

FIRST REGULAR SESSION

# HOUSE BILL NO. 544

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE QUADE.

1266H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal sections 135.630, 188.010, 188.015, 188.017, 188.018, 188.026, 188.027, 188.028, 188.033, 188.038, 188.043, 188.044, 188.052, 188.056, 188.057, 188.058, and 188.375, RSMo, and to enact in lieu thereof seven new sections relating to abortion, with penalty provisions.

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

Section A. Sections 135.630, 188.010, 188.015, 188.017, 188.018, 188.026, 188.027, 2 188.028, 188.033, 188.038, 188.043, 188.044, 188.052, 188.056, 188.057, 188.058, and 3 188.375, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as 4 sections 135.630, 188.010, 188.015, 188.027, 188.028, 188.043, and 188.052, to read as 5 follows:

135.630. 1. As used in this section, the following terms mean:

- 2 (1) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or  
3 real property;
- 4 (2) "Director", the director of the department of social services;
- 5 (3) "Pregnancy resource center", a nonresidential facility located in this state:
- 6 (a) Established and operating primarily to provide assistance to women ~~and families~~  
7 with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling,  
8 emotional and material support, and other similar services ~~[or by offering services as~~  
9 ~~described under subsection 2 of section 188.325;]~~ to encourage and assist such women ~~and~~  
10 ~~families~~ in carrying their pregnancies to term; and
- 11 (b) Where childbirths are not performed; and

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

12 (c) Which does not perform, induce, or refer for abortions and which does not hold  
13 itself out as performing, inducing, or referring for abortions; and

14 (d) Which provides direct client services at the facility, as opposed to merely  
15 providing counseling or referral services by telephone; and

16 (e) Which provides its services at no cost to its clients; and

17 (f) When providing medical services, such medical services must be performed in  
18 accordance with Missouri statute; and

19 (g) Which is exempt from income taxation pursuant to the Internal Revenue Code of  
20 1986, as amended;

21 (4) "State tax liability", in the case of a business taxpayer, any liability incurred by  
22 such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, excluding  
23 sections 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer,  
24 any liability incurred by such taxpayer pursuant to the provisions of chapter 143, excluding  
25 sections 143.191 to 143.265 and related provisions;

26 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an  
27 S corporation doing business in the state of Missouri and subject to the state income tax  
28 imposed by the provisions of chapter 143, or a corporation subject to the annual corporation  
29 franchise tax imposed by the provisions of chapter 147, or an insurance company paying an  
30 annual tax on its gross premium receipts in this state, or other financial institution paying  
31 taxes to the state of Missouri or any political subdivision of this state pursuant to the  
32 provisions of chapter 148, or an express company which pays an annual tax on its gross  
33 receipts in this state pursuant to chapter 153, or an individual subject to the state income tax  
34 imposed by the provisions of chapter 143, or any charitable organization which is exempt  
35 from federal income tax and whose Missouri unrelated business taxable income, if any, would  
36 be subject to the state income tax imposed under chapter 143.

37 2. (1) Beginning on March 29, 2013, any contribution to a pregnancy resource center  
38 made on or after January 1, 2013, shall be eligible for tax credits as provided by this section.

39 (2) For all tax years beginning on or after January 1, 2007, ~~and ending on or before~~  
40 ~~December 31, 2020,~~ a taxpayer shall be allowed to claim a tax credit against the taxpayer's  
41 state tax liability in an amount equal to fifty percent of the amount such taxpayer contributed  
42 to a pregnancy resource center. ~~[For all tax years beginning on or after January 1, 2021, a~~  
43 ~~taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an~~  
44 ~~amount equal to seventy percent of the amount such taxpayer contributed to a pregnancy~~  
45 ~~resource center.]~~

46 3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's  
47 state tax liability for the tax year for which the credit is claimed, and such taxpayer shall not  
48 be allowed to claim a tax credit in excess of fifty thousand dollars per tax year. However, any

49 tax credit that cannot be claimed in the tax year the contribution was made may be carried  
50 over only to the next succeeding tax year. No tax credit issued under this section shall be  
51 assigned, transferred, or sold.

52 4. Except for any excess credit which is carried over pursuant to subsection 3 of this  
53 section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such  
54 taxpayer's contribution or contributions to a pregnancy resource center or centers in such  
55 taxpayer's tax year has a value of at least one hundred dollars.

