense, and~~
254 ~~defense of another statutes; laws guaranteeing prenatal health care, emergency care, and~~
255 ~~testing; state sponsored health insurance for unborn children; the prohibition of restraints in~~
256 ~~correctional institutions to protect pregnant offenders and their unborn children; and~~
257 ~~protecting the interests of unborn children by the appointment of conservators, guardians, and~~
258 ~~representatives;~~

259 ~~(7) Reducing the risks of harm to pregnant women who obtain abortions later in~~
260 ~~pregnancy; and~~

261 ~~(8) Avoiding burdens on the health care system, taxpayers, and the workforce because~~
262 ~~of increased preterm births, low birthweight babies, compromised pregnancies, extended~~
263 ~~postpartum recoveries, and behavioral health problems caused by the long term effects of~~
264 ~~abortions performed or induced later in the pregnancy.]~~

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

5 ~~(1-)]~~ the physician who is to perform or induce the abortion, a qualified professional,
6 or the referring physician has informed the woman orally, reduced to writing, and in person,
7 of the following:

8 ~~[(a)]~~ (1) The name of the physician who will perform or induce the abortion; **and**

9 ~~[(b)]~~ (2) Medically accurate information **prepared by the American College of**
10 **Obstetricians and Gynecologists** that a reasonable patient would consider material to the
11 decision of whether or not to undergo the abortion~~], including:~~

12 ~~a. A description of the proposed abortion method;~~

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

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

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

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

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

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

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

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

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

51 (4) ~~The physician who is to perform or induce the abortion or a qualified professional~~
52 ~~shall provide the woman with the opportunity to view at least seventy-two hours prior to the~~
53 ~~abortion an active ultrasound of the unborn child and hear the heartbeat of the unborn child if~~
54 ~~the heartbeat is audible. The woman shall be provided with a geographically indexed list~~
55 ~~maintained by the department of health care providers, facilities, and clinics that perform~~
56 ~~ultrasounds, including those that offer ultrasound services free of charge. Such materials~~
57 ~~shall provide contact information for each provider, facility, or clinic including telephone~~
58 ~~numbers and, if available, website addresses. Should the woman decide to obtain an~~

59 ultrasound from a provider, facility, or clinic other than the abortion facility, the woman shall
60 be offered a reasonable time to obtain the ultrasound examination before the date and time set
61 for performing or inducing an abortion. The person conducting the ultrasound shall ensure
62 that the active ultrasound image is of a quality consistent with standard medical practice in the
63 community, contains the dimensions of the unborn child, and accurately portrays the presence
64 of external members and internal organs, if present or viewable, of the unborn child. The
65 auscultation of fetal heart tone must also be of a quality consistent with standard medical
66 practice in the community. If the woman chooses to view the ultrasound or hear the heartbeat
67 or both at the abortion facility, the viewing or hearing or both shall be provided to her at the
68 abortion facility at least seventy-two hours prior to the abortion being performed or induced;

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

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

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

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

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

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

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

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

92 (a) Identify on a geographical basis public and private agencies available to assist a
93 woman in carrying her unborn child to term, and to assist her in caring for her dependent child
94 or placing her child for adoption, including agencies commonly known and generally referred
95 to as pregnancy resource centers, crisis pregnancy centers, maternity homes, and adoption

96 agencies. ~~Such materials shall provide a comprehensive list by geographical area of the~~
97 ~~agencies, a description of the services they offer, and the telephone numbers and addresses of~~
98 ~~the agencies; provided that such materials shall not include any programs, services,~~
99 ~~organizations, or affiliates of organizations that perform or induce, or assist in the performing~~
100 ~~or inducing of, abortions or that refer for abortions;~~

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

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

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

119 ~~(7) The physician who is to perform or induce the abortion or a qualified professional~~
120 ~~has presented the woman, in person, printed materials provided by the department explaining~~
121 ~~that the father of the unborn child is liable to assist in the support of the child, even in~~
122 ~~instances where he has offered to pay for the abortion. Such materials shall include~~
123 ~~information on the legal duties and support obligations of the father of a child, including, but~~
124 ~~not limited to, child support payments, and the fact that paternity may be established by the~~
125 ~~father's name on a birth certificate or statement of paternity, or by court action. Such printed~~
126 ~~materials shall also state that more information concerning paternity establishment and child~~
127 ~~support services and enforcement may be obtained by calling the family support division~~
128 ~~within the Missouri department of social services; and~~

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

133 ~~2.—All information required to be provided to a woman considering abortion by~~
134 ~~subsection 1 of this section shall be presented to the woman individually, in the physical~~
135 ~~presence of the woman and in a private room, to protect her privacy, to maintain the~~
136 ~~confidentiality of her decision, to ensure that the information focuses on her individual~~
137 ~~circumstances, to ensure she has an adequate opportunity to ask questions, and to ensure that~~
138 ~~she is not a victim of coerced abortion. Should a woman be unable to read materials provided~~
139 ~~to her, they shall be read to her. Should a woman need an interpreter to understand the~~
140 ~~information presented in the written materials, an interpreter shall be provided to her. Should~~
141 ~~a woman ask questions concerning any of the information or materials, answers shall be~~
142 ~~provided in a language she can understand.~~

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

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

- 156 ~~(1) Rape crisis centers, as defined in section 455.003;~~
157 ~~(2) Shelters for victims of domestic violence, as defined in section 455.200; and~~
158 ~~(3) Orders of protection, pursuant to chapter 455.~~

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

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

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

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

171 ~~7. In the event of a medical emergency, the physician who performed or induced the~~
172 ~~abortion shall clearly certify in writing the nature and circumstances of the medical~~
173 ~~emergency. This certification shall be signed by the physician who performed or induced the~~
174 ~~abortion, and shall be maintained under section 188.060.~~

175 ~~8. No person or entity shall require, obtain, or accept payment for an abortion from or~~
176 ~~on behalf of a patient until at least seventy-two hours have passed since the time that the~~
177 ~~information required by subsection 1 of this section has been provided to the patient. Nothing~~
178 ~~in this subsection shall prohibit a person or entity from notifying the patient that payment for~~
179 ~~the abortion will be required after the seventy-two-hour period has expired if she voluntarily~~
180 ~~chooses to have the abortion.~~

181 ~~9. The term "qualified professional" as used in this section shall refer to a physician,~~
182 ~~physician assistant, registered nurse, licensed practical nurse, psychologist, licensed~~
183 ~~professional counselor, or licensed social worker, licensed or registered under chapter 334,~~
184 ~~335, or 337, acting under the supervision of the physician performing or inducing the~~
185 ~~abortion, and acting within the course and scope of his or her authority provided by law. The~~
186 ~~provisions of this section shall not be construed to in any way expand the authority otherwise~~
187 ~~provided by law relating to the licensure, registration, or scope of practice of any such~~
188 ~~qualified professional.~~

189 ~~10. By November 30, 2010, the department shall produce the written materials and~~
190 ~~forms described in this section. Any written materials produced shall be printed in a typeface~~
191 ~~large enough to be clearly legible. All information shall be presented in an objective,~~
192 ~~unbiased manner designed to convey only accurate scientific and medical information. The~~
193 ~~department shall furnish the written materials and forms at no cost and in sufficient quantity~~
194 ~~to any person who performs or induces abortions, or to any hospital or facility that provides~~
195 ~~abortions. The department shall make all information required by subsection 1 of this section~~
196 ~~available to the public through its department website. The department shall maintain a toll-~~
197 ~~free, twenty-four-hour hotline telephone number where a caller can obtain information on a~~
198 ~~regional basis concerning the agencies and services described in subsection 1 of this section.~~
199 ~~No identifying information regarding persons who use the website shall be collected or~~
200 ~~maintained. The department shall monitor the website on a regular basis to prevent tampering~~
201 ~~and correct any operational deficiencies.~~

202 ~~11. In order to preserve the compelling interest of the state to ensure that the choice to~~
203 ~~consent to an abortion is voluntary and informed, and given freely and without coercion, the~~
204 ~~department shall use the procedures for adoption of emergency rules under section 536.025 in~~

205 order to promulgate all necessary rules, forms, and other necessary material to implement this
206 section by November 30, 2010.

