

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1541

96TH GENERAL ASSEMBLY

5077L.03P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapter 191, RSMo, by adding thereto seven new sections relating to the conscience rights of all individuals who provide medical services.

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

Section A. Chapter 191, RSMo, is amended by adding thereto seven new sections, to be known as sections 191.1150, 191.1153, 191.1156, 191.1159, 191.1162, 191.1165, and 191.1168, to read as follows:

**191.1150. As used in sections 191.1150 to 191.1168, the following terms mean:**

(1) "Conscience", the religious, moral, or ethical principles held by a medical professional or a health care institution. For purposes of sections 191.1150 to 191.1168, a medical professional's conscience means a sincere and meaningful belief in God or in relation to a supreme being, or a belief which, though not so derived, occupies in the life of its possessor a place parallel to that filled by God among adherents to religious faiths. A health care institution's conscience shall be determined by reference to its existing or proposed religious, moral, or ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other relevant documents;

(2) "Health care institution", any public or private organization, corporation, partnership, sole proprietorship, association, agency, network, joint venture, or other entity that is involved in providing medical services, including but not limited to, hospitals, clinics, medical centers, ambulatory surgical centers, private physician's offices, university medical schools and nursing schools, medical training facilities, or other institutions or locations wherein specified medical procedures or research are performed or provided to any person;

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.

17           (3) "Medical professional", any individual who may be asked to participate in any  
18 way in specified medical procedures or research, including, but not limited to, the  
19 following: a physician, physician's assistant, nurse, nurses' aide, medical assistant, hospital  
20 employee, clinic employee, counselor, social worker, medical researcher, medical or  
21 nursing school faculty or employee, student or applicant for studies or training in any  
22 program in the health care professions, or any professional, paraprofessional, or any other  
23 person who furnishes, or assists in the furnishing of, specified medical procedures or  
24 research;

25           (4) "Participate in specified medical procedures or research", to counsel, advise,  
26 provide, perform, assist in, refer for, admit for purposes of providing, or participate in  
27 providing specified medical procedures or research; and

28           (5) "Specified medical procedures or research", abortion, abortion-inducing drugs,  
29 contraception, sterilization, assisted reproduction, human cloning, human embryonic stem-  
30 cell research, human somatic cell nuclear transfer, fetal tissue research, and non-  
31 therapeutic benefit fetal experimentation, including any phase of patient medical care,  
32 treatment, procedure, patient referral, counseling, therapy, testing, diagnosis, prognosis,  
33 surgery, research, instruction, or the prescribing or administering of any device, drug, or  
34 medication related to the enumerated medical procedures or research.

          191.1153. 1. A medical professional has the right not to participate, and no medical  
2 professional shall be required to participate in specified medical procedures or research  
3 that violate his or her conscience.

4           2. No medical professional shall be civilly, criminally, or administratively liable for  
5 declining to participate in specified medical procedures or research that violate his or her  
6 conscience.

7           3. It shall be unlawful for any person, medical professional, health care institution,  
8 the state of Missouri, political subdivision, public or private institution, public official, or  
9 any board which certifies competency in medical specialties to discriminate against any  
10 medical professional in any manner based on his or her declining to participate in specified  
11 medical procedures or research including but not limited to, declining to counsel, advise,  
12 pay for, provide, perform, assist, or participate in providing or performing specified  
13 medical procedures or research that violate his or her conscience.

14           4. For purposes of this section, discrimination includes, but is not limited to, the  
15 following: termination, suspension, refusal of staff privileges, refusal of board  
16 certification, demotion, loss of career specialty, reduction of wages or benefits, refusal to  
17 award any grant, contract, or other program, refusal to provide residency training  
18 opportunities, or any other penalty, disciplinary, or retaliatory action.

191.1156. 1. A health care institution has the right not to participate, and no health care institution shall be required to participate in specified medical procedures or research that violate its conscience.

2. A health care institution that declines to provide or participate in specified medical procedures or research that violate its conscience shall not be civilly, criminally, or administratively liable if the institution provides a consent form to be signed by a patient before admission to the institution stating that it reserves the right to decline to provide or participate in specified medical procedures or research that violate its conscience.

3. It shall be unlawful for any person, the state of Missouri, a political subdivision, a public or private institution, or a public official to discriminate against any medical institution, or any person, association, corporation, or other entity attempting to establish a new health care institution or operating an existing health care institution, in any manner, including but not limited to the following:

(1) Any denial, deprivation or disqualification with respect to licensure;

(2) Any aid, assistance, benefit, or privilege, including staff privileges; or

(3) Any authorization, including authorization to create, expand, improve, acquire, or affiliate or merge with any health care institution,

because such health care institution, or person, association, or corporation planning, proposing, or operating a health care institution declines to participate in specified medical procedures or research which violate the health care institution's conscience.

4. It shall be unlawful for any public official, agency, institution, or entity to deny any form of aid, assistance, grants, or benefits, or in any other manner to coerce, disqualify, or discriminate against any person, association, corporation, or other entity attempting to establish a new health care institution or operating an existing health care institution because the existing or proposed health care institution declines to participate in specified medical procedures or research contrary to the health care institution's conscience.

191.1159. Nothing contained in sections 191.1150 to 191.1168 shall be construed to authorize any medical professional or health care institution to withhold emergency medical treatment or services necessary to save the life of a patient under such professional's or institution's care.

191.1162. Nothing contained in sections 191.1150 to 191.1168 shall be construed to relieve a medical professional from any duty which may exist under the laws and regulations of this state to inform his or her patient of the patient's health condition, risks,

4 and prognosis, and the medical options and health care resources available to the patient,  
5 including compliance with the provisions of sections 188.010 to 188.085.

191.1165. 1. A cause of action for damages or injunctive relief, or both, may be  
2 brought for the violation of any provision of sections 191.1150 to 191.1168. It shall not be  
3 a defense to any claim arising out of the violation of sections 191.1150 to 191.1168 that such  
4 violation was necessary to prevent additional burden or expense on any other medical  
5 professional, health care institution, individual, or patient.

6 2. Any individual, association, corporation, entity, or health care institution injured  
7 by any public or private individual, association, agency, entity, or corporation by reason  
8 of any conduct prohibited by sections 191.1150 to 191.1168 may commence a civil action.  
9 Upon finding a violation of sections 191.1150 to 191.1168, the aggrieved party shall be  
10 entitled to recover threefold the actual damages, including pain and suffering, sustained  
11 by such individual, association, corporation, entity, or health care institution, the costs of  
12 the action, and reasonable attorney's fees. In no case shall recovery be less than five  
13 thousand dollars for each violation in addition to costs of the action and reasonable  
14 attorney's fees. These damage remedies shall be cumulative, and not exclusive of other  
15 remedies afforded under any other state or federal law.

16 3. The court in such civil action may award injunctive relief, including, but not  
17 limited to, ordering reinstatement of a medical professional to his or her prior employment  
18 position.

191.1168. 1. It is the intent of the general assembly that sections 191.1150 to  
2 191.1168 be severable as noted in section 1.140, except sections 191.1159 and 191.1162,  
3 which shall not be severable from those sections. In the event that any section, subsection,  
4 subdivision, paragraph, sentence, or clause of sections 191.1150 to 191.1168, except section  
5 191.1159 and 191.1162, be declared invalid under the Constitution of the United States or  
6 the Constitution of the State of Missouri, it is the intent of the general assembly that the  
7 remaining provisions of sections 191.1150 to 191.1168 remain in force and effect as far as  
8 capable of being carried into execution as intended by the general assembly.

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

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