56 5. The director shall determine, at least annually, which facilities in this state may be  
57 classified as pregnancy resource centers. The director may require of a facility seeking to be  
58 classified as a pregnancy resource center whatever information which is reasonably necessary  
59 to make such a determination. The director shall classify a facility as a pregnancy resource  
60 center if such facility meets the definition set forth in subsection 1 of this section.

61 6. The director shall establish a procedure by which a taxpayer can determine if a  
62 facility has been classified as a pregnancy resource center. Pregnancy resource centers shall  
63 be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits  
64 which may be claimed by all the taxpayers contributing to pregnancy resource centers in any  
65 one fiscal year shall not exceed two million dollars for all fiscal years ending on or before  
66 June 30, 2014, and two million five hundred thousand dollars for all fiscal years beginning on  
67 or after July 1, 2014, and ending on or before June 30, 2019, and three million five hundred  
68 thousand dollars for all fiscal years beginning on or after July 1, 2019~~], and ending on or~~  
69 ~~before June 30, 2021. For all fiscal years beginning on or after July 1, 2021, there shall be no~~  
70 ~~limit imposed on the cumulative amount of tax credits that may be claimed by all taxpayers~~  
71 ~~contributing to pregnancy resource centers under the provisions of this section].~~ Tax credits  
72 shall be issued in the order contributions are received. If the amount of tax credits redeemed  
73 in a fiscal year is less than the cumulative amount authorized under this subsection, the  
74 difference shall be carried over to a subsequent fiscal year or years and shall be added to the  
75 cumulative amount of tax credits that may be authorized in that fiscal year or years.

76 7. ~~[For all fiscal years ending on or before June 30, 2021,]~~ The director shall establish  
77 a procedure by which, from the beginning of the fiscal year until some point in time later in  
78 the fiscal year to be determined by the director, the cumulative amount of tax credits are  
79 equally apportioned among all facilities classified as pregnancy resource centers. If a  
80 pregnancy resource center fails to use all, or some percentage to be determined by the  
81 director, of its apportioned tax credits during this predetermined period of time, the director  
82 may reapportion these unused tax credits to those pregnancy resource centers that have used  
83 all, or some percentage to be determined by the director, of their apportioned tax credits  
84 during this predetermined period of time. The director may establish more than one period of  
85 time and reapportion more than once during each fiscal year. To the maximum extent

86 possible, the director shall establish the procedure described in this subsection in such a  
 87 manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative  
 88 amount of tax credits available for the fiscal year.

89 8. Each pregnancy resource center shall provide information to the director  
 90 concerning the identity of each taxpayer making a contribution to the pregnancy resource  
 91 center who is claiming a tax credit pursuant to this section and the amount of the contribution.  
 92 The director shall provide the information to the director of revenue. The director shall be  
 93 subject to the confidentiality and penalty provisions of section 32.057 relating to the  
 94 disclosure of tax information.

95 9. ~~[The provisions of section 23.253 shall not apply to this section.]~~ **Under section**  
 96 **23.253 of the Missouri sunset act:**

97 **(1) The provisions of the program authorized under this section shall**  
 98 **automatically sunset on December thirty-first six years after August 28, 2018, unless**  
 99 **reauthorized by an act of the general assembly;**

100 **(2) If such program is reauthorized, the program authorized under this section**  
 101 **shall automatically sunset on December thirty-first six years after the effective date of**  
 102 **the reauthorization of this section;**

103 **(3) This section shall terminate on September first of the calendar year**  
 104 **immediately following the calendar year in which a program authorized under this**  
 105 **section is sunset; and**

106 **(4) The provisions of this subsection shall not be construed to limit or in any way**  
 107 **impair the department's ability to issue tax credits authorized on or before the date the**  
 108 **program authorized under this section expires or a taxpayer's ability to redeem such tax**  
 109 **credits.**

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

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

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

9 **(3) grant the right to life to all humans, born and unborn, and to regulate**  
 10 **abortion to the full extent permitted by the Constitution of the United States, decisions of the**  
 11 **United States Supreme Court, and federal statutes.**

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;