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

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

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

11 (1) Prior to performing or inducing an abortion upon a woman, the physician shall
12 determine the gestational age of the unborn child in a manner consistent with accepted
13 obstetrical and neonatal practices and standards. In making such determination, the physician
14 shall make such inquiries of the pregnant woman and perform or cause to be performed such
15 medical examinations, imaging studies, and tests as a reasonably prudent physician,
16 knowledgeable about the medical facts and conditions of both the woman and the unborn
17 child involved, would consider necessary to perform and consider in making an accurate
18 diagnosis with respect to gestational age;

19 (2) If the physician determines that the gestational age of the unborn child is twenty
20 weeks or more, prior to performing or inducing an abortion upon the woman, the physician
21 shall determine if the unborn child is viable by using and exercising that degree of care, skill,
22 and proficiency commonly exercised by a skillful, careful, and prudent physician. In making
23 this determination of viability, the physician shall perform or cause to be performed such
24 medical examinations and tests as are necessary to make a finding of the gestational age,
25 weight, and lung maturity of the unborn child and shall enter such findings and determination
26 of viability in the medical record of the woman[;]

27 ~~(3) If the physician determines that the gestational age of the unborn child is twenty~~
28 ~~weeks or more, and further determines that the unborn child is not viable and performs or~~
29 ~~induces an abortion upon the woman, the physician shall report such findings and~~

30 determinations and the reasons for such determinations to the health care facility in which the
31 abortion is performed and to the state board of registration for the healing arts, and shall enter
32 such findings and determinations in the medical records of the woman and in the individual
33 abortion report submitted to the department under section 188.052;

34 ~~(4) (a) If the physician determines that the unborn child is viable, the physician shall~~
35 ~~not perform or induce an abortion upon the woman unless the abortion is necessary to~~
36 ~~preserve the life of the pregnant woman or that a continuation of the pregnancy will create a~~
37 ~~serious risk of substantial and irreversible physical impairment of a major bodily function of~~
38 ~~the woman.~~

39 ~~(b) Before a physician may proceed with performing or inducing an abortion upon a~~
40 ~~woman when it has been determined that the unborn child is viable, the physician shall first~~
41 ~~certify in writing the medical threat posed to the life of the pregnant woman, or the medical~~
42 ~~reasons that continuation of the pregnancy would cause a serious risk of substantial and~~
43 ~~irreversible physical impairment of a major bodily function of the pregnant woman. Upon~~
44 ~~completion of the abortion, the physician shall report the reasons and determinations for the~~
45 ~~abortion of a viable unborn child to the health care facility in which the abortion is performed~~
46 ~~and to the state board of registration for the healing arts, and shall enter such findings and~~
47 ~~determinations in the medical record of the woman and in the individual abortion report~~
48 ~~submitted to the department under section 188.052.~~

49 ~~(c) Before a physician may proceed with performing or inducing an abortion upon a~~
50 ~~woman when it has been determined that the unborn child is viable, the physician who is to~~
51 ~~perform the abortion shall obtain the agreement of a second physician with knowledge of~~
52 ~~accepted obstetrical and neonatal practices and standards who shall concur that the abortion is~~
53 ~~necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy~~
54 ~~would cause a serious risk of substantial and irreversible physical impairment of a major~~
55 ~~bodily function of the pregnant woman. This second physician shall also report such reasons~~
56 ~~and determinations to the health care facility in which the abortion is to be performed and to~~
57 ~~the state board of registration for the healing arts, and shall enter such findings and~~
58 ~~determinations in the medical record of the woman and the individual abortion report~~
59 ~~submitted to the department under section 188.052. The second physician shall not have any~~
60 ~~legal or financial affiliation or relationship with the physician performing or inducing the~~
61 ~~abortion, except that such prohibition shall not apply to physicians whose legal or financial~~
62 ~~affiliation or relationship is a result of being employed by or having staff privileges at the~~
63 ~~same hospital as the term "hospital" is defined in section 197.020.~~

64 ~~(d) Any physician who performs or induces an abortion upon a woman when it has~~
65 ~~been determined that the unborn child is viable shall utilize the available method or technique~~
66 ~~of abortion most likely to preserve the life or health of the unborn child. In cases where the~~

~~67 method or technique of abortion most likely to preserve the life or health of the unborn child
68 would present a greater risk to the life or health of the woman than another legally permitted
69 and available method or technique, the physician may utilize such other method or technique.
70 In all cases where the physician performs an abortion upon a viable unborn child, the
71 physician shall certify in writing the available method or techniques considered and the
72 reasons for choosing the method or technique employed.~~

~~73 (e) No physician shall perform or induce an abortion upon a woman when it has been
74 determined that the unborn child is viable unless there is in attendance a physician other than
75 the physician performing or inducing the abortion who shall take control of and provide
76 immediate medical care for a child born as a result of the abortion. During the performance
77 of the abortion, the physician performing it, and subsequent to the abortion, the physician
78 required to be in attendance, shall take all reasonable steps in keeping with good medical
79 practice, consistent with the procedure used, to preserve the life or health of the viable unborn
80 child; provided that it does not pose an increased risk to the life of the woman or does not
81 pose an increased risk of substantial and irreversible physical impairment of a major bodily
82 function of the woman.~~

~~83 3. Any person who knowingly performs or induces an abortion of an unborn child in
84 violation of the provisions of this section is guilty of a class D felony, and, upon a finding of
85 guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and,
86 notwithstanding the provisions of section 558.002, shall be fined not less than ten thousand
87 nor more than fifty thousand dollars.~~

~~88 4. Any physician who pleads guilty to or is found guilty of performing or inducing an
89 abortion of an unborn child in violation of this section shall be subject to suspension or
90 revocation of his or her license to practice medicine in the state of Missouri by the state board
91 of registration for the healing arts under the provisions of sections 334.100 and 334.103.~~

~~92 5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of
93 an unborn child to be performed or induced in violation of this section may be subject to
94 suspension or revocation of its license under the provisions of section 197.070.~~

~~95 6. Any abortion facility licensed in the state of Missouri that knowingly allows an
96 abortion of an unborn child to be performed or induced in violation of this section may be
97 subject to suspension or revocation of its license under the provisions of section 197.220.~~

~~98 7. A woman upon whom an abortion is performed or induced in violation of this
99 section shall not be prosecuted for a conspiracy to violate the provisions of this section.~~

~~100 8. Nothing in this section shall be construed as creating or recognizing a right to
101 abortion, nor is it the intention of this section to make lawful any abortion that is currently
102 unlawful.~~

103 ~~9. It is the intent of the legislature that this section be severable as noted in section~~
104 ~~1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of~~
105 ~~this section be declared invalid under the Constitution of the United States or the Constitution~~
106 ~~of the State of Missouri, it is the intent of the legislature that the remaining provisions of this~~
107 ~~section remain in force and effect as far as capable of being carried into execution as intended~~
108 ~~by the legislature.~~

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

188.035. Whoever, with intent to do so, shall take the life of a child aborted alive,
2 shall be guilty of [~~murder of the second degree~~] **infanticide under section 565.300.**

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

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

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

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

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

19 6. If any provision in this section or the application thereof to any person,
20 circumstance or period of gestation is held invalid, such invalidity shall not affect the
21 provisions or applications which can be given effect without the invalid provision or
22 application, and to this end the provisions of this section are declared severable.

