

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 5, Pages 8 to 11,
2 Section 188.030, Lines 1 to 110, by deleting said lines and inserting in lieu thereof the following:

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

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

15 (1) Prior to performing or inducing an abortion upon a woman, due process of law shall be
16 required before the life of any unborn human is ended prior to natural death. Natural death shall
17 mean miscarriage, still birth, or any death not induced by another;~~[the physician shall determine the~~
18 ~~gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal~~
19 ~~practices and standards. In making such determination, the physician shall make such inquiries of~~
20 ~~the pregnant woman and perform or cause to be performed such medical examinations, imaging~~
21 ~~studies, and tests as a reasonably prudent physician, knowledgeable about the medical facts and~~
22 ~~conditions of both the woman and the unborn child involved, would consider necessary to perform~~
23 ~~and consider in making an accurate diagnosis with respect to gestational age;~~

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

32 ——— (3) If the physician determines that the gestational age of the unborn child is twenty weeks
33 or more, and further determines that the unborn child is not viable and performs or induces an
34 abortion upon the woman, the physician shall report such findings and determinations and the
35 reasons for such determinations to the health care facility in which the abortion is performed and to
36 the state board of registration for the healing arts, and shall enter such findings and determinations

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1 in the medical records of the woman and in the individual abortion report submitted to the
2 department under section 188.052;

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

7 (b)} (2)(a) Before a physician may proceed with performing or inducing an abortion upon a
8 woman [when it has been determined that the unborn child is viable], the physician shall first certify
9 in writing the medical threat posed to the life of the pregnant woman, or the medical reasons that
10 continuation of the pregnancy would cause a serious risk of substantial and irreversible physical
11 impairment of a major bodily function of the pregnant woman. The physician shall make every
12 effort to subject the unborn baby to a natural or surgical delivery. Following delivery of the baby,
13 the attending physician shall take control of and provide immediate medical care for a child born.
14 [Upon completion of the abortion, the physician shall report the reasons and determinations for the
15 abortion of a viable unborn child to the health care facility in which the abortion is performed and to
16 the state board of registration for the healing arts, and shall enter such findings and determinations
17 in the medical record of the woman and in the individual abortion report submitted to the
18 department under section 188.052.]

19 [(e)] (b) Before a physician may proceed with performing or inducing an abortion upon a
20 woman [when it has been determined that the unborn child is viable], the physician who is to
21 perform the abortion shall obtain the agreement of a second physician with knowledge of accepted
22 obstetrical and neonatal practices and standards who shall concur that the abortion is necessary to
23 preserve the life of the pregnant woman, or that continuation of the pregnancy would cause a serious
24 risk of substantial and irreversible physical impairment of a major bodily function of the pregnant
25 woman. This second physician shall also report such reasons and determinations to the health care
26 facility in which the abortion is to be performed and to the state board of registration for the healing
27 arts, and shall enter such findings and determinations in the medical record of the woman and the
28 individual abortion report submitted to the department under section 188.052. The second physician
29 shall not have any legal or financial affiliation or relationship with the physician performing or
30 inducing the abortion, except that such prohibition shall not apply to physicians whose legal or
31 financial affiliation or relationship is a result of being employed by or having staff privileges at the
32 same hospital, ambulatory surgical center, or abortion facility, as [the term "hospital" is] defined in
33 this chapter and section 197.020.

34 [(d)} (c) Any physician who performs or induces an abortion upon a woman [when it has
35 ~~been determined that the unborn child is viable]~~ shall utilize the available method or technique of
36 abortion most likely to preserve the life or health of the unborn child. In cases where the method or
37 technique of abortion most likely to preserve the life or health of the unborn child would present a
38 greater risk to the life or health of the woman than another legally permitted and available method
39 or technique, the physician may utilize such other method or technique. In all cases [where the
40 ~~physician performs an abortion upon a viable unborn child]~~, the physician shall certify in writing the
41 available method or techniques considered and the reasons for choosing the method or technique
42 employed.

43 [(e)] (d) No physician shall perform or induce an abortion upon a woman [when it has been
44 ~~determined that the unborn child is viable]~~ unless due process of law for the unborn has been
45 exercised and there is in attendance a physician other than the physician performing or inducing the
46 abortion who shall take control of and provide immediate medical care for a child born as a result of
47 the abortion. During the performance of the abortion, the physician performing it, and subsequent
48 to the abortion, the physician required to be in attendance, shall take all reasonable steps in keeping

1 with good medical practice, consistent with the procedure used, to preserve the life or health of the
2 viable unborn child; provided that it does not pose an increased risk to the life of the woman or does
3 not pose an increased risk of substantial and irreversible physical impairment of a major bodily
4 function of the woman.

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

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

14 5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of an
15 unborn child to be performed or induced in violation of this section ~~[may be subject to suspension~~
16 ~~or revocation of]~~ shall have its license revoked under the provisions of section 197.070.

17 6. Any ambulatory surgical center licensed in the state of Missouri that knowingly allows an
18 abortion of an unborn child to be performed or induced in violation of this section ~~[may]~~ shall be
19 subject to ~~[suspension or]~~ revocation of its license under the provisions of section 197.220 and shall
20 be fined not less than one million dollars.

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

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

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

30 10. The general assembly may, by concurrent resolution, appoint one or more of its
31 members who sponsored or co-sponsored this act in his or her official capacity to intervene as a
32 matter of right in any case in which the constitutionality of this law is challenged."; and
33

34 Further amend said bill by amending the title, enacting clause, and intersectional references
35 accordingly.