

SENATE COMMITTEE SUBSTITUTE
FOR
SENATE RESOLUTION NO. 1794

Whereas, on July 21, 2015, the President Pro Tempore of the Senate established, pursuant to Senate Rule No. 31, the Senate Interim Committee on the Sanctity of Life composed of seven members of the Missouri Senate (later amended to include ten members of the Senate) with the following duties:

1. Conduct an in-depth analysis of the Planned Parenthood business model and the methods by which they dispose of human remains from aborted fetuses;
2. Investigate whether Planned Parenthood, and any of its affiliates or associates, is or has engaged in activity contrary to the laws of this state;
3. Determine whether any state dollars have been directly used in such activity or used in a manner to offset expenses so that Planned Parenthood and any of its affiliates and associates might engage in such alleged activities;
4. Investigate whether any person, past or present, employed by the state of Missouri had any prior knowledge of any such alleged activity or misuse of state funds; and
5. Examine and investigate any other issues the Committee deems relevant to the allegations brought forth against Planned Parenthood; and

Whereas, over the course of several months, the Committee held public hearings to receive the testimony of witnesses and develop recommendations for the Missouri Senate; and

Whereas, on November 24, 2015, the Committee, pursuant to the call issued by the President Pro Tempore of the Senate on July 21, 2015, and as part of its legislative duties to investigate whether or not an entity that is receiving state funds violated any state laws, issued a subpoena duces tecum to Dr. James Miller, Pathology Services, Inc. (attached as Exhibit 1). The subpoena was properly signed by President Pro Tempore of the Missouri Senate Ron Richard and attested to by the Secretary of the Missouri Senate and received by Dr. Miller on or about November 24, 2015; and

Whereas, the subpoena duces tecum commanded Dr. Miller and Pathology Services, Inc. to designate a knowledgeable person to appear before the Committee on Wednesday, December 2, 2015, to testify before the Committee and to provide the records contained in Attachment A to the subpoena at such

time; and

Whereas, on December 1, 2015, Senator Schaefer, as chairman of the Committee, sent a letter to Dr. Miller extending the deadline to appear before the Committee to December 9, 2015, and Senator Schaefer sent another letter to Dr. Miller extending the deadline to appear before the Committee to December 16, 2015; and

Whereas, on December 10, 2015, an attorney representing Dr. Miller and Pathology Services sent by fax and via USPS a document to Senator Richard entitled "Objections to the Subpoena Duces Tecum Issued to Dr. James Miller and Pathology Services Inc."; and

Whereas, the objections to the subpoena duces tecum contained in the letter to President Pro Tempore Richard by Dr. Miller and Pathology Services on December 10, 2015, have been distributed to the members of the Senate Committee on Rules, Joint Rules, Resolutions, and Ethics; and

Whereas, in the judgment of the Senate Committee on Rules, Joint Rules, Resolutions, and Ethics, the objections to the subpoena duces tecum are without merit and that such subpoena should be fully complied with; and

Whereas, the subpoena duces tecum does not seek any personally identifiable information from any client; and

Whereas, to this day, Dr. Miller has failed to comply with a properly executed subpoena duces tecum issued by the Missouri Senate and has not indicated that he intends to ever comply with the subpoena duces tecum; and

Whereas, in the judgment of this body, the documents sought by the Committee were relevant and pertinent to the charge of the Committee and should have been produced by Dr. Miller in the time period denoted in the subpoena duces tecum and the letters from Senator Schaefer to Dr. Miller; and

Whereas, the General Assembly is authorized to issue subpoenas pursuant to Senate Rule 14 as well as Section 21.400, RSMo, which states "Subpoenas for witnesses and the production of records shall be issued at the request of any member of the senate or the house of representatives, or the party accused, or any member of any committee; and all process awarded by the senate or house of representatives, and subpoenas and other process for witnesses whose attendance is required by either the senate or the house, or before any committee, shall be under the hand of the president pro tem, or the speaker and attested by the secretary or chief clerk, as the case may be, and shall be executed by the sergeant at arms of such house,

or by a special messenger appointed for that purpose."; and

Whereas, the General Assembly possesses power under the Missouri Constitution to arrest and punish a person who is guilty of contemptuous behavior; specifically Article III, Section 18 of the Missouri Constitution states, in part, that "Each house [of the General Assembly] may arrest and punish by fine not exceeding three hundred dollars, or imprisonment in a county jail not exceeding ten days, or both, any person not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence during its sessions..."; and

Whereas, Dr. Miller and Pathology Services Inc. have engaged in contemptuous behavior under Article III, Section 18 of the Missouri Constitution by refusing to comply with the subpoena issued under authority granted by Senate Rule 14 and Section 21.400, RSMo:

Now Therefore Be It Resolved that the members of the Missouri Senate, Ninety-eighth General Assembly, Second Regular Session, hereby declare that the aforementioned failure to comply with the subpoena duces tecum issued by the Missouri Senate is an insult to this body, and intended as such by Dr. James Miller and Pathology Services Inc., and constitutes and is in contempt of the power and authority of the Missouri Senate; and

Be It Further Resolved that Dr. James Miller and Pathology Services Inc. had no lawful excuse for not complying with the subpoena duces tecum; that the information to be obtained by the Committee from Dr. Miller and Pathology Services Inc. would be important and material for the Committee in fulfilling its legislative duties; that it was the duty of Dr. James Miller and Pathology Services Inc. to have provided the requested documents; and

Be It Further Resolved that Dr. Miller be summoned to appear at the bar of this body and show cause why he should not be punished for said contempt; and

Be It Further Resolved that the President Pro Tempore of the Senate and the Secretary of the Senate are hereby authorized to issue the necessary process to bring Dr. Miller to the Senate Chamber within the Missouri State Capitol on April 18, 2016, at 2:00 p.m., and the Sergeant-at-Arms, or his designee, is authorized and required to execute such process in the manner directed therein.

SUBPOENA DUCES TECUM

BEFORE THE SENATE INTERIM COMMITTEE ON THE SANCTITY OF LIFE

MISSOURI SENATE

A CHAMBER OF THE MISSOURI GENERAL ASSEMBLY

STATE OF MISSOURI)
) SS
COUNTY OF COLE)

THE STATE OF MISSOURI, TO Dr. James Miller
 Pathology Services, Inc.
 2916 South Brentwood Blvd.
 St. Louis, MO 63144

YOU ARE HEREBY COMMANDED, setting aside all manner of excuse and delay, to designate one or more officers, directors, or other agents who are knowledgeable about the matters referenced in Attachment A to appear in proper person before the Senate Interim Committee on the Sanctity of Life on Wednesday, December 2, 2015, at 1:00 p.m, in Senate Committee Room 2, State Capitol Building, Jefferson City, Missouri 65101, to testify then and there and speak the truth in a certain inquiry now before said Interim Committee on the Sanctity of Life of the Missouri Senate and you are further commanded to bring with you and then and there produce in evidence the records set forth in Attachment A.

WITNESS my signature on this 24th day of November, 2015.

President Pro Tempore of the Missouri Senate

ATTEST:

Adriane D. Crouse
Secretary of the Senate

MESSENGER'S RETURN

I HEREBY CERTIFY that I have served this subpoena in ST. LOUIS County, Missouri,
delivering a copy to ANGIE FOWLER ~~the person named above~~ at 3:35 p.m. (time) on this 24TH (day) of
NOVEMBER (month), 2015, at 2916 SOUTH BRENTWOOD
BLVD., ST. LOUIS, MO. 63144 (location).

[Signature]
Designated Server

Subscribed and sworn to before me this 24th day of November, 2015.

[Signature: Patricia W. Parris]
Notary Public

PATRICIA W. PARRIS
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: February 26, 2017
Commission Number: 13536624

Attachment A

For purposes of this request, the term "Document" includes but is not limited to emails, correspondence, submissions, notes, call logs, grant applications, approvals, attachments, exhibits, photographs, calendar entries, and any other written form of communication or memorialization whether electronic, paper, or other form which is in the possession of Pathology Services, Inc., or any of its employees, agents, or contractors, and dated, composed, received, or otherwise coming into the possession of Pathology Services, Inc., from January 1, 2010, to the date of the issuance of this subpoena.

For purposes of this request, the term "Planned Parenthood" means the entity operating as either Planned Parenthood of the St. Louis Region and Southwest Missouri, Inc. or Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc.

Please produce:

1. All documents relating to all procedures for accepting and handling human tissue and fetal remains originating from Planned Parenthood;
2. All documents relating to the procedures for examining and evaluating human tissue and fetal remains;
3. All documents relating to Pathology Services' standard procedures for handling and disposing of human tissue, including waste tracking and certification of disposal;
4. All documents relating to the procedures for handling and disposing of human tissue and fetal remains originating from Planned Parenthood, including waste tracking and certification of disposal, if such procedures differ in any way from Pathology Services' standard procedures for handling and disposing of human tissue;
5. All documents which establish or relate to the creation and contents of pathology reports as required under Section 188.047, RSMo, including all documents relating to the submission of such reports to Planned Parenthood and to the Missouri Department of Health and Senior Services;
6. All documents relating to any contracts with any entity for the transfer and/or disposal of human tissue and fetal remains; and
7. All documents relating to any contracts with Planned Parenthood for the transfer, examination, and/or disposal of human tissue or fetal remains.