23 **7. Any person who violates the provisions of this section is guilty of a class B**
24 **felony.**

188.037. 1. No person shall use any fetus or child aborted alive for any type of
2 scientific, research, laboratory or other kind of experimentation either prior to or subsequent

3 to any abortion procedure except as necessary to protect or preserve the life and health of such
4 fetus or child aborted alive.

5 **2. Any person who violates this section is guilty of a class B felony.**

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

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

5 (2) Ending any current bias or discrimination against pregnant women, their partners,
6 and their family members, including their unborn children, is a legitimate purpose of
7 government in order to guarantee that those who "are endowed by their Creator with certain
8 unalienable Rights" can enjoy "Life, Liberty and the pursuit of Happiness";

9 (3) The historical relationship of bias or discrimination by some family planning
10 programs and policies towards poor and minority populations, including, but not limited to,
11 the nonconsensual sterilization of mentally ill, poor, minority, and immigrant women and
12 other coercive family planning programs and policies, must be rejected;

13 (4) ~~[Among Missouri residents, the rate of black or African American women who
14 undergo abortions is significantly higher, about three and one-half times higher, than the rate
15 of white women who undergo abortions. Among Missouri residents, the rate of black or
16 African American women who undergo repeat abortions is significantly higher, about one
17 and one-half times higher, than the rate of white women who undergo repeat abortions;~~

18 ~~(5)~~ Performing or inducing an abortion because of the sex of the unborn child is
19 repugnant to the values of equality of females and males and the same opportunities for girls
20 and boys, and furthers a false mindset of female inferiority;

21 ~~[(6)]~~ (5) Government has a legitimate interest in preventing the abortion of unborn
22 children with Down Syndrome because it is a form of bias or disability discrimination and
23 victimizes the disabled unborn child at his or her most vulnerable stage. Eliminating unborn
24 children with Down Syndrome raises grave concerns for the lives of those who do live with
25 disabilities. It sends a message of dwindling support for their unique challenges, fosters a
26 false sense that disability is something that could have been avoidable, and is likely to
27 increase the stigma associated with disability.

28 2. No person shall perform or induce an abortion on a woman if the person knows that
29 the woman is seeking the abortion solely because of a prenatal diagnosis, test, or screening
30 indicating Down Syndrome or the potential of Down Syndrome in an unborn child.

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

33 ~~[4. Any physician or other person who performs or induces or attempts to perform or~~
34 ~~induce an abortion prohibited by this section shall be subject to all applicable civil penalties~~
35 ~~under this chapter including, but not limited to, sections 188.065 and 188.085.]~~

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

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

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

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

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

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

610.140. 1. Notwithstanding any other provision of law and subject to the provisions
2 of this section, any person may apply to any court in which such person was charged or found
3 guilty of any offenses, violations, or infractions for an order to expunge records of such arrest,
4 plea, trial, or conviction. Subject to the limitations of subsection 12 of this section, a person
5 may apply to have one or more offenses, violations, or infractions expunged if such offense,
6 violation, or infraction occurred within the state of Missouri and was prosecuted under the
7 jurisdiction of a Missouri municipal, associate circuit, or circuit court, so long as such person
8 lists all the offenses, violations, and infractions he or she is seeking to have expunged in the

9 petition and so long as all such offenses, violations, and infractions are not excluded under
10 subsection 2 of this section. If the offenses, violations, or infractions were charged as counts
11 in the same indictment or information or were committed as part of the same course of
12 criminal conduct, the person may include all the related offenses, violations, and infractions
13 in the petition, regardless of the limits of subsection 12 of this section, and the petition shall
14 only count as a petition for expungement of the highest level violation or offense contained in
15 the petition for the purpose of determining future eligibility for expungement.

16 2. The following offenses, violations, and infractions shall not be eligible for
17 expungement under this section:

18 (1) Any class A felony offense;

19 (2) Any dangerous felony as that term is defined in section 556.061;

20 (3) Any offense that requires registration as a sex offender;

21 (4) Any felony offense where death is an element of the offense;

22 (5) Any felony offense of assault; misdemeanor or felony offense of domestic assault;
23 or felony offense of kidnapping;

24 (6) Any offense listed, or previously listed, in chapter 566 or section 105.454,
25 105.478, 115.631, 130.028, 188.030, ~~188.080,~~ **188.036, 188.037**, 191.677, 194.425,
26 217.360, 217.385, 334.245, 375.991, 389.653, 455.085, 455.538, 557.035, 565.084,
27 565.085, 565.086, 565.095, 565.120, 565.130, 565.156, 565.200, 565.214, 566.093,
28 566.111, 566.115, 568.020, 568.030, 568.032, 568.045, 568.060, 568.065, 568.080,
29 568.090, 568.175, 569.030, 569.035, 569.040, 569.050, 569.055, 569.060, 569.065,
30 569.067, 569.072, 569.160, 570.025, 570.090, 570.180, 570.223, 570.224, 570.310,
31 571.020, 571.060, 571.063, 571.070, 571.072, 571.150, 574.070, 574.105, 574.115,
32 574.120, 574.130, 575.040, 575.095, 575.153, 575.155, 575.157, 575.159, 575.195,
33 575.200, 575.210, 575.220, 575.230, 575.240, 575.350, 575.353, 577.078, 577.703,
34 577.706, 578.008, 578.305, 578.310, or 632.520;

35 (7) Any offense eligible for expungement under section 577.054 or 610.130;

36 (8) Any intoxication-related traffic or boating offense as defined in section 577.001,
37 or any offense of operating an aircraft with an excessive blood alcohol content or while in an
38 intoxicated condition;

39 (9) Any ordinance violation that is the substantial equivalent of any offense that is not
40 eligible for expungement under this section;

41 (10) Any violation of any state law or county or municipal ordinance regulating the
42 operation of motor vehicles when committed by an individual who has been issued a
43 commercial driver's license or is required to possess a commercial driver's license issued by
44 this state or any other state; and

45 (11) Any offense of section 571.030, except any offense under subdivision (1) of
46 subsection 1 of section 571.030 where the person was convicted or found guilty prior to
47 January 1, 2017, or any offense under subdivision (4) of subsection 1 of section 571.030.

48 3. The petition shall name as defendants all law enforcement agencies, courts,
49 prosecuting or circuit attorneys, municipal prosecuting attorneys, central state repositories of
50 criminal records, or others who the petitioner has reason to believe may possess the records
51 subject to expungement for each of the offenses, violations, and infractions listed in the
52 petition. The court's order of expungement shall not affect any person or entity not named as
53 a defendant in the action.

54 4. The petition shall include the following information:

55 (1) The petitioner's:

56 (a) Full name;

57 (b) Sex;

58 (c) Race;

59 (d) Driver's license number, if applicable; and

60 (e) Current address;

61 (2) Each offense, violation, or infraction for which the petitioner is requesting
62 expungement;

63 (3) The approximate date the petitioner was charged for each offense, violation, or
64 infraction; and

65 (4) The name of the county where the petitioner was charged for each offense,
66 violation, or infraction and if any of the offenses, violations, or infractions occurred in a
67 municipality, the name of the municipality for each offense, violation, or infraction; and

68 (5) The case number and name of the court for each offense.

