

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
**HOUSE JOINT
RESOLUTION NO. 73**
103RD GENERAL ASSEMBLY

2454H.05C

JOSEPH ENGLER, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing Section 36 of Article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to reproductive health care.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2026, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to Article I of the Constitution of the state of Missouri:

Section A. Section 36, Article I, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as Section 36(a), to read as follows:

- Section 36(a). 1. The state's duty to protect public health and welfare includes protecting the integrity and ethics of the medical profession. The state's interest in regulating the practice of medicine is even greater in areas of medical and scientific uncertainty or in areas that raise grave moral and ethical concerns, including abortion and gender transition procedures.**
- 2. An abortion may be performed or induced upon a woman in cases of medical emergency, fetal anomaly, rape, or incest. In the case of abortions performed or induced in cases of rape or incest, the abortion may be performed or induced no later than twelve weeks gestational age of the unborn child.**
- 3. The general assembly may enact laws that regulate the provision of abortions, abortion facilities, and abortion providers to ensure the health and safety of the**

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 **pregnant mother. These laws shall include, but not be limited to, laws requiring**
13 **physicians providing abortion care to have admitting privileges at a nearby hospital;**
14 **laws requiring facilities where abortions are performed or induced to be licensed and**
15 **inspected for clean and safe conditions and adequate instruments to treat any**
16 **emergencies arising from an abortion procedure; laws requiring physicians to perform**
17 **a sufficient examination of the woman to determine the unborn child's gestational age**
18 **and any preexisting medical conditions that may influence the procedure; and laws**
19 **requiring ultrasounds to be performed only by physicians or licensed medical**
20 **technicians.**

21 **4. No abortion shall be performed or induced upon a woman based on a prenatal**
22 **diagnosis, test, or screening indicating a disability in an unborn child, except in cases of**
23 **a fetal anomaly.**

24 **5. No public funds shall be expended for the purpose of performing, inducing, or**
25 **otherwise assisting any abortion, except in cases of medical emergency, rape, or incest,**
26 **as otherwise authorized by law.**

27 **6. Except in cases of a medical emergency in which consent cannot be obtained,**
28 **no abortion shall be performed or induced upon a woman without her voluntary and**
29 **informed consent, given freely and without coercion. In the case of a minor under the**
30 **age of eighteen years who is not emancipated, no person shall knowingly perform or**
31 **induce an abortion, except in cases of a medical emergency in which consent cannot be**
32 **obtained, unless the attending physician has obtained: (1) the written consent of the**
33 **minor and a parent or legal guardian; and (2) documentation of the consent is retained**
34 **in the minor's medical record. Licensed medical physicians shall be required to provide**
35 **women with medically accurate information. The general assembly may enact laws to**
36 **provide for the right of a minor to consent to an abortion as granted by a court order.**

37 **7. Fetal organ harvesting after an abortion is not permitted under any**
38 **circumstances.**

39 **8. A woman's ability to access health care in cases of miscarriages, ectopic**
40 **pregnancies, and other medical emergencies shall not be infringed by the state.**

41 **9. No gender transition surgeries shall be knowingly performed on children**
42 **under eighteen years of age, and no cross-sex hormones or puberty-blocking drugs shall**
43 **be knowingly prescribed or administered for the purpose of gender transition to**
44 **children under eighteen years of age. The provisions of this section shall not apply to**
45 **the use of such surgeries, drugs, or hormones to treat children born with a medically**
46 **verifiable disorder of sex development or to treat any infection, injury, disease, or**
47 **disorder unrelated to the purpose of a gender transition.**

48 **10. Any action challenging the validity of any state law relating to reproductive**
49 **health care shall be brought in the Circuit Court of Cole County, Missouri. If a**
50 **pleading, written motion, or other paper drawing into question the constitutionality of a**
51 **state statute does not include the state, one of its agencies, or one of its officers or**
52 **employees in an official capacity, the party bringing the action shall file a notice of**
53 **constitutional question and serve it on the attorney general and the attorney general**
54 **shall have the right to intervene in the litigation.**

55 **11. The general assembly shall have the authority to enact laws to carry out the**
56 **provisions of this section.**

57 **12. As used in this section, the following terms mean:**

58 **(1) "Cross-sex hormones", testosterone, estrogen, or other androgens given to an**
59 **individual in amounts that are greater or more potent than would normally occur**
60 **naturally in a healthy individual of the same age and sex;**

61 **(2) "Fetal anomaly", a structural or functional abnormality in the unborn**
62 **child's gestational development that would make life outside the womb impossible;**

63 **(3) "Fetal organ harvesting", collection of fetal tissue, organs, or fluids,**
64 **including any biological material, for the purpose of selling or collecting for scientific**
65 **purposes, but shall not include the utilization of fetal tissue, organs, or fluids to**
66 **determine the cause or causes of any anomaly, illness, death, or genetic condition of the**
67 **unborn child, the paternity of the unborn child, or for law enforcement purposes;**

