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

SENATE BILL NO. 5

99TH GENERAL ASSEMBLY

2017

AN ACT
To repeal sections 188.021, 188.027, 188.030, 188.039, 188.047, 188.075, 192.665,
192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200,
197.287, 197.289, 197.293, 197.295, and 595.027, RSMo, and to enact in lieu
thereof thirty-one new sections relating to abortions, with penalty provisions.

Section A. Sections 188.021, 188.027, 188.030, 188.039, 188.047, 188.075,
192.665, 192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200,
197.289, 197.293, 197.295, and 595.027, RSMo, are repealed and thirty-one new
sections enacted in lieu thereof, to be known as sections 188.021, 188.027,
188.030, 188.039, 188.047, 188.075, 192.665, 192.667, 197.150, 197.152,
197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220,
197.225, 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295,
574.200, and 595.027, to read as follows:

188.021. 1. When RU-486 (mifepristone) or any drug or chemical is used
for the purpose of inducing an abortion, the initial dose of the drug or chemical
shall be administered in the same room and in the physical presence of the
physician who prescribed, dispensed, or otherwise provided the drug or chemical
to the patient. The physician inducing the abortion, or a person acting on such
physician's behalf, shall make all reasonable efforts to ensure that the patient

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is
intended to be omitted in the law.
returns after the administration or use of RU-486 or any drug or chemical for a follow-up visit unless such termination of the pregnancy has already been confirmed and the patient's medical condition has been assessed by a licensed physician prior to discharge.

2. When the Food and Drug Administration label of any drug or chemical used for the purpose of inducing an abortion includes any clinical study in which more than one percent of those administered the drug or chemical required surgical intervention after its administration, no physician may prescribe or administer such drug or chemical to any patient without first obtaining approval from the department of health and senior services of a complication plan from the physician for administration of the drug or chemical to any patient. The complication plan shall include any information deemed necessary by the department to ensure the safety of any patient suffering complications as a result of the administration of the drug or chemical in question. No complication plan shall be required where the patient is administered the drug in a medical emergency at a hospital and is then treated as an inpatient at a hospital under medical monitoring by the hospital until the abortion is completed.

3. The department may adopt rules, regulations, and standards governing complication plans to ensure that patients undergoing abortions induced by drugs or chemicals have access to safe and reliable care. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this act, shall be invalid and void.

188.027. 1. Except in the case of medical emergency, no abortion shall be performed or induced on a woman without her voluntary and informed consent, given freely and without coercion. Consent to an abortion is voluntary and informed and given freely and without coercion if, and only if, at least seventy-two hours prior to the abortion:
(1) The physician who is to perform or induce the abortion or, a qualified professional, or the referring physician has informed the woman orally, reduced to writing, and in person, of the following:

(a) The name of the physician who will perform or induce the abortion;

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

   a. A description of the proposed abortion method;

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

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

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

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

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

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

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

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

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

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

(5) Prior to an abortion being performed or induced on an unborn child of twenty-two weeks gestational age or older, the physician who is to perform or induce the abortion or a qualified professional has presented the woman, in person, printed materials provided by the department that offer information on the possibility of the abortion causing pain to the unborn child. This information shall include, but need not be limited to, the following:

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

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

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

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

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

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

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

(a) Identify on a geographical basis public and private agencies available to assist a woman in carrying her unborn child to term, and to assist her in caring for her dependent child or placing her child for adoption, including agencies commonly known and generally referred to as pregnancy resource centers, crisis pregnancy centers, maternity homes, and adoption agencies. Such materials shall provide a comprehensive list by geographical area of the agencies, a description of the services they offer, and the telephone numbers and addresses of the agencies; provided that such materials shall not include any programs,
services, organizations, or affiliates of organizations that perform or induce, or
assist in the performing or inducing of, abortions or that refer for abortions;

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

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

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

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

(8) The physician who is to perform or induce the abortion or a qualified
professional shall inform the woman that she is free to withhold or withdraw her
consent to the abortion at any time without affecting her right to future care or
treatment and without the loss of any state or federally funded benefits to which
she might otherwise be entitled.

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

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

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

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

(1) Rape crisis centers, as defined in section 455.003;

(2) Shelters for victims of domestic violence, as defined in section 455.200;

and

(3) Orders of protection, pursuant to chapter 455.

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

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

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

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

8. In the event of a medical emergency as provided by section 188.039, the physician who performed or induced the abortion shall clearly certify in writing the nature and circumstances of the medical emergency. This certification shall be signed by the physician who performed or induced the abortion, and shall be maintained under section 188.060.

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

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

11. By November 30, 2010, the department shall produce the written
materials and forms described in this section. Any written materials produced
shall be printed in a typeface large enough to be clearly legible. All information
shall be presented in an objective, unbiased manner designed to convey only
accurate scientific and medical information. The department shall furnish the
written materials and forms at no cost and in sufficient quantity to any person
who performs or induces abortions, or to any hospital or facility that provides
abortions. The department shall make all information required by subsection 1
of this section available to the public through its department website. The
department shall maintain a toll-free, twenty-four-hour hotline telephone number
where a caller can obtain information on a regional basis concerning the agencies
and services described in subsection 1 of this section. No identifying information
regarding persons who use the website shall be collected or maintained. The
department shall monitor the website on a regular basis to prevent tampering
and correct any operational deficiencies.