69 5. The clerk of the court shall give notice of the filing of the petition to the office of
70 the prosecuting attorney, circuit attorney, or municipal prosecuting attorney that prosecuted
71 the offenses, violations, or infractions listed in the petition. If the prosecuting attorney, circuit
72 attorney, or municipal prosecuting attorney objects to the petition for expungement, he or she
73 shall do so in writing within thirty days after receipt of service. Unless otherwise agreed upon
74 by the parties, the court shall hold a hearing within sixty days after any written objection is
75 filed, giving reasonable notice of the hearing to the petitioner. If no objection has been filed
76 within thirty days after receipt of service, the court may set a hearing on the matter and shall
77 give reasonable notice of the hearing to each entity named in the petition. At any hearing, the
78 court may accept evidence and hear testimony on, and may consider, the following criteria for
79 each of the offenses, violations, or infractions listed in the petition for expungement:

80 (1) At the time the petition is filed, it has been at least three years if the offense is a
81 felony, or at least one year if the offense is a misdemeanor, municipal offense, or infraction,

82 from the date the petitioner completed any authorized disposition imposed under section
83 557.011 for each offense, violation, or infraction listed in the petition;

84 (2) At the time the petition is filed, the person has not been found guilty of any other
85 misdemeanor or felony, not including violations of the traffic regulations provided under
86 chapters 301, 302, 303, 304, and 307, during the time period specified for the underlying
87 offense, violation, or infraction in subdivision (1) of this subsection;

88 (3) The person has satisfied all obligations relating to any such disposition, including
89 the payment of any fines or restitution;

90 (4) The person does not have charges pending;

91 (5) The petitioner's habits and conduct demonstrate that the petitioner is not a threat
92 to the public safety of the state; and

93 (6) The expungement is consistent with the public welfare and the interests of justice
94 warrant the expungement.

95

96 A pleading by the petitioner that such petitioner meets the requirements of subdivisions (5)
97 and (6) of this subsection shall create a rebuttable presumption that the expungement is
98 warranted so long as the criteria contained in subdivisions (1) to (4) of this subsection are
99 otherwise satisfied. The burden shall shift to the prosecuting attorney, circuit attorney, or
100 municipal prosecuting attorney to rebut the presumption. A victim of an offense, violation, or
101 infraction listed in the petition shall have an opportunity to be heard at any hearing held under
102 this section, and the court may make a determination based solely on such victim's testimony.

103 6. A petition to expunge records related to an arrest for an eligible offense, violation,
104 or infraction may be made in accordance with the provisions of this section to a court of
105 competent jurisdiction in the county where the petitioner was arrested no earlier than three
106 years from the date of arrest; provided that, during such time, the petitioner has not been
107 charged and the petitioner has not been found guilty of any misdemeanor or felony offense.

108 7. If the court determines that such person meets all the criteria set forth in subsection
109 5 of this section for each of the offenses, violations, or infractions listed in the petition for
110 expungement, the court shall enter an order of expungement. In all cases under this section,
111 the court shall issue an order of expungement or dismissal within six months of the filing of
112 the petition. A copy of the order of expungement shall be provided to the petitioner and each
113 entity possessing records subject to the order, and, upon receipt of the order, each entity shall
114 close any record in its possession relating to any offense, violation, or infraction listed in the
115 petition, in the manner established by section 610.120. The records and files maintained in
116 any administrative or court proceeding in a municipal, associate, or circuit court for any
117 offense, infraction, or violation ordered expunged under this section shall be confidential and
118 only available to the parties or by order of the court for good cause shown. The central

119 repository shall request the Federal Bureau of Investigation to expunge the records from its
120 files.

121 8. The order shall not limit any of the petitioner's rights that were restricted as a
122 collateral consequence of such person's criminal record, and such rights shall be restored
123 upon issuance of the order of expungement. For purposes of 18 U.S.C. Section 921(a)(33)(B)
124 (ii), an order or expungement granted pursuant to this section shall be considered a complete
125 removal of all effects of the expunged conviction. Except as otherwise provided under this
126 section, the effect of such order shall be to restore such person to the status he or she occupied
127 prior to such arrests, pleas, trials, or convictions as if such events had never taken place. No
128 person as to whom such order has been entered shall be held thereafter under any provision of
129 law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure
130 to recite or acknowledge such arrests, pleas, trials, convictions, or expungement in response
131 to an inquiry made of him or her and no such inquiry shall be made for information relating to
132 an expungement, except the petitioner shall disclose the expunged offense, violation, or
133 infraction to any court when asked or upon being charged with any subsequent offense,
134 violation, or infraction. The expunged offense, violation, or infraction may be considered a
135 prior offense in determining a sentence to be imposed for any subsequent offense that the
136 person is found guilty of committing.

137 9. Notwithstanding the provisions of subsection 8 of this section to the contrary, a
138 person granted an expungement shall disclose any expunged offense, violation, or infraction
139 when the disclosure of such information is necessary to complete any application for:

140 (1) A license, certificate, or permit issued by this state to practice such individual's
141 profession;

142 (2) Any license issued under chapter 313 or permit issued under chapter 571;

143 (3) Paid or unpaid employment with an entity licensed under chapter 313, any state-
144 operated lottery, or any emergency services provider, including any law enforcement agency;

145 (4) Employment with any federally insured bank or savings institution or credit union
146 or an affiliate of such institution or credit union for the purposes of compliance with 12
147 U.S.C. Section 1829 and 12 U.S.C. Section 1785;

148 (5) Employment with any entity engaged in the business of insurance or any insurer
149 for the purpose of complying with 18 U.S.C. Section 1033, 18 U.S.C. Section 1034, or other
150 similar law which requires an employer engaged in the business of insurance to exclude
151 applicants with certain criminal convictions from employment; or

152 (6) Employment with any employer that is required to exclude applicants with certain
153 criminal convictions from employment due to federal or state law, including corresponding
154 rules and regulations.

155

156 An employer shall notify an applicant of the requirements under subdivisions (4) to (6) of this
157 subsection. Notwithstanding any provision of law to the contrary, an expunged offense,
158 violation, or infraction shall not be grounds for automatic disqualification of an applicant, but
159 may be a factor for denying employment, or a professional license, certificate, or permit;
160 except that, an offense, violation, or infraction expunged under the provisions of this section
161 may be grounds for automatic disqualification if the application is for employment under
162 subdivisions (4) to (6) of this subsection.

163 10. A person who has been granted an expungement of records pertaining to a
164 misdemeanor or felony offense, an ordinance violation, or an infraction may answer "no" to
165 an employer's inquiry into whether the person has ever been convicted of a crime if, after the
166 granting of the expungement, the person has no public record of a misdemeanor or felony
167 offense, an ordinance violation, or an infraction. The person, however, shall answer such an
168 inquiry affirmatively and disclose his or her criminal convictions, including any offense or
169 violation expunged under this section or similar law, if the employer is required to exclude
170 applicants with certain criminal convictions from employment due to federal or state law,
171 including corresponding rules and regulations.

172 11. If the court determines that the petitioner has not met the criteria for any of the
173 offenses, violations, or infractions listed in the petition for expungement or the petitioner has
174 knowingly provided false information in the petition, the court shall enter an order dismissing
175 the petition. Any person whose petition for expungement has been dismissed by the court for
176 failure to meet the criteria set forth in subsection 5 of this section may not refile another
177 petition until a year has passed since the date of filing for the previous petition.