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

21 ~~[(8)] (7) "Physician", any person licensed to practice medicine in this state by the  
22 state board of registration for the healing arts;~~

23 ~~[(9)] (8) "Reasonable medical judgment", a medical judgment that would be made by  
24 a reasonably prudent physician, knowledgeable about the case and the treatment possibilities  
25 with respect to the medical conditions involved;~~

26 ~~[(10)] (9) "Unborn child", the offspring of human beings from the moment of  
27 conception until birth and at every stage of its biological development, including the human  
28 conceptus, zygote, morula, blastocyst, embryo, and fetus;~~

29 ~~[(11)] (10) "Viability" or "viable", that stage of fetal development when the life of the  
30 unborn child may be continued indefinitely outside the womb by natural or artificial life-  
31 supportive systems[;~~

32 ~~(12) "Viable pregnancy" or "viable intrauterine pregnancy", in the first trimester of  
33 pregnancy, an intrauterine pregnancy that can potentially result in a liveborn baby].~~

188.027. 1. Except in ~~[eases]~~ **the case** of medical emergency, no abortion shall be  
2 performed or induced on a woman without her voluntary and informed consent, given freely  
3 and without coercion. Consent to an abortion is voluntary and informed and given freely and  
4 without 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) The name of the physician who will perform or induce the abortion;

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

11 a. A description of the proposed abortion method;

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

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

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

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

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

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

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

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

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

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

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

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

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

76 ~~(c) Pain receptors on the unborn child's skin develop around his or her mouth at~~  
77 ~~around seven to eight weeks gestational age, around the palms of his or her hands at ten to ten~~

78 ~~and a half weeks, on the abdominal wall at fifteen weeks, and over all of his or her body at~~  
79 ~~sixteen weeks gestational age;~~

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

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

86 ~~(f) A description of the actual steps in the abortion procedure to be performed or~~  
87 ~~induced and at which steps the abortion procedure could be painful to the unborn child] Prior~~  
88 **to an abortion being performed or induced on an unborn child of twenty-two weeks**  
89 **gestational age or older, the physician who is to perform or induce the abortion or a**  
90 **qualified professional has presented the woman, in person, printed materials provided**  
91 **by the department that offer information on the possibility of the abortion causing pain**  
92 **to the unborn child. This information shall include, but need not be limited to, the**  
93 **following:**

94 **(a) At least by twenty-two weeks of gestational age, the unborn child possesses**  
95 **all the anatomical structures, including pain receptors, spinal cord, nerve tracts,**  
96 **thalamus, and cortex, that are necessary in order to feel pain;**

97 **(b) A description of the actual steps in the abortion procedure to be performed**  
98 **or induced, and at which steps the abortion procedure could be painful to the unborn**  
99 **child;**

100 **(c) There is evidence that by twenty-two weeks of gestational age, unborn**  
101 **children seek to evade certain stimuli in a manner that in an infant or an adult would be**  
102 **interpreted as a response to pain;**

103 **(d) Anesthesia is given to unborn children who are twenty-two weeks or more**  
104 **gestational age who undergo prenatal surgery;**

105 **(e) Anesthesia is given to premature children who are twenty-two weeks or more**  
106 **gestational age who undergo surgery; and**

107 **(f) Anesthesia or an analgesic is available in order to minimize or alleviate the**  
108 **pain to the unborn child;**

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

112 **(a) Identify on a geographical basis public and private agencies available to assist a**  
113 **woman in carrying her unborn child to term, and to assist her in caring for her dependent child**  
114 **or placing her child for adoption, including agencies commonly known and generally referred**

115 to as pregnancy resource centers, crisis pregnancy centers, maternity homes, and adoption  
116 agencies. Such materials shall provide a comprehensive list by geographical area of the  
117 agencies, a description of the services they offer, and the telephone numbers and addresses of  
118 the agencies; provided that such materials shall not include any programs, services,  
119 organizations, or affiliates of organizations that perform or induce, or assist in the performing  
120 or inducing of, abortions or that refer for abortions;

121 (b) Explain the Missouri alternatives to abortion services program under section  
122 188.325, and any other programs and services available to pregnant women and mothers of  
123 newborn children offered by public or private agencies which assist a woman in carrying her  
124 unborn child to term and assist her in caring for her dependent child or placing her child for  
125 adoption, including but not limited to prenatal care; maternal health care; newborn or infant  
126 care; mental health services; professional counseling services; housing programs; utility  
127 assistance; transportation services; food, clothing, and supplies related to pregnancy;  
128 parenting skills; educational programs; job training and placement services; drug and alcohol  
129 testing and treatment; and adoption assistance;

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

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

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

149 (8) The physician who is to perform or induce the abortion or a qualified professional  
150 shall inform the woman that she is free to withhold or withdraw her consent to the abortion at

151 any time without affecting her right to future care or treatment and without the loss of any  
152 state or federally funded benefits to which she might otherwise be entitled.

