

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR

# SENATE BILL NO. 749

96TH GENERAL ASSEMBLY  
2012

5697S.10T

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## AN ACT

To repeal section 376.1199, RSMo, and to enact in lieu thereof two new sections relating to the protection of the religious beliefs and moral convictions of certain persons and entities, with an emergency clause.

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

Section A. Section 376.1199, RSMo, is repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 191.724 and 376.1199, to read as  
3 follows:

191.724. 1. **The rights guaranteed under this section are in  
2 addition to the rights guaranteed under section 376.805, relating to  
3 health plan coverage of abortion, and section 376.1199, relating to  
4 health plan coverage of certain obstetrical and gynecological benefits  
5 and pharmaceutical coverage.**

6 2. **No employee, self-employed person, or any other person shall  
7 be compelled to obtain coverage for, or be discriminated against or  
8 penalized for declining or refusing coverage for, abortion,  
9 contraception, or sterilization in a health plan if such items or  
10 procedures are contrary to the religious beliefs or moral convictions of  
11 such employee or person.**

12 3. **No employer, health plan provider, health plan sponsor, health  
13 care provider, or any other person or entity shall be compelled to**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14 provide coverage for, or be discriminated against or penalized for  
15 declining or refusing coverage for, abortion, contraception, or  
16 sterilization in a health plan if such items or procedures are contrary  
17 to the religious beliefs or moral convictions of such employer, health  
18 plan provider, health plan sponsor, health care provider, person, or  
19 entity.

20 4. No governmental entity, public official, or entity acting in a  
21 governmental capacity shall discriminate against or penalize an  
22 employee, self-employed person, employer, health plan provider, health  
23 plan sponsor, health care provider, or any other person or entity  
24 because of such employee's, self-employed person's, employer's, health  
25 plan provider's, health plan sponsor's, health care provider's, or other  
26 person's or entity's unwillingness, based on religious beliefs or moral  
27 convictions, to obtain or provide coverage for, pay for, participate in,  
28 or refer for, abortion, contraception, or sterilization in a health plan.

29 5. Whenever the attorney general has a reasonable cause to  
30 believe that any person or entity or group of persons or entities is  
31 being, has been, or is threatened to be denied any of the rights granted  
32 by this section or other law that protects the religious beliefs or moral  
33 convictions of such persons or entities, and such denial raises an issue  
34 of general public importance, the attorney general may bring a civil  
35 action in any appropriate state or federal court. Such complaint shall  
36 set forth the facts and request such appropriate relief, including, but  
37 not limited to, an application for a permanent or temporary injunction,  
38 restraining order, mandamus, an order under the federal  
39 Administrative Procedure Act, Religious Freedom Restoration Act, or  
40 other federal law, an order under section 1.302 relating to free exercise  
41 of religion, or other order against the governmental entity, public  
42 official, or entity acting in a governmental capacity responsible for  
43 such denial or threatened denial of rights, as the attorney general  
44 deems necessary to ensure the full enjoyment of the rights granted by  
45 law. Nothing contained herein shall preclude a private cause of action  
46 against a governmental entity, public official, or entity acting in a  
47 governmental capacity by any person or entity or group of persons or

48 entities aggrieved by a violation of this section or other law that  
49 protects the religious beliefs or moral convictions of such persons or  
50 entities, or be considered a limitation on any other remedy permitted  
51 by law. A court may order any appropriate relief, including recovery  
52 of damages, payment of reasonable attorney's fees, costs, and expenses.