178 12. A person may be granted more than one expungement under this section provided
179 that during his or her lifetime, the total number of offenses, violations, or infractions for
180 which orders of expungement are granted to the person shall not exceed the following limits:

181 (1) Not more than two misdemeanor offenses or ordinance violations that have an
182 authorized term of imprisonment; and

183 (2) Not more than one felony offense.

184

185 A person may be granted expungement under this section for any number of infractions.
186 Nothing in this section shall prevent the court from maintaining records to ensure that an
187 individual has not exceeded the limitations of this subsection. Nothing in this section shall be
188 construed to limit or impair in any way the subsequent use of any record expunged under this
189 section of any arrests or findings of guilt by a law enforcement agency, criminal justice
190 agency, prosecuting attorney, circuit attorney, or municipal prosecuting attorney, including its
191 use as a prior offense, violation, or infraction.

192 13. The court shall make available a form for pro se petitioners seeking expungement,
 193 which shall include the following statement: "I declare under penalty of perjury that the
 194 statements made herein are true and correct to the best of my knowledge, information, and
 195 belief."

196 14. Nothing in this section shall be construed to limit or restrict the availability of
 197 expungement to any person under any other law.

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

- ~~(1) Defend the right to life of all humans, born and unborn;~~
- ~~(2) Declare that the state and all of its political subdivisions are a "sanctuary of life" that protects pregnant women and their unborn children;~~
- ~~and~~
- ~~(3) Regulate abortion to the full extent permitted by the Constitution of the United States, decisions of the United States Supreme Court, and federal statutes.]~~

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

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

~~3. It shall be an affirmative defense for any person alleged to have violated the provisions of subsection 2 of this section that the person performed or induced an abortion because of a medical emergency. The defendant shall have the burden of persuasion that the defense is more probably true than not.~~

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

- ~~(1) The United States Supreme Court has overruled, in whole or in part, Roe v. Wade, 410 U.S. 113 (1973), restoring or granting to the state of Missouri the authority to regulate abortion to the extent set forth in this section, and that as a result, it is reasonably probable that this section would be upheld by the court as constitutional;~~
- ~~(2) An amendment to the Constitution of the United States has been adopted that has the effect of restoring or granting to the state of Missouri the authority to regulate abortion to the extent set forth in this section; or~~

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

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

2 [188.021. 1. When RU-486 (mifepristone) or any drug or chemical is
3 used for the purpose of inducing an abortion, the initial dose of the drug or
4 chemical shall be administered in the same room and in the physical presence
5 of the physician who prescribed, dispensed, or otherwise provided the drug or
6 chemical to the patient. The physician inducing the abortion, or a person
7 acting on such physician's behalf, shall make all reasonable efforts to ensure
8 that the patient returns after the administration or use of RU-486 or any drug or
9 chemical for a follow-up visit unless such termination of the pregnancy has
10 already been confirmed and the patient's medical condition has been assessed
11 by a licensed physician prior to discharge.

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

25 3. The department may adopt rules, regulations, and standards
26 governing complication plans to ensure that patients undergoing abortions
27 induced by drugs or chemicals have access to safe and reliable care. Any rule
28 or portion of a rule, as that term is defined in section 536.010, that is created
29 under the authority delegated in this section shall become effective only if it
30 complies with and is subject to all of the provisions of chapter 536 and, if

31 applicable, section 536.028. This section and chapter 536 are nonseverable
32 and if any of the powers vested with the general assembly pursuant to chapter
33 536 to review, to delay the effective date, or to disapprove and annul a rule are
34 subsequently held unconstitutional, then the grant of rulemaking authority and
35 any rule proposed or adopted after October 24, 2017, shall be invalid and
36 void.]

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

5 ~~(1) The attending physician has secured the informed written consent~~
6 ~~of the minor and one parent or guardian, and the consenting parent or guardian~~
7 ~~of the minor has notified any other custodial parent in writing prior to the~~
8 ~~securing of the informed written consent of the minor and one parent or~~
9 ~~guardian. For purposes of this subdivision, "custodial parent" shall only mean~~
10 ~~a parent of a minor who has been awarded joint legal custody or joint physical~~
11 ~~custody of such minor by a court of competent jurisdiction. Notice shall not~~
12 ~~be required for any parent:~~

13 ~~(a) Who has been found guilty of any offense in violation of chapter~~
14 ~~565, relating to offenses against the person; chapter 566, relating to sexual~~
15 ~~offenses; chapter 567, relating to prostitution; chapter 568, relating to offenses~~
16 ~~against the family; or chapter 573, related to pornography and related offenses,~~
17 ~~if a child was a victim;~~

18 ~~(b) Who has been found guilty of any offense in any other state or~~
19 ~~foreign country, or under federal, tribal, or military jurisdiction if a child was a~~
20 ~~victim, which would be a violation of chapters 565, 566, 567, 568, or 573 if~~
21 ~~committed in this state;~~

22 ~~(c) Who is listed on the sexual offender registry under sections~~
23 ~~589.400 to 589.425;~~

24 ~~(d) Against whom an order of protection has been issued, including a~~
25 ~~foreign order of protection given full faith and credit in this state under section~~
26 ~~455.067;~~

27 ~~(e) Whose custodial, parental, or guardianship rights have been~~
28 ~~terminated by a court of competent jurisdiction; or~~

29 ~~(f) Whose whereabouts are unknown after reasonable inquiry, who is a~~
30 ~~fugitive from justice, who is habitually in an intoxicated or drugged condition,~~
31 ~~or who has been declared mentally incompetent or incapacitated by a court of~~
32 ~~competent jurisdiction;~~

33 ~~(2) The minor is emancipated and the attending physician has received~~
34 ~~the informed written consent of the minor;~~

35 ~~(3) The minor has been granted the right to self consent to the abortion~~
36 ~~by court order pursuant to subsection 2 of this section, and the attending~~
37 ~~physician has received the informed written consent of the minor; or~~

38 ~~(4) The minor has been granted consent to the abortion by court order,~~
39 ~~and the court has given its informed written consent in accordance with~~
40 ~~subsection 2 of this section, and the minor is having the abortion willingly, in~~
~~compliance with subsection 3 of this section.~~

41 2. The right of a minor to self-consent to an abortion under subdivision
42 ~~(3) of subsection 1 of this section or court consent under subdivision (4) of~~
43 ~~subsection 1 of this section may be granted by a court pursuant to the~~
44 ~~following procedures:~~

45 ~~(1) The minor or next friend shall make an application to the juvenile~~
46 ~~court which shall assist the minor or next friend in preparing the petition and~~
47 ~~notices required pursuant to this section. The minor or the next friend of the~~
48 ~~minor shall thereafter file a petition setting forth the initials of the minor; the~~
49 ~~age of the minor; the names and addresses of each parent, guardian, or, if the~~
50 ~~minor's parents are deceased and no guardian has been appointed, any other~~
51 ~~person standing in loco parentis of the minor; that the minor has been fully~~
52 ~~informed of the risks and consequences of the abortion; that the minor is of~~
53 ~~sound mind and has sufficient intellectual capacity to consent to the abortion;~~
54 ~~that, if the court does not grant the minor majority rights for the purpose of~~
55 ~~consent to the abortion, the court should find that the abortion is in the best~~
56 ~~interest of the minor and give judicial consent to the abortion; that the court~~
57 ~~should appoint a guardian ad litem of the child; and if the minor does not have~~
58 ~~private counsel, that the court should appoint counsel. The petition shall be~~
59 ~~signed by the minor or the next friend;~~