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

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

188.030. 1. Except in the case of a medical emergency, no abortion of a
viable unborn child shall be performed or induced unless the abortion is
necessary to preserve the life of the pregnant woman whose life is endangered by
a physical disorder, physical illness, or physical injury, including a
life-endangering physical condition caused by or arising from the pregnancy itself,
or when continuation of the pregnancy will create a serious risk of substantial
and irreversible physical impairment of a major bodily function of the pregnant
woman. For purposes of this section, "major bodily function" includes, but is not
limited to, functions of the immune system, normal cell growth, digestive, bowel,
bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive
functions.

2. Except in the case of a medical emergency:
   (1) Prior to performing or inducing an abortion upon a woman, the
physician shall determine the gestational age of the unborn child in a manner
consistent with accepted obstetrical and neonatal practices and standards. In
making such determination, the physician shall make such inquiries of the
pregnant woman and perform or cause to be performed such medical
examinations, imaging studies, and tests as a reasonably prudent physician,
knowledgeable about the medical facts and conditions of both the woman and the
unborn child involved, would consider necessary to perform and consider in
making an accurate diagnosis with respect to gestational age;

   (2) If the physician determines that the gestational age of the unborn
child is twenty weeks or more, prior to performing or inducing an abortion upon
the woman, the physician shall determine if the unborn child is viable by using
and exercising that degree of care, skill, and proficiency commonly exercised by
a skillful, careful, and prudent physician. In making this determination of
viability, the physician shall perform or cause to be performed such medical
examinations and tests as are necessary to make a finding of the gestational age,
weight, and lung maturity of the unborn child and shall enter such findings and
determination of viability in the medical record of the woman;

   (3) If the physician determines that the gestational age of the unborn
child is twenty weeks or more, and further determines that the unborn child is
not viable and performs or induces an abortion upon the woman, the physician
shall report such findings and determinations and the reasons for such
determinations to the health care facility in which the abortion is performed and
to the state board of registration for the healing arts, and shall enter such
findings and determinations in the medical records of the woman and in the
individual abortion report submitted to the department under section 188.052;

(4) (a) If the physician determines that the unborn child is viable, the physician shall not perform or induce an abortion upon the woman unless the abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the woman.

(b) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician shall first certify in writing the medical threat posed to the life of the pregnant woman, or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Upon completion of the abortion, the physician shall report the reasons and determinations for the abortion of a viable unborn child to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and in the individual abortion report submitted to the department under section 188.052.

(c) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician who is to perform the abortion shall obtain the agreement of a second physician with knowledge of accepted obstetrical and neonatal practices and standards who shall concur that the abortion is necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. This second physician shall also report such reasons and determinations to the health care facility in which the abortion is to be performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and the individual abortion report submitted to the department under section 188.052. The second physician shall not have any legal or financial affiliation or relationship with the physician performing or inducing the abortion, except that such prohibition shall not apply to physicians whose legal or financial affiliation or relationship is a result of being employed by or having staff privileges at the same hospital as the term "hospital" is defined in section 197.020.
(d) Any physician who performs or induces an abortion upon a woman when it has been determined that the unborn child is viable shall utilize the available method or technique of abortion most likely to preserve the life or health of the unborn child. In cases where the method or technique of abortion most likely to preserve the life or health of the unborn child would present a greater risk to the life or health of the woman than another legally permitted and available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

(e) No physician shall perform or induce an abortion upon a woman when it has been determined that the unborn child is viable unless there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life or health of the viable unborn child; provided that it does not pose an increased risk to the life of the woman or does not pose an increased risk of substantial and irreversible physical impairment of a major bodily function of the woman.

3. Any person who knowingly performs or induces an abortion of an unborn child in violation of the provisions of this section is guilty of a class D felony, and, upon a finding of guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and, notwithstanding the provisions of section 558.002, shall be fined not less than ten thousand nor more than fifty thousand dollars.

4. Any physician who pleads guilty to or is found guilty of performing or inducing an abortion of an unborn child in violation of this section shall be subject to suspension or revocation of his or her license to practice medicine in the state of Missouri by the state board of registration for the healing arts under the provisions of sections 334.100 and 334.103.

5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of
section 197.070.

6. Any [ambulatory surgical center] abortion facility licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.220.

7. A woman upon whom an abortion is performed or induced in violation of this section shall not be prosecuted for a conspiracy to violate the provisions of this section.

8. Nothing in this section shall be construed as creating or recognizing a right to abortion, nor is it the intention of this section to make lawful any abortion that is currently unlawful.

9. It is the intent of the legislature that this section be severable as noted in section 1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this section be declared invalid under the Constitution of the United States or the Constitution of the State of Missouri, it is the intent of the legislature that the remaining provisions of this section remain in force and effect as far as capable of being carried into execution as intended by the legislature.

10. The general assembly may, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this act in his or her official capacity to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

188.039. 1. For purposes of this section, "medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

2. Except in the case of medical emergency, no person shall perform or induce an abortion unless at least seventy-two hours prior thereto the physician who is to perform or induce the abortion [or], a qualified professional, or the referring physician has conferred with the patient and discussed with her the indicators and contraindicators, and risk factors including any physical, psychological, or situational factors for the proposed procedure and the use of medications, including but not limited to mifepristone, in light of her medical history and medical condition. For an abortion performed or an abortion induced
by a drug or drugs, such conference shall take place at least seventy-two hours
prior to the writing or communication of the first prescription for such drug or
drugs in connection with inducing an abortion. Only one such conference shall
be required for each abortion.