53 **6. For purposes of this section, "sterilization" shall mean any**  
54 **elective medical procedure for which the sole purpose is to make an**  
55 **individual incapable of reproduction.**

376.1199. 1. Each health carrier or health benefit plan that offers or  
2 issues health benefit plans providing obstetrical/gynecological benefits and  
3 pharmaceutical coverage, which are delivered, issued for delivery, continued or  
4 renewed in this state on or after January 1, 2002, shall:

5 (1) Notwithstanding the provisions of subsection 4 of section 354.618,  
6 provide enrollees with direct access to the services of a participating obstetrician,  
7 participating gynecologist or participating obstetrician/gynecologist of her choice  
8 within the provider network for covered services. The services covered by this  
9 subdivision shall be limited to those services defined by the published  
10 recommendations of the accreditation council for graduate medical education for  
11 training an obstetrician, gynecologist or obstetrician/gynecologist, including but  
12 not limited to diagnosis, treatment and referral for such services. A health  
13 carrier shall not impose additional co-payments, coinsurance or deductibles upon  
14 any enrollee who seeks or receives health care services pursuant to this  
15 subdivision, unless similar additional co-payments, coinsurance or deductibles are  
16 imposed for other types of health care services received within the provider  
17 network. Nothing in this subsection shall be construed to require a health carrier  
18 to perform, induce, pay for, reimburse, guarantee, arrange, provide any resources  
19 for or refer a patient for an abortion, as defined in section 188.015, other than a  
20 spontaneous abortion or to prevent the death of the female upon whom the  
21 abortion is performed, or to supersede or conflict with section 376.805; and

22 (2) Notify enrollees annually of cancer screenings covered by the enrollees'  
23 health benefit plan and the current American Cancer Society guidelines for all  
24 cancer screenings or notify enrollees at intervals consistent with current  
25 American Cancer Society guidelines of cancer screenings which are covered by the  
26 enrollees' health benefit plans. The notice shall be delivered by mail unless the

27 enrollee and health carrier have agreed on another method of notification; and

28           (3) Include coverage for services related to diagnosis, treatment and  
29 appropriate management of osteoporosis when such services are provided by a  
30 person licensed to practice medicine and surgery in this state, for individuals  
31 with a condition or medical history for which bone mass measurement is  
32 medically indicated for such individual. In determining whether testing or  
33 treatment is medically appropriate, due consideration shall be given to  
34 peer-reviewed medical literature. A policy, provision, contract, plan or agreement  
35 may apply to such services the same deductibles, coinsurance and other  
36 limitations as apply to other covered services; and

37           (4) If the health benefit plan also provides coverage for pharmaceutical  
38 benefits, provide coverage for contraceptives either at no charge or at the same  
39 level of deductible, coinsurance or co-payment as any other covered drug.

40 No such deductible, coinsurance or co-payment shall be greater than any drug on  
41 the health benefit plan's formulary. As used in this section, "contraceptive" shall  
42 include all prescription drugs and devices approved by the federal Food and Drug  
43 Administration for use as a contraceptive, but shall exclude all drugs and devices  
44 that are intended to induce an abortion, as defined in section 188.015, which shall  
45 be subject to section 376.805. Nothing in this subdivision shall be construed to  
46 exclude coverage for prescription contraceptive drugs or devices ordered by a  
47 health care provider with prescriptive authority for reasons other than  
48 contraceptive or abortion purposes.

49           2. For the purposes of this section, "health carrier" and "health benefit  
50 plan" shall have the same meaning as defined in section 376.1350.

51           3. The provisions of this section shall not apply to a supplemental  
52 insurance policy, including a life care contract, accident-only policy, specified  
53 disease policy, hospital policy providing a fixed daily benefit only, Medicare  
54 supplement policy, long-term care policy, short-term major medical policies of six  
55 months or less duration, or any other supplemental policy as determined by the  
56 director of the department of insurance, financial institutions and professional  
57 registration.

58           4. Notwithstanding the provisions of subdivision (4) of subsection 1 of this  
59 section to the contrary:

60           (1) Any health carrier [may] **shall offer and** issue to any person or

61 entity purchasing a health benefit plan, a health benefit plan that excludes  
62 coverage for contraceptives if the use or provision of such contraceptives is  
63 contrary to the moral, ethical or religious beliefs or tenets of such person or  
64 entity;

65 (2) Upon request of an enrollee who is a member of a group health benefit  
66 plan and who states that the use or provision of contraceptives is contrary to his  
67 or her moral, ethical or religious beliefs, any health carrier shall issue to or on  
68 behalf of such enrollee a policy form that excludes coverage for  
69 contraceptives. Any administrative costs to a group health benefit plan  
70 associated with such exclusion of coverage not offset by the decreased costs of  
71 providing coverage shall be borne by the group policyholder or group plan holder;