60 ~~(2) A hearing on the merits of the petition, to be held on the record,~~
61 ~~shall be held as soon as possible within five days of the filing of the petition.~~
62 ~~If any party is unable to afford counsel, the court shall appoint counsel at least~~
63 ~~twenty four hours before the time of the hearing. At the hearing, the court~~
64 ~~shall hear evidence relating to the emotional development, maturity, intellect~~
65 ~~and understanding of the minor; the nature, possible consequences, and~~
66 ~~alternatives to the abortion; and any other evidence that the court may find~~
67 ~~useful in determining whether the minor should be granted majority rights for~~
68 ~~the purpose of consenting to the abortion or whether the abortion is in the best~~
69 ~~interests of the minor;~~

70 ~~(3) In the decree, the court shall for good cause:~~

71 ~~(a) Grant the petition for majority rights for the purpose of consenting~~
72 ~~to the abortion;~~

73 ~~(b) Find the abortion to be in the best interests of the minor and give~~
74 ~~judicial consent to the abortion, setting forth the grounds for so finding; or~~

75 ~~(c) Deny the petition, setting forth the grounds on which the petition is~~
76 ~~denied;~~

77 ~~(4) If the petition is allowed, the informed consent of the minor,~~
78 ~~pursuant to a court grant of majority rights, or the judicial consent, shall bar an~~
79 ~~action by the parents or guardian of the minor on the grounds of battery of the~~
80 ~~minor by those performing or inducing the abortion. The immunity granted~~
81 ~~shall only extend to the performance or induction of the abortion in accordance~~
82 ~~herewith and any necessary accompanying services which are performed in a~~
83 ~~competent manner. The costs of the action shall be borne by the parties;~~

84 ~~(5) An appeal from an order issued under the provisions of this section~~
85 ~~may be taken to the court of appeals of this state by the minor or by a parent or~~
86 ~~guardian of the minor. The notice of intent to appeal shall be given within~~
87 ~~twenty four hours from the date of issuance of the order. The record on appeal~~
88 ~~shall be completed and the appeal shall be perfected within five days from the~~

89 filing of notice to appeal. Because time may be of the essence regarding the
 90 performance or induction of the abortion, the supreme court of this state shall,
 91 by court rule, provide for expedited appellate review of cases appealed under
 92 this section.

93 3. If a minor desires an abortion, then she shall be orally informed of
 94 and, if possible, sign the written consent required under this chapter in the
 95 same manner as an adult person. No abortion shall be performed or induced
 96 on any minor against her will, except that an abortion may be performed or
 97 induced against the will of a minor pursuant to a court order described in
 98 subdivision (4) of subsection 1 of this section that the abortion is necessary to
 99 preserve the life of the minor.]

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

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

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

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

16 ~~two hours prior to the writing or communication of the first prescription for~~
 17 ~~such drug or drugs in connection with inducing an abortion. Only one such~~
 18 ~~conference shall be required for each abortion.~~

19 ~~3. The patient shall be evaluated by the physician who is to perform or~~
 20 ~~induce the abortion, a qualified professional, or the referring physician during~~
 21 ~~the conference for indicators and contraindicators, risk factors including any~~
 22 ~~physical, psychological, or situational factors which would predispose the~~
 23 ~~patient to or increase the risk of experiencing one or more adverse physical,~~
 24 ~~emotional, or other health reactions to the proposed procedure or drug or drugs~~
 25 ~~in either the short or long term as compared with women who do not possess~~
 26 ~~such risk factors.~~

27 ~~4. At the end of the conference, and if the woman chooses to proceed~~
 28 ~~with the abortion, the physician who is to perform or induce the abortion, a~~
 29 ~~qualified professional, or the referring physician shall sign and shall cause the~~
 30 ~~patient to sign a written statement that the woman gave her informed consent~~
 31 ~~freely and without coercion after the physician or qualified professional had~~
 32 ~~discussed with her the indicators and contraindicators, and risk factors,~~
 33 ~~including any physical, psychological, or situational factors. All such~~
 34 ~~executed statements shall be maintained as part of the patient's medical file,~~
 35 ~~subject to the confidentiality laws and rules of this state.~~

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

41 ~~6. As used in this section, the term "qualified professional" shall refer~~
 42 ~~to a physician, physician assistant, registered nurse, licensed practical nurse,~~
 43 ~~psychologist, licensed professional counselor, or licensed social worker,~~
 44 ~~licensed or registered under chapter 334, 335, or 337, acting under the~~
 45 ~~supervision of the physician performing or inducing the abortion, and acting~~
 46 ~~within the course and scope of his or her authority provided by law. The~~
 47 ~~provisions of this section shall not be construed to in any way expand the~~
 48 ~~authority otherwise provided by law relating to the licensure, registration, or~~
 49 ~~scope of practice of any such qualified professional.~~

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

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

6 ~~2. For the purpose of this section, "medical malpractice insurance"~~
~~means insurance coverage against the legal liability of the insured and against~~

7 ~~loss, damage, or expense incident to a claim arising out of the death or injury~~
 8 ~~of any person as a result of the negligence or malpractice in rendering~~
 9 ~~professional service by any health care provider.~~

10 ~~3. No abortion facility or hospital shall employ or engage the services~~
 11 ~~of a person to perform or induce an abortion on another if the person does not~~
 12 ~~have medical malpractice insurance pursuant to this section, except that the~~
 13 ~~abortion facility or hospital may provide medical malpractice insurance for the~~
 14 ~~services of persons employed or engaged by such facility or hospital which is~~
 15 ~~no less than the coverage amounts set forth in this section.~~

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

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

13 ~~2. For the purpose of this section, "tail insurance" means insurance~~
 14 ~~which covers the legal liability of the insured once a medical malpractice~~
 15 ~~insurance policy is cancelled, not renewed, or terminated, and covers claims~~
 16 ~~made after such cancellation or termination for acts occurring during the~~
 17 ~~period the prior medical malpractice insurance was in effect.~~

18 ~~3. No abortion facility or hospital shall employ or engage the services~~
 19 ~~of a person to induce an abortion on another using any drug or chemical, or~~
 20 ~~combination thereof, which may cause birth defects, disability, or other injury~~
 21 ~~in a child who survives the abortion if the person does not have tail insurance~~
 22 ~~pursuant to this section, except that the abortion facility or hospital may~~
 23 ~~provide tail insurance for the services of persons employed or engaged by such~~
 24 ~~facility or hospital which is no less than the coverage amounts and duration set~~
 25 ~~forth in this section.~~

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

2 ~~[188.047. 1. All tissue, except that tissue needed for purposes~~
 3 ~~described in subsection 5 of this section, removed at the time of abortion shall~~
 4 ~~be submitted within five days to a board-eligible or certified pathologist for~~
 5 ~~gross and histopathological examination. The pathologist shall file a copy of~~
~~the tissue report with the state department of health and senior services, and~~

6 shall provide within seventy two hours a copy of the report to the abortion
7 facility or hospital in which the abortion was performed or induced. The
8 pathologist's report shall be made a part of the patient's permanent record. If
9 the pathological examination fails to identify evidence of a completed
10 abortion, the pathologist shall notify the abortion facility or hospital within
11 twenty four hours.

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

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

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

39 5. Nothing in this section shall prohibit the utilization of fetal organs
40 or tissue resulting from an abortion for medical or scientific purposes to
41 determine the cause or causes of any anomaly, illness, death, or genetic
42 condition of the fetus, the paternity of the fetus, or for law enforcement
43 purposes.