3. The patient shall be evaluated by the physician who is to perform or
induce the abortion [or], a qualified professional, or the referring physician
during the conference for indicators and contraindicators, risk factors including
any physical, psychological, or situational factors which would predispose the
patient to or increase the risk of experiencing one or more adverse physical,
emotional, or other health reactions to the proposed procedure or drug or drugs
in either the short or long term as compared with women who do not possess such
risk factors.

4. At the end of the conference, and if the woman chooses to proceed with
the abortion, the physician who is to perform or induce the abortion [or], a
qualified professional, or the referring physician shall sign and shall cause
the patient to sign a written statement that the woman gave her informed
consent freely and without coercion after the physician or qualified professional
had discussed with her the indicators and contraindicators, and risk factors,
including any physical, psychological, or situational factors. All such executed
statements shall be maintained as part of the patient's medical file, subject to the
confidentiality laws and rules of this state.

5. The director of the department of health and senior services shall
disseminate a model form that physicians or qualified professionals may use as
the written statement required by this section, but any lack or unavailability of
such a model form shall not affect the duties of the physician or qualified
professional set forth in subsections 2 to 4 of this section.

6. As used in this section, the term "qualified professional" shall refer to
a physician, physician assistant, registered nurse, licensed practical nurse,
psychologist, licensed professional counselor, or licensed social worker, licensed
or registered under chapter 334, 335, or 337, acting under the supervision of the
physician performing or inducing the abortion, and acting within the course and
scope of his or her authority provided by law. The provisions of this section shall
not be construed to in any way expand the authority otherwise provided by law
relating to the licensure, registration, or scope of practice of any such qualified
professional.

7. If the provisions in subsection 2 of this section requiring a
seventy-two-hour waiting period for an abortion are ever temporarily or
permanently restrained or enjoined by judicial order, then the waiting period for
an abortion shall be twenty-four hours; provided, however, that if such temporary
or permanent restraining order or injunction is stayed or dissolved, or otherwise
ceases to have effect, the waiting period for an abortion shall be seventy-two
hours.

188.047.  [A representative sample of] 1. All tissue, except that tissue
needed for purposes described in subsection 5 of this section, removed
at the time of abortion shall be submitted within five days to a board eligible
or certified pathologist[, who] for gross and histopathological
examination. The pathologist shall file a copy of the tissue report with the
state department of health and senior services, and [who] shall provide within
seventy-two hours a copy of the report to the abortion facility or hospital in
which the abortion was performed or induced [and]. The pathologist's report
shall be made a part of the patient's permanent record. If the pathological
examination fails to identify evidence of a completed abortion, the
pathologist shall notify the abortion facility or hospital within twenty-
four hours.

2. The department shall reconcile each notice of abortion with
its corresponding tissue report. If the department does not receive the
notice of abortion or the tissue report, the department shall make an
inquiry of the abortion facility or hospital. After such inquiry, if the
hospital or abortion facility has not satisfactorily responded to said
inquiry and the department finds that the abortion facility or hospital
where the abortion was performed or induced was not in compliance
with the provisions of this section, the department shall consider such
noncompliance a deficiency requiring an unscheduled inspection of the
facility to ensure the deficiency is remedied, subject to the provisions
of chapter 197 regarding license suspensions, reviews, and appeals.

3. Beginning January 1, 2018, the department shall make an
annual report to the general assembly. The report shall include the
number of any deficiencies and inquiries by the department of each
abortion facility in the calendar year and whether any deficiencies
were remedied and, for each abortion facility, aggregated de-identified
data about the total number of abortions performed at the facility, the
termination procedures used, the number and type of complications
reported for each type of termination procedure, whether the
department received the tissue report for each abortion, and the
existence and nature, if any, of any inconsistencies or concerns
between the abortion reports submitted under section 188.052 and the
tissue report submitted under this section.
The report shall not contain any personal patient information the
disclosure of which is prohibited by state or federal law.

4. All reports provided by the department to the general
assembly under this section shall maintain confidentiality of all
personal information of patients, facility personnel, and facility
physicians.

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

6. The department may adopt rules, regulations, and standards
governing the reports required under this section. In doing so, the
department shall ensure that these reports contain all information
necessary to ensure compliance with all applicable laws and
regulations. Any rule or portion of a rule, as that term is defined in
section 536.010 that is created under the authority delegated in this
section shall become effective only if it complies with and is subject to
all of the provisions of chapter 536, and, if applicable, section
536.028. This section and chapter 536 are nonseverable and if any of
the powers vested with the general assembly pursuant to chapter 536,
to review, to delay the effective date, or to disapprove and annul a rule
are subsequently held unconstitutional, then the grant of rulemaking
authority and any rule proposed or adopted after the effective date of
this act, shall be invalid and void.

188.075. 1. Any person who contrary to the provisions of sections 188.010
to 188.085 knowingly performs, induces, or aids in the performance or inducing
of any abortion or knowingly fails to perform any action required by sections
188.010 to 188.085 shall be guilty of a class A misdemeanor, unless a different
penalty is provided for in state law, and, upon conviction, shall be punished as
provided by law.