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

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

170         4. **No abortion shall be performed or induced on an unborn child of twenty-two**  
171 **weeks gestational age or older unless and until the woman upon whom the abortion is to**  
172 **be performed or induced has been provided the opportunity to choose to have an**  
173 **anesthetic or analgesic administered to eliminate or alleviate pain to the unborn child**  
174 **caused by the particular method of abortion to be performed or induced. The**  
175 **administration of anesthesia or analgesics shall be performed in a manner consistent**  
176 **with standard medical practice in the community.**

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

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

186         [5-] 6. The physician who is to perform or induce the abortion shall, at least seventy-  
187 two hours prior to such procedure, inform the woman orally and in person of:

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

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

195 ~~[6-]~~ 7. No physician shall perform or induce an abortion unless and until the physician  
196 has received and signed a copy of the form prescribed in subsection 3 of this section. The  
197 physician shall retain a copy of the form in the patient's medical record.

198 ~~[7-]~~ 8. In the event of a medical emergency **as provided by section 188.039**, the  
199 physician who performed or induced the abortion shall clearly certify in writing the nature  
200 and circumstances of the medical emergency. This certification shall be signed by the  
201 physician who performed or induced the abortion, and shall be maintained under section  
202 188.060.

203 ~~[8-]~~ 9. No person or entity shall require, obtain, or accept payment for an abortion  
204 from or on behalf of a patient until at least seventy-two hours have passed since the time that  
205 the information required by subsection 1 of this section has been provided to the patient.  
206 Nothing in this subsection shall prohibit a person or entity from notifying the patient that  
207 payment for the abortion will be required after the seventy-two-hour period has expired if she  
208 voluntarily chooses to have the abortion.

209 ~~[9-]~~ 10. The term "qualified professional" as used in this section shall refer to a  
210 physician, physician assistant, registered nurse, licensed practical nurse, psychologist,  
211 licensed professional counselor, or licensed social worker, licensed or registered under  
212 chapter 334, 335, or 337, acting under the supervision of the physician performing or  
213 inducing the abortion, and acting within the course and scope of his or her authority provided  
214 by law. The provisions of this section shall not be construed to in any way expand the  
215 authority otherwise provided by law relating to the licensure, registration, or scope of practice  
216 of any such qualified professional.

217 ~~[10-]~~ 11. By November 30, 2010, the department shall produce the written materials  
218 and forms described in this section. Any written materials produced shall be printed in a  
219 typeface large enough to be clearly legible. All information shall be presented in an  
220 objective, unbiased manner designed to convey only accurate scientific and medical  
221 information. The department shall furnish the written materials and forms at no cost and in  
222 sufficient quantity to any person who performs or induces abortions, or to any hospital or  
223 facility that provides abortions. The department shall make all information required by  
224 subsection 1 of this section available to the public through its department website. The

225 department shall maintain a toll-free, twenty-four-hour hotline telephone number where a  
 226 caller can obtain information on a regional basis concerning the agencies and services  
 227 described in subsection 1 of this section. No identifying information regarding persons who  
 228 use the website shall be collected or maintained. The department shall monitor the website on  
 229 a regular basis to prevent tampering and correct any operational deficiencies.

230 ~~[11.]~~ **12.** In order to preserve the compelling interest of the state to ensure that the  
 231 choice to consent to an abortion is voluntary and informed, and given freely and without  
 232 coercion, the department shall use the procedures for adoption of emergency rules under  
 233 section 536.025 in order to promulgate all necessary rules, forms, and other necessary  
 234 material to implement this section by November 30, 2010.