44 6. The department may adopt rules, regulations, and standards
45 governing the reports required under this section. In doing so, the department
46 shall ensure that these reports contain all information necessary to ensure
47 compliance with all applicable laws and regulations. Any rule or portion of a
48 rule, as that term is defined in section 536.010, that is created under the
49 authority delegated in this section shall become effective only if it complies
50 with and is subject to all of the provisions of chapter 536 and, if applicable,
51 section 536.028. This section and chapter 536 are nonseverable and if any of
52 the powers vested with the general assembly pursuant to chapter 536 to review,
53 to delay the effective date, or to disapprove and annul a rule are subsequently

54 held unconstitutional, then the grant of rulemaking authority and any rule
55 proposed or adopted after October 24, 2017, shall be invalid and void.]

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

11 2.—An individual complication report for any post-abortion care
12 performed upon a woman shall be completed by the physician providing such
13 post-abortion care. This report shall include:

14 (1) The date of the abortion;

15 (2) The name and address of the abortion facility or hospital where the
16 abortion was performed or induced;

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

18 3.—All abortion reports shall be signed by the attending physician who
19 performed or induced the abortion and submitted to the department within
20 forty-five days from the date of the abortion. All complication reports shall be
21 signed by the physician providing the post-abortion care and submitted to the
22 department within forty-five days from the date of the post-abortion care.

23 4.—A copy of the abortion report shall be made a part of the medical
24 record of the patient of the abortion facility or hospital in which the abortion
25 was performed or induced.

26 5.—The department shall be responsible for collecting all abortion
27 reports and complication reports and collating and evaluating all data gathered
28 therefrom and shall annually publish a statistical report based on such data
from abortions performed or induced in the previous calendar year.]

2 [188.056.—1.—Notwithstanding any other provision of law to the
3 contrary, no abortion shall be performed or induced upon a woman at eight
4 weeks gestational age or later, except in cases of medical emergency. Any
5 person who knowingly performs or induces an abortion of an unborn child in
6 violation of this subsection shall be guilty of a class B felony, as well as
7 subject to suspension or revocation of his or her professional license by his or
8 her professional licensing board. A woman upon whom an abortion is
9 performed or induced in violation of this subsection shall not be prosecuted for
10 a conspiracy to violate the provisions of this section.

11 2.—It shall be an affirmative defense for any person alleged to have
12 violated the provisions of subsection 1 of this section that the person
13 performed or induced an abortion because of a medical emergency. The
14 defendant shall have the burden of persuasion that the defense is more
15 probably true than not.

16 3.—Prosecution under this section shall bar prosecution under section
188.057, 188.058, or 188.375 if prosecution under such sections would violate

17 the provisions of Amendment V to the Constitution of the United States or
 18 Article I, Section 19 of the Constitution of Missouri.

19 4. ~~If any one or more provisions, subsections, sentences, clauses,~~
 20 ~~phrases, or words of this section or the application thereof to any person,~~
 21 ~~circumstance, or period of gestational age is found to be unenforceable,~~
 22 ~~unconstitutional, or invalid by a court of competent jurisdiction, the same is~~
 23 ~~hereby declared to be severable and the balance of the section shall remain~~
 24 ~~effective notwithstanding such unenforceability, unconstitutionality, or~~
 25 ~~invalidity. The general assembly hereby declares that it would have passed~~
 26 ~~this section, and each provision, subsection, sentence, clause, phrase, or word~~
 27 ~~thereof, irrespective of the fact that any one or more provisions, subsections,~~
 28 ~~sentences, clauses, phrases, or words of the section, or the application of the~~
 29 ~~section to any person, circumstance, or period of gestational age, would be~~
 30 ~~declared unenforceable, unconstitutional, or invalid.]~~

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

10 2. ~~It shall be an affirmative defense for any person alleged to have~~
 11 ~~violated the provisions of subsection 1 of this section that the person~~
 12 ~~performed or induced an abortion because of a medical emergency. The~~
 13 ~~defendant shall have the burden of persuasion that the defense is more~~
 14 ~~probably true than not.~~

15 3. ~~Prosecution under this section shall bar prosecution under~~
 16 ~~section 188.056, 188.058, or 188.375 if prosecution under such sections~~
 17 ~~would violate the provisions of Amendment V to the Constitution of the~~
 18 ~~United States or Article I, Section 19 of the Constitution of Missouri.~~

19 4. ~~If any one or more provisions, subsections, sentences, clauses,~~
 20 ~~phrases, or words of this section or the application thereof to any person,~~
 21 ~~circumstance, or period of gestational age is found to be unenforceable,~~
 22 ~~unconstitutional, or invalid by a court of competent jurisdiction, the same is~~
 23 ~~hereby declared to be severable and the balance of the section shall remain~~
 24 ~~effective notwithstanding such unenforceability, unconstitutionality, or~~
 25 ~~invalidity. The general assembly hereby declares that it would have passed~~
 26 ~~this section, and each provision, subsection, sentence, clause, phrase, or word~~
 27 ~~thereof, irrespective of the fact that any one or more provisions, subsections,~~
 28 ~~sentences, clauses, phrases, or words of the section, or the application of the~~
 29 ~~section to any person, circumstance, or period of gestational age, would be~~
 30 ~~declared unenforceable, unconstitutional, or invalid.]~~

2 [188.058. 1. Notwithstanding any other provision of law to the
 contrary, no abortion shall be performed or induced upon a woman at eighteen

3 weeks gestational age or later, except in cases of medical emergency. Any
 4 person who knowingly performs or induces an abortion of an unborn child in
 5 violation of this subsection shall be guilty of a class B felony, as well as
 6 subject to suspension or revocation of his or her professional license by his or
 7 her professional licensing board. A woman upon whom an abortion is
 8 performed or induced in violation of this section shall not be prosecuted for a
 9 conspiracy to violate the provisions of this section.

10 ~~2. It shall be an affirmative defense for any person alleged to have~~
 11 ~~violated the provisions of subsection 1 of this section that the person~~
 12 ~~performed or induced an abortion because of a medical emergency. The~~
 13 ~~defendant shall have the burden of persuasion that the defense is more~~
 14 ~~probably true than not.~~

15 ~~3. Prosecution under this section shall bar prosecution under section~~
 16 ~~188.056, 188.057, or 188.375 if prosecution under such sections would violate~~
 17 ~~the provisions of Amendment V to the Constitution of the United States or~~
 18 ~~Article I, Section 19 of the Constitution of Missouri.~~

19 ~~4. If any one or more provisions, subsections, sentences, clauses,~~
 20 ~~phrases, or words of this section or the application thereof to any person,~~
 21 ~~circumstance, or period of gestational age is found to be unenforceable,~~
 22 ~~unconstitutional, or invalid by a court of competent jurisdiction, the same is~~
 23 ~~hereby declared to be severable and the balance of the section shall remain~~
 24 ~~effective notwithstanding such unenforceability, unconstitutionality, or~~
 25 ~~invalidity. The general assembly hereby declares that it would have passed~~
 26 ~~this section, and each provision, subsection, sentence, clause, phrase, or word~~
 27 ~~thereof, irrespective of the fact that any one or more provisions, subsections,~~
 28 ~~sentences, clauses, phrases, or words of the section, or the application of the~~
 29 ~~section to any person, circumstance, or period of gestational age, would be~~
 30 ~~declared unenforceable, unconstitutional, or invalid.]~~