2. It shall be an affirmative defense for any person alleged to have
violated any provision of this chapter that the person performed an action or did not perform an action because of a medical emergency. This affirmative defense shall be available in criminal, civil, and administrative actions or proceedings. The defendant shall have the burden of persuasion that the defense is more probably true than not.

3. The attorney general shall have concurrent original jurisdiction throughout the state, along with each prosecuting attorney and circuit attorney within their respective jurisdictions, to commence actions for a violation of any provision of this chapter, for a violation of any state law on the use of public funds for an abortion, or for a violation of any state law which regulates an abortion facility or a person who performs or induces an abortion. The attorney general, or prosecuting attorney or circuit attorney within their respective jurisdictions, may seek injunctive or other relief against any person who, or entity which, is in violation of any provision of this chapter, misuses public funds for an abortion, or violates any state law which regulates an abortion facility or a person who performs or induces an abortion.

188.125. 1. It is the intent of the general assembly to acknowledge the right of an alternatives to abortion agency to operate freely and engage in speech without governmental interference as protected by the constitution of the United States and the constitution and laws of Missouri, the right of a person not to be compelled by the government to participate in abortion contrary to his, her, or its religious beliefs or moral convictions, and that the constitution of the United States and the constitution and laws of Missouri shall be interpreted, construed, applied, and enforced to fully protect such rights.

2. A political subdivision of this state is preempted from enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure that prohibits, restricts, limits, controls, directs, interferes with, or otherwise adversely affects an alternatives to abortion agency or its officers', agents', employees', or volunteers' operations or speech including, but not limited to, counseling, referrals, or education of, advertising or information to, or other communications with, clients, patients, other persons, or the public.
3. Nothing in subsection 2 of this section shall preclude or preempt a political subdivision of this state from exercising its lawful authority to regulate zoning or land use or to enforce a building or fire code regulation; provided that, such political subdivision treats an alternatives to abortion agency in the same manner as a similarly situated agency and that such authority is not used to circumvent the intent of subsection 2 of this section.

4. A political subdivision of this state is preempted from enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure that has the purpose or effect of requiring a person to directly or indirectly participate in abortion if such participation is contrary to the religious beliefs or moral convictions of such person.

5. A political subdivision of this state is preempted from enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure requiring a real estate broker, real estate salesperson, real estate broker-salesperson, appraisal firm, appraiser, as such terms are defined in chapter 339, a property owner, or any other person to buy, sell, exchange, purchase, rent, lease, advertise for, or otherwise conduct real estate transactions for, to, or with an abortion facility or for, to, or with a person for the purpose of performing or inducing an abortion not necessary to save the life of the mother, if such requirement is contrary to the religious beliefs or moral convictions of such real estate broker, real estate salesperson, real estate broker-salesperson, appraisal firm, appraiser, property owner, or other person.

6. A political subdivision of this state is preempted from enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure requiring an employer, employee, health plan provider, health plan sponsor, health care provider, or any other person to provide coverage for or to participate in a health plan that includes benefits that are not otherwise required by state law.

7. In any action to enforce the provisions of this section, a court of competent jurisdiction may order injunctive or other equitable relief, recovery of damages or other legal remedies, or both, as well as payment of reasonable attorney's fees, costs, and expenses. The relief
and remedies set forth shall not be deemed exclusive and shall be in
addition to any other relief or remedies permitted by law.

8. In addition to a private cause of action by a person whose
rights are violated contrary to the provisions of this section, the
attorney general is also authorized to bring a cause of action to defend
the rights guaranteed under this section.

9. Nothing in this section shall be construed to prohibit a
political subdivision from enacting, adopting, maintaining, or enforcing
any order, ordinance, rule, regulation, policy, or other similar measure
to assist pregnant women to carry their unborn children to term or to
assist women in caring for their dependent children or placing their
children for adoption including, but not limited to, by funding or
otherwise assisting an alternatives to abortion agency to provide
services to such women and children.

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

(1) "Alternatives to abortion agency":
(a) A maternity home as defined in section 135.600;
(b) A pregnancy resource center as defined in section 135.630; or
(c) An agency or entity that has the primary purpose of
providing services or counseling to pregnant women to assist such
women in carrying their unborn children to term instead of having
abortions and to assist such women in caring for their dependent
children or placing their children for adoption, as described in section
188.325, regardless of whether such agency or entity is receiving
funding or reimbursement from the state for such purposes;

(2) "Participate in abortion":
(a) To undergo an abortion; or
(b) To perform or induce, assist in, refer or counsel for, advocate
for, promote, procure, reimburse for, or provide health plan coverage
for an abortion not necessary to save the life of the mother.

188.160. 1. Every hospital, abortion facility, pathology lab,
medical research entity, and any other facility involved in abortion
shall establish and implement a written policy relating to the
protections for employees who disclose information concerning actual,
potential, or alleged violations of applicable federal or state laws or
administrative rules, regulations, or standards.

2. The department of health and senior services is authorized to
adopt rules, regulations, and standards regarding the establishment and implementation of policies created under this section. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this act, shall be invalid and void.