235 ~~[12.]~~ **13.** If the provisions in subsections 1 and ~~[8]~~ **9** of this section requiring a  
 236 seventy-two-hour waiting period for an abortion are ever temporarily or permanently  
 237 restrained or enjoined by judicial order, then the waiting period for an abortion shall be  
 238 twenty-four hours; provided, however, that if such temporary or permanent restraining order  
 239 or injunction is stayed or dissolved, or otherwise ceases to have effect, the waiting period for  
 240 an abortion shall be seventy-two hours.

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

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

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

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

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

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

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

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

26 (2) The minor is emancipated and the attending physician has received the informed  
27 written consent of the minor;

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

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

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

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

50 (2) A hearing on the merits of the petition, to be held on the record, shall be held as  
51 soon as possible within five days of the filing of the petition. If any party is unable to afford  
52 counsel, the court shall appoint counsel at least twenty-four hours before the time of the  
53 hearing. At the hearing, the court shall hear evidence relating to the emotional development,  
54 maturity, intellect and understanding of the minor; the nature, possible consequences, and  
55 alternatives to the abortion; and any other evidence that the court may find useful in  
56 determining whether the minor should be granted majority rights for the purpose of  
57 consenting to the abortion or whether the abortion is in the best interests of the minor;

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

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

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

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

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

69 (5) An appeal from an order issued under the provisions of this section may be taken  
70 to the court of appeals of this state by the minor or by a parent or guardian of the minor. The  
71 notice of intent to appeal shall be given within twenty-four hours from the date of issuance of  
72 the order. The record on appeal shall be completed and the appeal shall be perfected within  
73 five days from the filing of notice to appeal. Because time may be of the essence regarding  
74 the performance ~~[or induction]~~ of the abortion, the supreme court of this state shall, by court  
75 rule, provide for expedited appellate review of cases appealed under this section.

76 3. If a minor desires an abortion, then she shall be orally informed of and, if possible,  
77 sign the written consent required ~~[under this chapter]~~ by **section 188.039** in the same manner  
78 as an adult person. No abortion shall be performed ~~[or induced]~~ on any minor against her  
79 will, except that an abortion may be performed ~~[or induced]~~ against the will of a minor  
80 pursuant to a court order described in subdivision (4) of subsection 1 of this section that the  
81 abortion is necessary to preserve the life of the minor.

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

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

9 3. No abortion facility or hospital shall employ or engage the services of a person to  
10 perform ~~[or induce an abortion on another]~~ **one or more abortions** if the person does not  
11 have **proof of** medical malpractice insurance pursuant to this section, except ~~[that]~~ the  
12 abortion facility or hospital may provide medical malpractice insurance for the services of

13 persons employed or engaged by such facility or hospital [~~which is no less than the coverage~~  
14 ~~amounts set forth in this section~~].

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

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

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

12 (1) The date of the abortion;

13 (2) The name and address of the abortion facility or hospital where the abortion was  
14 performed [~~or induced~~];

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

16 3. All abortion reports shall be signed by the attending physician, [~~who performed or~~  
17 ~~induced the abortion~~] and submitted to the **state department of health and senior services**  
18 within forty-five days from the date of the abortion. All complication reports shall be signed  
19 by the physician providing the post-abortion care and submitted to the department **of health**  
20 **and senior services** within forty-five days from the date of the post-abortion care.

21 4. A copy of the abortion report shall be made a part of the medical record of the  
22 patient of the [~~abortion~~] facility or hospital in which the abortion was performed [~~or induced~~].

23 5. The **state department of health and senior services** shall be responsible for  
24 collecting all abortion reports and complication reports and collating and evaluating all data  
25 gathered therefrom and shall annually publish a statistical report based on such data from  
26 abortions performed [~~or induced~~] in the previous calendar year.

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

3 ~~2. Notwithstanding any other provision of law to the contrary, no~~  
4 ~~abortion shall be performed or induced upon a woman, except in cases of~~  
5 ~~medical emergency. Any person who knowingly performs or induces an~~  
6 ~~abortion of an unborn child in violation of this subsection shall be guilty of a~~  
7 ~~class B felony, as well as subject to suspension or revocation of his or her~~

8 professional license by his or her professional licensing board. A woman upon  
 9 whom an abortion is performed or induced in violation of this subsection shall  
 10 not be prosecuted for a conspiracy to violate the provisions of this subsection.

