

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 644

98TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Children, January 28, 2016, with recommendation that the Senate Committee Substitute do pass.

4892S.05C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 188.036, 188.047, 188.052, 188.080, 197.215, and 197.230, RSMo, and to enact in lieu thereof six new sections relating to abortion, with existing penalty provisions.

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

Section A. Sections 188.036, 188.047, 188.052, 188.080, 197.215, and
2 197.230, RSMo, are repealed and six new sections enacted in lieu thereof, to be
3 known as sections 188.036, 188.047, 188.052, 188.080, 197.215, and 197.230, to
4 read as follows:

188.036. 1. No physician shall perform an abortion on a woman if the
2 physician knows that the woman conceived the unborn child for the purpose of
3 providing fetal organs or tissue for medical transplantation to herself or another,
4 and the physician knows that the woman intends to procure the abortion to
5 utilize those organs or tissue for such use for herself or another.

6 2. No person shall utilize the fetal organs or tissue resulting from an
7 abortion for medical transplantation, if the person knows that the abortion was
8 procured for the purpose of utilizing those organs or tissue for such use.

9 3. No person shall offer any inducement, monetary or otherwise, to a
10 woman or a prospective father of an unborn child for the purpose of conceiving
11 an unborn child for the medical, scientific, experimental or therapeutic use of the
12 fetal organs or tissue.

13 4. No person shall offer any inducement, monetary or otherwise, to the
14 mother or father of an unborn child for the purpose of procuring an abortion for
15 the medical, scientific, experimental or therapeutic use of the fetal organs or

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

16 tissue.

17 **5. No mother or father or any other person shall knowingly**
18 **donate or make an anatomical gift of the fetal organs or tissue**
19 **resulting from an abortion to any person or entity for medical,**
20 **scientific, experimental, therapeutic, or any other use.**

21 **6. Nothing in this section shall prohibit the utilization of fetal**
22 **organs or tissue resulting from an abortion for medical or scientific**
23 **purposes to determine the cause or causes of any anomaly, illness,**
24 **death, or genetic condition of the fetus, the paternity of the fetus, or for**
25 **law enforcement purposes.**

26 **7. No person shall knowingly offer or receive any valuable consideration**
27 **for the fetal organs or tissue resulting from an abortion, provided that nothing**
28 **in this subsection shall prohibit payment for burial or other final disposition of**
29 **the fetal remains so long as the final disposition does not include any**
30 **donation or anatomical gift of fetal organs or tissue, or payment for a**
31 **pathological examination, autopsy or postmortem examination of the fetal**
32 **remains.**

33 **[6.] 8. If any provision in this section or the application thereof to any**
34 **person, circumstance or period of gestation is held invalid, such invalidity shall**
35 **not affect the provisions or applications which can be given effect without the**
36 **invalid provision or application, and to this end the provisions of this section are**
37 **declared severable.**

 188.047. [A representative sample of] **1. Except as provided for in**
2 **subsection 6 of section 188.036, all tissue removed at the time of abortion**
3 **shall be submitted to a board eligible or certified pathologist, who shall file a copy**
4 **of the tissue report with the state department of health and senior services, and**
5 **who shall provide a copy of the report to the abortion facility or hospital in which**
6 **the abortion was performed or induced and the pathologist's report shall be made**
7 **a part of the patient's permanent record.**

8 **2. The tissue report shall contain a certification that all**
9 **submitted tissue has been disposed of in accordance with state law.**

10 **3. Beginning January 1, 2017, the department shall make an**
11 **annual report to the general assembly. The report shall include, but**
12 **not be limited to, the following for each abortion procedure reported**
13 **to the department the previous calendar year:**

14 **(1) The abortion procedure used with a clinical estimation of**

15 gestation;

16 (2) Whether the department received the tissue report for that
17 abortion, along with a certification of the disposal of the remains; and

18 (3) The existence and nature, if any, of any inconsistencies or
19 concerns between the abortion report submitted under section 188.052
20 and the tissue report submitted under subsection 1 of this section.

21 The report shall not contain any personal patient information the
22 disclosure of which is prohibited by state and federal law.

188.052. 1. An individual abortion report for each abortion performed or
2 induced upon a woman shall be completed by her attending physician. The
3 abortion report shall include the name and address of the pathologist
4 to whom the fetal tissue was submitted pursuant to section 188.047 and,
5 if applicable, the name and address of the individual or entity to whom
6 fetal tissue was submitted as allowed by subsection 6 of section 188.036.

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

10 (1) The date of the abortion;

11 (2) The name and address of the abortion facility or hospital where the
12 abortion was performed;

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

14 3. All abortion reports shall be signed by the attending physician, and
15 submitted to the state department of health and senior services within forty-five
16 days from the date of the abortion. All complication reports shall be signed by
17 the physician providing the post-abortion care and submitted to the department
18 of health and senior services within forty-five days from the date of the
19 post-abortion care.