192.665. As used in this section, section 192.667, and sections 197.150 to 197.165, the following terms mean:

(1) "Charge data", information submitted by health care providers on current charges for leading procedures and diagnoses;

(2) "Charges by payer", information submitted by hospitals on amount billed to Medicare, Medicaid, other government sources and all nongovernment sources combined as one data element;

(3) "Department", the department of health and senior services;

(4) "Financial data", information submitted by hospitals drawn from financial statements which includes the balance sheet, income statement, charity care and bad debt and charges by payer, prepared in accordance with generally accepted accounting principles;

(5) "Health care provider", hospitals as defined in section 197.020 and ambulatory surgical centers and abortion facilities as defined in section 197.200;

(6) "Nosocomial infection", as defined by the [national] federal Centers for Disease Control and Prevention and applied to infections within hospitals, ambulatory surgical centers, abortion facilities, and other facilities;

(7) "Nosocomial infection incidence rate", a risk-adjusted measurement of new cases of nosocomial infections by procedure or device within a population over a given period of time, with such measurements defined by rule of the department pursuant to subsection 3 of section 192.667 for use by all hospitals, ambulatory surgical centers, abortion facilities, and other facilities in complying with the requirements of the Missouri nosocomial infection control act
"Other facility", a type of facility determined to be a source of infections and designated by rule of the department pursuant to subsection 11 of section 192.667;

(9) "Patient abstract data", data submitted by hospitals which includes but is not limited to date of birth, sex, race, zip code, county of residence, admission date, discharge date, principal and other diagnoses, including external causes, principal and other procedures, procedure dates, total billed charges, disposition of the patient and expected source of payment with sources categorized according to Medicare, Medicaid, other government, workers' compensation, all commercial payors coded with a common code, self-pay, no charge and other.

192.667. 1. All health care providers shall at least annually provide to the department charge data as required by the department. All hospitals shall at least annually provide patient abstract data and financial data as required by the department. Hospitals as defined in section 197.020 shall report patient abstract data for outpatients and inpatients. Ambulatory surgical centers and abortion facilities as defined in section 197.200 shall provide patient abstract data to the department. The department shall specify by rule the types of information which shall be submitted and the method of submission.

2. The department shall collect data on the incidence of health care-associated infections from hospitals, ambulatory surgical centers, abortion facilities, and other facilities as necessary to generate the reports required by this section. Hospitals, ambulatory surgical centers, abortion facilities, and other facilities shall provide such data in compliance with this section.

3. The department shall promulgate rules specifying the standards and procedures for the collection, analysis, risk adjustment, and reporting of the incidence of health care-associated infections and the types of infections and procedures to be monitored pursuant to subsection 13 of this section. In promulgating such rules, the department shall:

   (1) Use methodologies and systems for data collection established by the federal Centers for Disease Control and Prevention’s National Healthcare Safety Network, or its successor; and

   (2) Consider the findings and recommendations of the infection control advisory panel established pursuant to section 197.165.

4. By January 1, 2017, the infection control advisory panel created by
section 197.165 shall make recommendations to the department regarding the Centers for Medicare and Medicaid Services' health care-associated infection data collection, analysis, and public reporting requirements for hospitals, ambulatory surgical centers, and other facilities in the federal Centers for Disease Control and Prevention's National Healthcare Safety Network, or its successor, in lieu of all or part of the data collection, analysis, and public reporting requirements of this section. The advisory panel recommendations shall address which hospitals shall be required as a condition of licensure to use the National Healthcare Safety Network for data collection; the use of the National Healthcare Safety Network for risk adjustment and analysis of hospital submitted data; and the use of the Centers for Medicare and Medicaid Services' Hospital Compare website, or its successor, for public reporting of the incidence of health care-associated infection metrics. The advisory panel shall consider the following factors in developing its recommendation:

(1) Whether the public is afforded the same or greater access to facility-specific infection control indicators and metrics;
(2) Whether the data provided to the public is subject to the same or greater accuracy of risk adjustment;
(3) Whether the public is provided with the same or greater specificity of reporting of infections by type of facility infections and procedures;
(4) Whether the data is subject to the same or greater level of confidentiality of the identity of an individual patient;
(5) Whether the National Healthcare Safety Network, or its successor, has the capacity to receive, analyze, and report the required data for all facilities;
(6) Whether the cost to implement the National Healthcare Safety Network infection data collection and reporting system is the same or less.

5. After considering the recommendations of the infection control advisory panel, and provided that the requirements of subsection 13 of this section can be met, the department shall implement guidelines from the federal Centers for Disease Control and Prevention's National Healthcare Safety Network, or its successor. It shall be a condition of licensure for hospitals that meet the minimum public reporting requirements of the National Healthcare Safety Network and the Centers for Medicare and Medicaid Services to participate in the National Healthcare Safety Network, or its successor. Such hospitals shall permit the National Healthcare Safety Network, or its successor, to disclose facility-specific infection data to the department as required under this section,
61 and as necessary to provide the public reports required by the department. It
62 shall be a condition of licensure for any ambulatory surgical center or abortion
63 facility which does not voluntarily participate in the National Healthcare Safety
64 Network, or its successor, to submit facility-specific data to the department as
65 required under this section, and as necessary to provide the public reports
66 required by the department.