11 3. It shall be an affirmative defense for any person alleged to have  
 12 violated the provisions of subsection 2 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 4. The enactment of this section shall only become effective upon  
 17 notification to the revisor of statutes by an opinion by the attorney general of  
 18 Missouri, a proclamation by the governor of Missouri, or the adoption of a  
 19 concurrent resolution by the Missouri general assembly that:

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

25 (2) An amendment to the Constitution of the United States has been  
 26 adopted that has the effect of restoring or granting to the state of Missouri the  
 27 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 [188.026. 1. This section and sections 188.056, 188.057, and 188.058  
 shall be known 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  
 4 development of the unborn child, human pregnancy, and the effects of abortion  
 5 was either not part of the record or was not available at the time. Since 1973,  
 6 advances in medical and scientific technology have greatly expanded our  
 7 knowledge of prenatal life and the effects of abortion on women. The general  
 8 assembly of this state finds:

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

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

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

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

28           (5) ~~In Webster v. Reproductive Health Services, 492 U.S. 490 (1989),~~  
29 ~~the Supreme Court, while considering the "preamble" that set forth "findings"~~  
30 ~~in section 1.205, stated: "We think the extent to which the preamble's~~  
31 ~~language might be used to interpret other state statutes or regulations is~~  
32 ~~something that only the courts of Missouri can definitively decide. State law~~  
33 ~~has offered protections to unborn children in tort and probate law". Id. at 506.~~  
34 ~~Since Webster, Missouri courts have construed section 1.205 and have~~  
35 ~~consistently found that an unborn child is a person for purposes of Missouri's~~  
36 ~~homicide and assault laws when the unborn child's mother was killed or~~  
37 ~~assaulted by another person. Section 1.205 has even been found applicable to~~  
38 ~~the manslaughter of an unborn child who was eight weeks gestational age or~~  
39 ~~earlier. State v. Harrison, 390 S.W.3d 927 (Mo. Ct. App. 2013);~~

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

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

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

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

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

68           (11) ~~In Planned Parenthood of Central Missouri v. Danforth, 428 U.S.~~  
69 ~~52 (1976), the Supreme Court noted that "we recognized in Roe that viability~~  
70 ~~was a matter of medical judgment, skill, and technical ability, and we~~  
71 ~~preserved the flexibility of the term". Id. at 64. Due to advances in medical~~  
72 ~~technology and diagnoses, present-day physicians and scientists now describe~~  
73 ~~the viability of an unborn child in an additional manner, by determining~~  
74 ~~whether there is a viable pregnancy or viable intrauterine pregnancy during the~~  
75 ~~first trimester of pregnancy;~~

76           (12) ~~While the overall risk of miscarriage after clinical recognition of~~  
77 ~~pregnancy is twelve to fifteen percent, the incidence decreases significantly if~~  
78 ~~cardiac activity in the unborn child has been confirmed. The detection of a~~  
79 ~~heartbeat in an unborn child is a reliable indicator of a viable pregnancy and~~  
80 ~~that the unborn child will likely survive to birth, especially if presenting for a~~  
81 ~~prenatal visit at eight weeks gestational age or later. For asymptomatic women~~  
82 ~~attending a first prenatal visit between six and eleven weeks gestational age~~  
83 ~~where a heartbeat was confirmed through an ultrasound, the subsequent risk of~~  
84 ~~miscarriage is one and six tenths percent. Although the risk is higher at six~~  
85 ~~weeks gestational age at nine and four tenths percent, it declines rapidly to one~~  
86 ~~and five tenths percent at eight weeks gestational age, and less than one~~  
87 ~~percent at nine weeks gestational age or later;~~

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

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

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

104           (16) ~~Missouri law identifies the presence of circulation, respiration,~~  
105 ~~and brain function as indicia of life under section 194.005, as the presence of~~  
106 ~~circulation, respiration, and brain function indicates that such person is not~~  
107 ~~legally dead, but is legally alive;~~