68 **(4) "Gender transition surgery", a surgical procedure performed for the**
69 **purpose of assisting an individual with identifying with and living as a gender different**
70 **from his or her biological sex;**

71 **(5) "Medical emergency", a condition that, based on reasonable medical**
72 **judgment, so complicates the medical condition of a pregnant woman as to necessitate**
73 **the immediate termination of her pregnancy to avert the death of the pregnant woman**
74 **or for which a delay will create a serious risk of substantial and irreversible physical**
75 **impairment of a major bodily function of the pregnant woman. A medical emergency**
76 **shall include, but not be limited to, an ectopic pregnancy at any point following the**
77 **diagnosis of such and treatment for a miscarriage;**

78 **(6) "Puberty-blocking drugs", gonadotropin-releasing hormone analogues or**
79 **other synthetic drugs used to stop luteinizing hormone secretion and follicle stimulating**
80 **hormone secretion, synthetic antiandrogen drugs to block the androgen receptor, or any**
81 **other drug used to delay or suppress pubertal development in children for the purpose**
82 **of assisting an individual with a gender transition;**

83 (7) "Reasonable medical judgment", a medical judgment that would be made by
84 a reasonably prudent physician, knowledgeable about the case and the treatment
85 possibilities with respect to the medical conditions involved.

86 13. All provisions of this section are severable. If any provision of this section is
87 found by a court of competent jurisdiction to be unconstitutional or unconstitutionally
88 enacted, the remaining provisions of this section shall be and remain valid.

2 ~~[Section 36. 1. This Section shall be known as "The Right to
Reproductive Freedom Initiative".~~

3 ~~2. The Government shall not deny or infringe upon a person's
4 fundamental right to reproductive freedom, which is the right to make and
5 carry out decisions about all matters relating to reproductive health care,
6 including but not limited to prenatal care, childbirth, postpartum care, birth
7 control, abortion care, miscarriage care, and respectful birthing conditions.~~

8 ~~3. The right to reproductive freedom shall not be denied, interfered
9 with, delayed, or otherwise restricted unless the Government demonstrates that
10 such action is justified by a compelling governmental interest achieved by the
11 least restrictive means. Any denial, interference, delay, or restriction of the
12 right to reproductive freedom shall be presumed invalid. For purposes of this
13 Section, a governmental interest is compelling only if it is for the limited
14 purpose and has the limited effect of improving or maintaining the health of a
15 person seeking care, is consistent with widely accepted clinical standards of
16 practice and evidence-based medicine, and does not infringe on that person's
17 autonomous decision-making.~~

18 ~~4. Notwithstanding subsection 3 of this Section, the general assembly
19 may enact laws that regulate the provision of abortion after Fetal Viability
20 provided that under no circumstance shall the Government deny, interfere
21 with, delay, or otherwise restrict an abortion that in the good faith judgment of
22 a treating health care professional is needed to protect the life or physical or
23 mental health of the pregnant person.~~

24 ~~5. No person shall be penalized, prosecuted, or otherwise subjected to
25 adverse action based on their actual, potential, perceived, or alleged pregnancy
26 outcomes, including but not limited to miscarriage, stillbirth, or abortion. Nor
27 shall any person assisting a person in exercising their right to reproductive
28 freedom with that person's consent be penalized, prosecuted, or otherwise
29 subjected to adverse action for doing so.~~

30 ~~6. The Government shall not discriminate against persons providing or
31 obtaining reproductive health care or assisting another person in doing so.~~

32 ~~7. If any provision of this Section or the application thereof to anyone
33 or to any circumstance is held invalid, the remainder of those provisions and
34 the application of such provisions to others or other circumstances shall not be
35 affected thereby.~~

36 ~~8. For purposes of this Section, the following terms mean:~~

37 ~~(1) "Fetal Viability", the point in pregnancy when, in the good faith
38 judgment of a treating health care professional and based on the particular
39 facts of the case, there is a significant likelihood of the fetus's sustained~~

40 ~~survival outside the uterus without the application of extraordinary medical~~
41 ~~measures.~~
42 ~~(2) "Government",~~
43 ~~a. the state of Missouri; or~~
44 ~~b. any municipality, city, town, village, township, district, authority,~~
45 ~~public subdivision or public corporation having the power to tax or regulate, or~~
46 ~~any portion of two or more such entities within the state of Missouri.]~~

Section B. Pursuant to chapter 116, and other applicable constitutional provisions and
2 laws of this state allowing the general assembly to adopt ballot language for the submission of
3 this joint resolution to the voters of this state, the official summary statement of this
4 resolution shall be as follows:

5 "Shall the Missouri Constitution be amended to:

- 6 • Guarantee access to care for medical emergencies, ectopic pregnancies, and
7 miscarriages;
- 8 • Ensure women's safety during abortions;
- 9 • Ensure parental consent for minors;
- 10 • Allow abortions for medical emergencies, fetal anomalies, rape, and incest;
- 11 • Require physicians to provide medically accurate information; and
- 12 • Protect children from gender transition?".

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