67 6. The department shall not require the resubmission of data which has
68 been submitted to the department of health and senior services or the department
69 of social services under any other provision of law. The department of health and
70 senior services shall accept data submitted by associations or related
71 organizations on behalf of health care providers by entering into binding
72 agreements negotiated with such associations or related organizations to obtain
73 data required pursuant to section 192.665 and this section. A health care
74 provider shall submit the required information to the department of health and
75 senior services:

76 (1) If the provider does not submit the required data through such
77 associations or related organizations;

78 (2) If no binding agreement has been reached within ninety days of
79 August 28, 1992, between the department of health and senior services and such
80 associations or related organizations; or

81 (3) If a binding agreement has expired for more than ninety days.

7. Information obtained by the department under the provisions of section
8 192.665 and this section shall not be public information. Reports and studies
84 prepared by the department based upon such information shall be public
85 information and may identify individual health care providers. The department
86 of health and senior services may authorize the use of the data by other research
87 organizations pursuant to the provisions of section 192.067. The department
88 shall not use or release any information provided under section 192.665 and this
89 section which would enable any person to determine any health care provider's
90 negotiated discounts with specific preferred provider organizations or other
91 managed care organizations. The department shall not release data in a form
92 which could be used to identify a patient. Any violation of this subsection is a
93 class A misdemeanor.

8. The department shall undertake a reasonable number of studies and
95 publish information, including at least an annual consumer guide, in
96 collaboration with health care providers, business coalitions and consumers based
upon the information obtained pursuant to the provisions of section 192.665 and
this section. The department shall allow all health care providers and
associations and related organizations who have submitted data which will be
used in any publication to review and comment on the publication prior to its
publication or release for general use. The publication shall be made available
to the public for a reasonable charge.

9. Any health care provider which continually and substantially, as these
terms are defined by rule, fails to comply with the provisions of this section shall
not be allowed to participate in any program administered by the state or to
receive any moneys from the state.

10. A hospital, as defined in section 197.020, aggrieved by the
department’s determination of ineligibility for state moneys pursuant to
subsection 9 of this section may appeal as provided in section 197.071. An
ambulatory surgical center or abortion facility as defined in section 197.200
aggrieved by the department’s determination of ineligibility for state moneys
pursuant to subsection 9 of this section may appeal as provided in section
197.221.

11. The department of health may promulgate rules providing for
collection of data and publication of the incidence of health care-associated
infections for other types of health facilities determined to be sources of
infections; except that, physicians' offices shall be exempt from reporting and
disclosure of such infections.

12. By January 1, 2017, the advisory panel shall recommend and the
department shall adopt in regulation with an effective date of no later than
January 1, 2018, the requirements for the reporting of the following types of
infections as specified in this subsection:

(1) Infections associated with a minimum of four surgical procedures for
hospitals and a minimum of two surgical procedures for ambulatory surgical
centers that meet the following criteria:

(a) Are usually associated with an elective surgical procedure. An
"elective surgical procedure" is a planned, nonemergency surgical procedure that
may be either medically required such as a hip replacement or optional such as
breast augmentation;

(b) Demonstrate a high priority aspect such as affecting a large number
of patients, having a substantial impact for a smaller population, or being
associated with substantial cost, morbidity, or mortality; or
(c) Are infections for which reports are collected by the National Healthcare Safety Network or its successor;

(2) Central line-related bloodstream infections;

(3) Health care-associated infections specified for reporting by hospitals, ambulatory surgical centers, and other health care facilities by the rules of the Centers for Medicare and Medicaid Services to the federal Centers for Disease Control and Prevention's National Healthcare Safety Network, or its successor; and

(4) Other categories of infections that may be established by rule by the department.

The department, in consultation with the advisory panel, shall be authorized to collect and report data on subsets of each type of infection described in this subsection.

13. In consultation with the infection control advisory panel established pursuant to section 197.165, the department shall develop and disseminate to the public reports based on data compiled for a period of twelve months. Such reports shall be updated quarterly and shall show for each hospital, ambulatory surgical center, abortion facility, and other facility metrics on risk adjusted health care-associated infections under this section.

14. The types of infections under subsection 12 of this section to be publicly reported shall be determined by the department by rule and shall be consistent with the infections tracked by the National Healthcare Safety Network, or its successor.

15. Reports published pursuant to subsection 13 of this section shall be published and readily accessible on the department's internet website. The reports shall be distributed at least annually to the governor and members of the general assembly. The department shall make such reports available to the public for a period of at least two years.

16. The Hospital Industry Data Institute shall publish a report of Missouri hospitals' and ambulatory surgical centers', and abortion facilities' compliance with standardized quality of care measures established by the federal Centers for Medicare and Medicaid Services for prevention of infections related to surgical procedures. If the Hospital Industry Data Institute fails to do so by July 31, 2008, and annually thereafter, the department shall be authorized to collect information from the Centers for Medicare and Medicaid Services or from hospitals and ambulatory surgical centers, and abortion facilities and
publish such information in accordance with this section.

170 17. The data collected or published pursuant to this section shall be
171 available to the department for purposes of licensing hospitals [and], ambulatory
172 surgical centers, and abortion facilities pursuant to chapter 197.