72 (3) Any health carrier which is owned, operated or controlled in  
73 substantial part by an entity that is operated pursuant to moral, ethical or  
74 religious tenets that are contrary to the use or provision of contraceptives shall  
75 be exempt from the provisions of subdivision (4) of subsection 1 of this  
76 section. For purposes of this subsection, if new premiums are charged for a  
77 contract, plan or policy, it shall be determined to be a new contract, plan or  
78 policy.

79 5. Except for a health carrier that is exempted from providing coverage  
80 for contraceptives pursuant to this section, a health carrier shall allow enrollees  
81 in a health benefit plan that excludes coverage for contraceptives pursuant to  
82 subsection 4 of this section to purchase a health benefit plan that includes  
83 coverage for contraceptives.

84 6. Any health benefit plan issued pursuant to subsection 1 of this section  
85 shall provide clear and conspicuous written notice on the enrollment form or any  
86 accompanying materials to the enrollment form and the group health benefit plan  
87 **application and** contract:

88 (1) Whether coverage for contraceptives is or is not included;

89 (2) That an enrollee who is a member of a group health benefit plan with  
90 coverage for contraceptives has the right to exclude coverage for contraceptives  
91 if such coverage is contrary to his or her moral, ethical or religious beliefs; [and]

92 (3) That an enrollee who is a member of a group health benefit plan  
93 without coverage for contraceptives has the right to purchase coverage for  
94 contraceptives;

95           **(4) Whether an optional rider for elective abortions has been**  
96 **purchased by the group contract holder pursuant to section 376.805;**  
97 **and**

98           **(5) That an enrollee who is a member of a group health plan with**  
99 **coverage for elective abortions has the right to exclude and not pay for**  
100 **coverage for elective abortions if such coverage is contrary to his or**  
101 **her moral, ethical, or religious beliefs. For purposes of this subsection,**  
102 **if new premiums are charged for a contract, plan, or policy, it shall be**  
103 **determined to be a new contract, plan, or policy.**

104           7. Health carriers shall not disclose the person or entity who purchased  
105 the health benefit plan the names of enrollees who exclude coverage for  
106 contraceptives in the health benefit plan or who purchase a health benefit plan  
107 that includes coverage for contraceptives. Health carriers and the person or  
108 entity who purchased the health benefit plan shall not discriminate against an  
109 enrollee because the enrollee excluded coverage for contraceptives in the health  
110 benefit plan or purchased a health benefit plan that includes coverage for  
111 contraceptives.

112           8. The departments of health and senior services and insurance, financial  
113 institutions and professional registration may promulgate rules necessary to  
114 implement the provisions of this section. No rule or portion of a rule promulgated  
115 pursuant to this section shall become effective unless it has been promulgated  
116 pursuant to chapter 536. Any rule or portion of a rule, as that term is defined in  
117 section 536.010, that is created under the authority delegated in this section shall  
118 become effective only if it complies with and is subject to all of the provisions of  
119 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
120 nonseverable and if any of the powers vested with the general assembly pursuant  
121 to chapter 536 to review, to delay the effective date or to disapprove and annul  
122 a rule are subsequently held unconstitutional, then the grant of rulemaking  
123 authority and any rule proposed or adopted after August 28, 2001, shall be  
124 invalid and void.

          Section B. Because immediate action is necessary to preserve the religious  
2 freedom and moral convictions of persons and entities who provide or obtain  
3 health plans or health care for themselves, their employees, patients or others,  
4 and because certain actions by the federal government threaten the obtaining or

5 providing of such health plans and health care as of August 1, 2012, the  
6 enactment of section 191.724 of this act is deemed necessary for the immediate  
7 preservation of the public health, welfare, peace and safety, and is hereby  
8 declared to be an emergency act within the meaning of the constitution, and the  
9 enactment of section 191.724 of this act shall be in full force and effect upon its  
10 passage and approval.

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