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

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

188.080. Any person who is not a physician who performs or induces or
2 attempts to perform or induce an abortion on another is guilty of a class B felony,

3 and, upon conviction, shall be punished as provided by law. Any physician
4 performing or inducing an abortion who does not have [clinical] **surgical and**
5 **admitting** privileges at a hospital which offers obstetrical or gynecological care
6 located within thirty miles of the location at which the abortion is performed or
7 induced shall be guilty of a class A misdemeanor, and, upon conviction shall be
8 punished as provided by law.

197.215. 1. Upon receipt of an application for a license, the department
2 of health and senior services shall issue a license if the applicant and ambulatory
3 surgical center facilities meet the requirements established under sections
4 197.200 to 197.240, and have provided affirmative evidence that:

5 (1) Each member of the surgical staff is a physician, dentist or podiatrist
6 currently licensed to practice in Missouri;

7 (2) Surgical procedures shall be performed only by physicians, dentists or
8 podiatrists, who at the time are privileged to perform surgical procedures in at
9 least one licensed hospital in the community in which the ambulatory surgical
10 center is located, thus providing assurance to the public that patients treated in
11 the center shall receive continuity of care should the services of a hospital be
12 required; alternatively, applicant shall submit a copy of a current working
13 agreement with at least one licensed hospital in the community in which the
14 ambulatory surgical center is located, guaranteeing the transfer and admittance
15 of patients for emergency treatment whenever necessary;

16 (3) Continuous physician services or registered professional nursing
17 services are provided whenever a patient is in the facility;

18 (4) Adequate medical records for each patient are to be maintained.

19 2. Upon receipt of an application for a license, or the renewal thereof, the
20 department shall issue or renew the license if the applicant and program meet
21 the requirements established under sections 197.200 to 197.240 **and any other**
22 **applicable state or federal law and regulations. The department shall**
23 **not waive the requirements of this subsection as a condition of any**
24 **litigation, settlement, or any other agreement.** Each license shall be issued
25 only for the persons and premises named in the application. A license, unless
26 sooner suspended or revoked, shall be issued for a period of one year.

27 3. Each license shall be issued only for the premises and persons or
28 governmental units named in the application, and shall not be transferable or
29 assignable except with the written consent of the department. Licenses shall be
30 posted in a conspicuous place on the licensed premises.

31 4. If, during the period in which an ambulatory surgical center license is
32 in effect, the license holder or operator legally transfers operational
33 responsibilities by any process to another person as defined in section 197.200,
34 an application shall be made for the issuance of a new license to become effective
35 on the transfer date.

197.230. 1. The department of health and senior services shall make, or
2 cause to be made, such inspections and investigations as it deems necessary. The
3 department may delegate its powers and duties to investigate and inspect
4 ambulatory surgical centers to an official of a political subdivision having a
5 population of at least four hundred fifty thousand if such political subdivision is
6 deemed qualified by the department to inspect and investigate ambulatory
7 surgical centers. The official so designated shall submit a written report of his
8 **or her** findings to the department and the department may accept the
9 recommendations of such official if it determines that the facility inspected meets
10 minimum standards established pursuant to sections 197.200 to 197.240.

11 **2. In the case of any ambulatory surgical center operated for the**
12 **purpose of performing or inducing an abortion, the department shall**
13 **make or cause to be made an unannounced on-site inspection and**
14 **investigation at least annually. Such on-site inspection and**
15 **investigation shall include, but not be limited to, the following areas:**

16 **(1) Compliance with all statutory and regulatory requirements**
17 **for an ambulatory surgical center, including requirements that the**
18 **facility maintain adequate staffing and equipment to respond to**
19 **medical emergencies;**

20 **(2) Compliance with the requirement in section 188.047 that all**
21 **tissue removed at the time of abortion be submitted to a board certified**
22 **or eligible pathologist and that the resultant tissue report be made a**
23 **part of the patient's permanent record;**

24 **(3) Review of patient records to ensure that no consent forms or**
25 **other documentation authorizes any utilization of fetal organs or tissue**
26 **in violation of sections 188.036 and 194.275;**

27 **(4) Compliance with sections 188.205, 188.210, and 188.215**
28 **prohibiting the use of public funds, facilities, and employees to perform**
29 **or to assist a prohibited abortion or to encourage or to counsel a**
30 **woman to have a prohibited abortion;**

31 **(5) Compliance with sections 188.080 and 197.215 requiring any**

32 **physician performing or inducing abortions to have the hospital**
33 **surgical and admitting privileges prescribed therein; and**

34 **(6) Compliance with the requirement in section 197.215 that**
35 **continuous physician services or registered professional nursing**
36 **services be provided whenever a patient is in the facility.**

37 **3. Inspection and investigation reports shall be made available**
38 **to the public. Any portion of a report may be redacted when made**
39 **publicly available if such portion would disclose information that is not**
40 **subject to disclosure under the law.**

Unofficial ✓

Bill

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