173 18. The department shall promulgate rules to implement the provisions
174 of section 192.131 and sections 197.150 to 197.160. Any rule or portion of a rule,
as that term is defined in section 536.010, that is created under the authority
delegated in this section shall become effective only if it complies with and is
subject to all of the provisions of chapter 536 and, if applicable, section
178 536.028. This section and chapter 536 are nonseverable and if any of the powers
vested with the general assembly pursuant to chapter 536 to review, to delay the
effective date, or to disapprove and annul a rule are subsequently held
unconstitutional, then the grant of rulemaking authority and any rule proposed
or adopted after August 28, 2004, shall be invalid and void.

183 19. No later than August 28, 2017, each hospital, excluding mental health
facilities as defined in section 632.005, and each ambulatory surgical center and
abortion facility as defined in section 197.200, shall in consultation with its
medical staff establish an antimicrobial stewardship program for evaluating the
judicious use of antimicrobials, especially antibiotics that are the last line of
defense against resistant infections. The hospital's stewardship program and the
results of the program shall be monitored and evaluated by hospital quality
improvement departments and shall be available upon inspection to the
department. At a minimum, the antimicrobial stewardship program shall be
designed to evaluate that hospitalized patients receive, in accordance with
accepted medical standards of practice, the appropriate antimicrobial, at the
appropriate dose, at the appropriate time, and for the appropriate duration.

20. Hospitals described in subsection 19 of this section shall meet the
National Healthcare Safety Network requirements for reporting antimicrobial
usage or resistance by using the Centers for Disease Control and Prevention's
Antimicrobial Use and Resistance (AUR) Module when regulations concerning
Stage 3 of the Medicare and Medicaid Electronic Health Records Incentive
Programs promulgated by the Centers for Medicare and Medicaid Services that
enable the electronic interface for such reporting are effective. When such
antimicrobial usage or resistance reporting takes effect, hospitals shall authorize
the National Healthcare Safety Network, or its successor, to disclose to the
department facility-specific information reported to the AUR
Module. Facility-specific data on antibiotic usage and resistance collected under this subsection shall not be disclosed to the public, but the department may release case-specific information to other facilities, physicians, and the public if the department determines on a case-by-case basis that the release of such information is necessary to protect persons in a public health emergency.

21. The department shall make a report to the general assembly beginning January 1, 2018, and on every January first thereafter on the incidence, type, and distribution of antimicrobial-resistant infections identified in the state and within regions of the state.

197.150. The department shall require that each hospital, ambulatory surgical center, abortion facility, and other facility have in place procedures for monitoring and enforcing compliance with infection control regulations and standards. Such procedures shall be coordinated with administrative staff, personnel staff, and the quality improvement program. Such procedures shall include, at a minimum, requirements for the facility's infection control program to conduct surveillance of personnel with a portion of the surveillance to be done in such manner that employees and medical staff are observed without their knowledge of such observation, provided that this unobserved surveillance requirement shall not be considered to be grounds for licensure enforcement action by the department until the department establishes clear and verifiable criteria for determining compliance. Such surveillance also may include monitoring of the rate of use of hand hygiene products.

197.152. 1. Infection control officers as defined in federal regulation and other hospital [and], ambulatory surgical center, and abortion facility employees shall be protected against retaliation by the hospital [or], ambulatory surgical center, or abortion facility for reporting infection control concerns pursuant to section 197.285 and shall be entitled to the full benefits of that section. Such infection control officers shall report any interference in the performance of their duties by their supervisors to the hospital [or], ambulatory surgical center, or abortion facility compliance officer established by and empowered to act pursuant to section 197.285.

2. Infection control officers as defined in federal regulation shall also have the authority to order the cessation of a practice that falls outside accepted practices as defined by appropriate state and federal regulatory agencies, accreditation organizations, or the standards adopted by the Centers for Disease Control and Prevention or the Association of Professionals in Infection Control
and Epidemiology. The hospital [or], ambulatory surgical center, or abortion facility may require that such a cessation order of an infection control officer be endorsed by the hospital [or], ambulatory surgical center, or abortion facility chief executive officer or his or her designee before taking effect. The hospital [or], ambulatory surgical center, or abortion facility infection control committee shall convene as soon as possible to review such cessation order and may overrule or sustain the directive of the infection control officer. The department shall promulgate rules governing documentation of such events.

3. Members of the medical staff who report in good faith infection control concerns to the hospital [or], ambulatory surgical center, or abortion facility administration or medical staff leadership shall not be subject to retaliation or discrimination for doing so. Nothing in this section shall prevent or shield medical staff members from being subject to professional review actions for substandard care or breach of standards established in hospital policy, rules, or medical staff bylaws.

197.158. Every hospital [and], ambulatory surgery center, and abortion facility shall, beginning June 1, 2006, provide each patient an opportunity to submit to the hospital [or], ambulatory surgical center, or abortion facility administration complaints, comments, and suggestions related to the care they received or their personal observations related to the quality of care provided. The department shall promulgate rules to implement this section.

197.160. The department of health and senior services shall have access to all data and information held by hospitals, ambulatory surgical centers, abortion facilities, and other facilities related to their infection control practices, rates, or treatments of infections. Failure to provide such access shall be grounds for full or partial licensure suspension or revocation pursuant to section 197.293, sections 197.010 to 197.100, or sections 197.200 to 197.240. If the department determines that the hospital, ambulatory surgical center, abortion facility, or other facility is willfully impeding access to such information, the department shall be authorized to direct all state agencies to suspend all or a portion of state payments to such [hospital] entity until such time as the desired information is obtained by the department.