2 ~~[188.075. 1. Any person who contrary to the provisions of sections~~
 3 ~~188.010 to 188.085 knowingly performs, induces, or aids in the performance~~
 4 ~~or inducing of any abortion or knowingly fails to perform any action required~~
 5 ~~by sections 188.010 to 188.085 shall be guilty of a class A misdemeanor,~~
 6 ~~unless a different penalty is provided for in state law, and, upon conviction,~~
 7 ~~shall be punished as provided by law.~~

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

14 ~~3. The attorney general shall have concurrent original jurisdiction~~
 15 ~~throughout the state, along with each prosecuting attorney and circuit attorney~~
 16 ~~within their respective jurisdictions, to commence actions for a violation of~~
 17 ~~any provision of this chapter, for a violation of any state law on the use of~~
 18 ~~public funds for an abortion, or for a violation of any state law which regulates~~
 19 ~~an abortion facility or a person who performs or induces an abortion. The~~
 20 ~~attorney general, or prosecuting attorney or circuit attorney within their~~

20 respective jurisdictions, may seek injunctive or other relief against any person
 21 who, or entity which, is in violation of any provision of this chapter, misuses
 22 public funds for an abortion, or violates any state law which regulates an
 23 abortion facility or a person who performs or induces an abortion.}]

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

2 ~~[188.250. 1. No person shall intentionally cause, aid, or assist a minor~~
 3 ~~to obtain an abortion without the consent or consents required by section~~
 4 ~~188.028.~~

5 ~~2. A person who violates subsection 1 of this section shall be civilly~~
 6 ~~liable to the minor and to the person or persons required to give the consent or~~
 7 ~~consents under section 188.028. A court may award damages to the person or~~
 8 ~~persons adversely affected by a violation of subsection 1 of this section,~~
 9 ~~including compensation for emotional injury without the need for personal~~
 10 ~~presence at the act or event, and the court may further award attorneys' fees,~~
 11 ~~litigation costs, and punitive damages. Any adult who engages in or consents~~
 12 ~~to another person engaging in a sex act with a minor in violation of the~~
 13 ~~provisions of chapter 566, 567, 568, or 573 which results in the minor's~~
 14 ~~pregnancy shall not be awarded damages under this section.~~

15 ~~3. It shall not be a defense to a claim brought under this section that~~
 16 ~~the abortion was performed or induced pursuant to consent to the abortion~~
 17 ~~given in a manner that is otherwise lawful in the state or place where the~~
 18 ~~abortion was performed or induced.~~

19 ~~4. An unemancipated minor does not have capacity to consent to any~~
 20 ~~action in violation of this section or section 188.028.~~

21 ~~5. A court may enjoin conduct that would be in violation of this~~
 22 ~~section upon petition by the attorney general, a prosecuting or circuit attorney,~~
 23 ~~or any person adversely affected or who reasonably may be adversely affected~~
 24 ~~by such conduct, upon a showing that such conduct:~~

25 ~~(1) Is reasonably anticipated to occur in the future; or~~
 26 ~~(2) Has occurred in the past, whether with the same minor or others,~~
~~and that it is not unreasonable to expect that such conduct will be repeated.]~~

2 ~~[188.375. 1. This section shall be known and may be cited as the~~
 3 ~~"Late-Term Pain-Capable Unborn Child Protection Act".~~

4 ~~2. As used in this section, the phrase "late-term pain-capable unborn~~
 5 ~~child" shall mean an unborn child at twenty weeks gestational age or later.~~

6 ~~3. Notwithstanding any other provision of law to the contrary, no~~
 7 ~~abortion shall be performed or induced upon a woman carrying a late-term~~
~~pain-capable unborn child, except in cases of medical emergency. Any person~~

8 who knowingly performs or induces an abortion of a late-term pain-capable
9 unborn child in violation of this subsection shall be guilty of a class B felony,
10 as well as subject to suspension or revocation of his or her professional license
11 by his or her professional licensing board. A woman upon whom an abortion
12 is performed or induced in violation of this subsection shall not be prosecuted
13 for a conspiracy to violate the provisions of this subsection.

14 4. It shall be an affirmative defense for any person alleged to have
15 violated the provisions of subsection 3 of this section that the person
16 performed or induced an abortion because of a medical emergency. The
17 defendant shall have the burden of persuasion that the defense is more
18 probably true than not.

19 5. Prosecution under subsection 3 of this section shall bar prosecution
20 under section 188.056, 188.057, or 188.058 if prosecution under such sections
21 would violate the provisions of Amendment V to the Constitution of the
22 United States or Article I, Section 19 of the Constitution of Missouri.

23 6. When in cases of medical emergency a physician performs or
24 induces an abortion upon a woman in her third trimester carrying a late-term
25 pain-capable unborn child, the physician shall utilize the available method or
26 technique of abortion most likely to preserve the life or health of the unborn
27 child. In cases where the method or technique of abortion most likely to
28 preserve the life or health of the unborn child would present a greater risk to
29 the life or health of the woman than another legally permitted and available
30 method or technique, the physician may utilize such other method or
31 technique. In all cases where the physician performs or induces an abortion
32 upon a woman during her third trimester carrying a late-term pain-capable
33 unborn child, the physician shall certify in writing the available method or
34 techniques considered and the reasons for choosing the method or technique
35 employed.

36 7. When in cases of medical emergency a physician performs or
37 induces an abortion upon a woman during her third trimester carrying a late-
38 term pain-capable unborn child, there shall be in attendance a physician other
39 than the physician performing or inducing the abortion who shall take control
40 of and provide immediate medical care for a child born as a result of the
41 abortion.

42 8. Any physician who knowingly violates any of the provisions of
43 subsection 6 or 7 of this section shall be guilty of a class D felony, as well as
44 subject to suspension or revocation of his or her professional license by his or
45 her professional licensing board. A woman upon whom an abortion is
46 performed or induced in violation of subsection 6 or 7 of this section shall not
47 be prosecuted for a conspiracy to violate the provisions of those subsections.

48 9. If any one or more provisions, subsections, sentences, clauses,
49 phrases, or words of this section or the application thereof to any person,
50 circumstance, or period of gestational age is found to be unenforceable,
51 unconstitutional, or invalid by a court of competent jurisdiction, the same is
52 hereby declared to be severable and the balance of the section shall remain
53 effective notwithstanding such unenforceability, unconstitutionality, or
54 invalidity. The general assembly hereby declares that it would have passed
55 this section, and each provision, subsection, sentence, clause, phrase, or word

56 ~~thereof, irrespective of the fact that any one or more provisions, subsections,~~
57 ~~sentences, clauses, phrases, or words of the section, or the application of the~~
58 ~~section to any person, circumstance, or period of gestational age, would be~~
59 ~~declared unenforceable, unconstitutional, or invalid.]~~

2 ~~[208.655. No funds used to pay for insurance or for services pursuant~~
3 ~~to sections 208.631 to 208.657 may be expended to encourage, counsel or refer~~
4 ~~for abortion unless the abortion is done to save the life of the mother or if the~~
5 ~~unborn child is the result of rape or incest. No funds may be paid pursuant to~~
6 ~~sections 208.631 to 208.657 to any person or organization that performs~~
7 ~~abortions or counsels or refers for abortion unless the abortion is done to save~~
~~the life of the mother or if the unborn child is the result of rape or incest.]~~

Section B. Because immediate action is necessary to preserve the health of Missouri
2 citizens, section A of this act is deemed necessary for the immediate preservation of the
3 public health, welfare, peace, and safety, and is hereby declared to be an emergency act within
4 the meaning of the constitution, and section A of this act shall be in full force and effect upon
5 its passage and approval.

✓