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

114           (18) ~~Peripheral cutaneous sensory receptors, the receptors that feel~~  
115 ~~pain, develop early in the unborn child. They appear in the perioral cutaneous~~  
116 ~~area at around seven to eight weeks gestational age, in the palmar regions at~~  
117 ~~ten to ten and a half weeks gestational age, the abdominal wall at fifteen weeks~~  
118 ~~gestational age, and over all of the unborn child's body at sixteen weeks~~  
119 ~~gestational age;~~

120           (19) ~~Substance P, a peptide that functions as a neurotransmitter,~~  
121 ~~especially in the transmission of pain, is present in the dorsal horn of the spinal~~  
122 ~~cord of the unborn child at eight to ten weeks gestational age. Enkephalins,~~  
123 ~~peptides that play a role in neurotransmission and pain modulation, are present~~  
124 ~~in the dorsal horn at twelve to fourteen weeks gestational age;~~

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

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

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

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

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

148           (25) ~~The Supreme Court acknowledged in Gonzales v. Carhart, 550~~  
149 ~~U.S. 124, 160 (2007), that "the standard D&E is in some respects as brutal, if~~  
150 ~~not more, than the intact D&E" partial birth abortion method banned by~~  
151 ~~Congress and upheld as facially constitutional by the Supreme Court, even~~

152 though the federal ban was applicable both before and after viability and had  
153 no exception for the health of the mother;

154 (26) Missouri's ban on the partial birth abortion method, section  
155 565.300, is in effect because of *Gonzales v. Carhart* and the Supreme Court's  
156 subsequent decision in *Nixon v. Reproductive Health Services of Planned*  
157 *Parenthood of the St. Louis Region, Inc.*, 550 U.S. 901 (2007), to vacate and  
158 remand to the appellate court the prior invalidation of section 565.300. Since  
159 section 565.300, like Congress' ban on partial birth abortion, is applicable both  
160 before and after viability, there is ample precedent for the general assembly to  
161 constitutionally prohibit the brutal D&E abortion method at fourteen weeks  
162 gestational age or later, even before the unborn child is viable, with a medical  
163 emergency exception;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

222 ~~(35) A large percentage of women who have an abortion performed or~~  
223 ~~induced upon them in Missouri each year are at less than eight weeks~~  
224 ~~gestational age, a large majority are at less than fourteen weeks gestational~~  
225 ~~age, a larger majority are at less than eighteen weeks gestational age, and an~~  
226 ~~even larger majority are at less than twenty weeks gestational age. A~~  
227 ~~prohibition on performing or inducing an abortion at eight weeks gestational~~  
228 ~~age or later, with a medical emergency exception, does not amount to a~~  
229 ~~substantial obstacle to a large fraction of women for whom the prohibition is~~  
230 ~~relevant, which is pregnant women in Missouri who are seeking an abortion~~  
231 ~~while not experiencing a medical emergency. The burden that a prohibition on~~  
232 ~~performing or inducing an abortion at eight, fourteen, eighteen, or twenty~~  
233 ~~weeks gestational age or later, with a medical emergency exception, might~~  
234 ~~impose on abortion access, is outweighed by the benefits conferred upon the~~  
235 ~~following:~~

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

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

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

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

244 ~~(36) In Webster, the Supreme Court noted, in upholding a Missouri~~  
245 ~~statute, "that there may be a 4 week error in estimating gestational age".~~  
246 ~~Webster, 492 U.S. at 516. Thus, an unborn child thought to be eight weeks~~  
247 ~~gestational age might in fact be twelve weeks gestational age, when an~~

248 ~~abortion poses a greater risk to the woman and the unborn child is~~  
249 ~~considerably more developed. An unborn child at fourteen weeks~~  
250 ~~gestational age might be eighteen weeks gestational age and an unborn child~~  
251 ~~at eighteen weeks gestational age might be twenty two weeks gestational age,~~  
252 ~~when an abortion poses a greater risk to the woman, the unborn child is~~  
253 ~~considerably more developed, the abortion method likely to be employed is~~  
254 ~~more brutal, and the risk of pain experienced by the unborn child is greater.~~  
255 ~~An unborn child at twenty weeks gestational age might be twenty four weeks~~  
256 ~~gestational age, when an abortion poses a greater risk to the woman, the~~  
257 ~~unborn child is considerably more developed, the abortion method likely to be~~  
258 ~~employed is more brutal, the risk of pain experienced by the unborn child is~~  
259 ~~greater, and the unborn child may be viable.~~

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

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

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

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

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

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

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

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

296 (6) ~~Ending the incongruities in state law by permitting some unborn~~  
 297 ~~children to be killed by abortion, while requiring that unborn children be~~  
 298 ~~protected in nonabortion circumstances through, including, but not limited to,~~  
 299 ~~homicide, assault, self defense, and defense of another statutes; laws~~  
 300 ~~guaranteeing prenatal health care, emergency care, and testing; state-~~  
 301 ~~sponsored health insurance for unborn children; the prohibition of restraints~~  
 302 ~~in correctional institutions to protect pregnant offenders and their unborn~~  
 303 ~~children; and protecting the interests of unborn children by the appointment of~~  
 304 ~~conservators, guardians, and representatives;~~

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

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

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

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

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

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

16 ~~(4) Among Missouri residents, the rate of black or African American~~  
 17 ~~women who undergo abortions is significantly higher, about three and one half~~  
 18 ~~times higher, than the rate of white women who undergo abortions. Among~~  
 19 ~~Missouri residents, the rate of black or African American women who~~  
 20 ~~undergo repeat abortions is significantly higher, about one and one half times~~  
 21 ~~higher, than the rate of white women who undergo repeat abortions;~~

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

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

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

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

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

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~~  
~~of a person to induce an abortion on another using any drug or chemical, or~~

19 combination thereof, which may cause birth defects, disability, or other injury  
 20 in a child who survives the abortion if the person does not have tail insurance  
 21 pursuant to this section, except that the abortion facility or hospital may  
 22 provide tail insurance for the services of persons employed or engaged by such  
 23 facility or hospital which is no less than the coverage amounts and duration set  
 24 forth in this section.

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

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  
 17 188.057, 188.058, or 188.375 if prosecution under such sections would violate  
 18 the provisions of Amendment V to the Constitution of the United States or  
 19 Article I, Section 19 of the Constitution of Missouri.

20 4. If any one or more provisions, subsections, sentences, clauses,  
 21 phrases, or words of this section or the application thereof to any person,  
 22 circumstance, or period of gestational age is found to be unenforceable,  
 23 unconstitutional, or invalid by a court of competent jurisdiction, the same is  
 24 hereby declared to be severable and the balance of the section shall remain  
 25 effective notwithstanding such unenforceability, unconstitutionality, or  
 26 invalidity. The general assembly hereby declares that it would have passed  
 27 this section, and each provision, subsection, sentence, clause, phrase, or word  
 28 thereof, irrespective of the fact that any one or more provisions, subsections,  
 29 sentences, clauses, phrases, or words of the section, or the application of the  
 30 section to any person, circumstance, or period of gestational age, would be  
 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  
 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 subsection shall not be prosecuted for  
 9 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  
 3 contrary, no abortion shall be performed or induced upon a woman at eighteen  
 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 section shall not be prosecuted for a  
 10 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  
 17 section 188.056, 188.057, or 188.375 if prosecution under such sections  
 18 would violate the provisions of Amendment V to the Constitution of the  
 19 United States or Article I, Section 19 of the Constitution of Missouri.

20 4. If any one or more provisions, subsections, sentences, clauses,  
 21 phrases, or words of this section or the application thereof to any person,  
 22 circumstance, or period of gestational age is found to be unenforceable,  
 23 unconstitutional, or invalid by a court of competent jurisdiction, the same is  
 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 ~~[188.375. 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~~  
8 ~~pain capable unborn child, except in cases of medical emergency. Any person~~  
9 ~~who knowingly performs or induces an abortion of a late term pain capable~~  
10 ~~unborn child in violation of this subsection shall be guilty of a class B felony,~~  
11 ~~as well as subject to suspension or revocation of his or her professional license~~  
12 ~~by his or her professional licensing board. A woman upon whom an abortion~~  
13 ~~is performed or induced in violation of this subsection shall not be prosecuted~~  
14 ~~for a conspiracy to violate the provisions of this subsection.~~

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

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

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

37 ~~7. When in cases of medical emergency a physician performs or~~  
38 ~~induces an abortion upon a woman during her third trimester carrying a late-~~  
39 ~~term pain capable unborn child, there shall be in attendance a physician other~~  
~~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.]~~

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