197.162. The department shall in its licensure of hospitals [and], ambulatory surgical centers, and abortion facilities give special attention to infection control practices and shall direct hospitals [and], ambulatory surgical centers, and abortion facilities to set quantifiable measures of performance for
reducing the incidence of nosocomial infections in Missouri. The department shall prepare an annual report on infection control standards and compliance, which shall be shared with the governor and the general assembly.

197.165. 1. The department shall appoint an "Infection Control Advisory Panel" for the purposes of implementing sections 192.131 and 192.667.

2. Members of the infection control advisory panel shall include:

(1) Two public members;

(2) Three board-certified or board-eligible physicians licensed pursuant to chapter 334 who are affiliated with a Missouri hospital or medical school, active members of the Society for Health Care Epidemiology of America, and have demonstrated interest and expertise in health facility infection control;

(3) One physician licensed pursuant to chapter 334 who is active in the practice of medicine in Missouri and who holds medical staff privileges at a Missouri hospital;

(4) Four infection control practitioners certified by the certification board of infection control and epidemiology, at least two of whom shall be practicing in a rural hospital or setting and at least two of whom shall be registered professional nurses licensed under chapter 335;

(5) A medical statistician with an advanced degree in such specialty;

(6) A clinical microbiologist with an advanced degree in such specialty;

(7) Three employees of the department, representing the functions of hospital [and], ambulatory surgical center, and abortion facility licensure, epidemiology and health data analysis, who shall serve as ex officio nonvoting members of the panel.

3. Reasonable expenses of the panel shall be paid from private donations made specifically for that purpose to the "Infection Control Advisory Panel Fund", which is hereby created in the state treasury. If such donations are not received from private sources, then the provisions of this act shall be implemented without the advisory panel.

197.200. As used in sections 197.200 to 197.240, unless the context clearly indicates otherwise, the following terms mean:

(1) "Abortion facility", as such term is defined in section 188.015;

(2) "Ambulatory surgical center", any public or private establishment operated primarily for the purpose of performing surgical procedures or primarily for the purpose of performing childbirths, or any establishment operated for the purpose of performing or inducing any second or third-trimester abortions or five
or more first-trimester abortions per month,] and which does not provide services or other accommodations for patients to stay more than twenty-three hours within the establishment, provided, however, that nothing in this definition shall be construed to include the offices of dentists currently licensed pursuant to chapter 332;

[(2)] (3) "Dentist", any person currently licensed to practice dentistry pursuant to chapter 332;

[(3)] (4) "Department", the department of health and senior services;

[(4)] (5) "Governmental unit", any city, county or other political subdivision of this state, or any department, division, board or other agency of any political subdivision of this state;

[(5)] (6) "Person", any individual, firm, partnership, corporation, company, or association and the legal successors thereof;

[(6)] (7) "Physician", any person currently licensed to practice medicine pursuant to chapter 334;

[(7)] (8) "Podiatrist", any person currently licensed to practice podiatry pursuant to chapter 330.

197.205. 1. No person or governmental unit acting severally or jointly with any other person or governmental unit shall establish, conduct or maintain an ambulatory surgical center or abortion facility in this state without a license under sections 197.200 to 197.240 issued by the department of health and senior services.

2. Nothing in sections 197.200 to 197.240 shall be construed to impair or abridge the authority of a governmental unit to license ambulatory surgical centers or abortion facilities, provided that any ordinance of a governmental unit shall require compliance with all rules, regulations, and standards adopted by the department to implement the provisions of sections 197.200 to 197.240.

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

(1) Each member of the surgical staff is a physician, dentist or podiatrist currently licensed to practice in Missouri, and each person authorized to perform or induce abortions is a physician currently licensed to practice in Missouri;
(2) Surgical procedures in ambulatory surgical centers shall be performed only by physicians, dentists or podiatrists, who at the time are privileged to perform surgical procedures in at least one licensed hospital in the community in which the ambulatory surgical center is located, thus providing assurance to the public that patients treated in the center shall receive continuity of care should the services of a hospital be required; alternatively, applicant shall submit a copy of a current working agreement with at least one licensed hospital in the community in which the ambulatory surgical center is located, guaranteeing the transfer and admittance of patients for emergency treatment whenever necessary;

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

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

2. Upon receipt of an application for a license, or the renewal thereof, the department shall issue or renew the license if the applicant and program meet the requirements established under sections 197.200 to 197.240. Each license shall be issued only for the persons and premises named in the application. A license, unless sooner suspended or revoked, shall be issued for a period of one year.

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

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

197.220. The department of health and senior services may deny, suspend or revoke a license in any case in which the department finds that there has been a substantial failure to comply with the requirements of sections 197.200 to 197.240, or in any case in which the director of the department makes a finding that:

(1) The applicant, or if the applicant is a firm, partnership or association, any of its members, or if a corporation, any of its officers or directors, or the person designated to manage or supervise the facility, has been finally
adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a
criminal prosecution under the laws of any state or of the United States, for any
offense reasonably related to the qualifications, functions, or duties of an
ambulatory surgical center or of an abortion facility, or for any offense an
essential element of which is fraud, dishonesty, or an act of violence, or for any
offense involving moral turpitude, whether or not sentence is imposed;

(2) The licensure status or record of the applicant, or if the applicant is
a firm, partnership or association, of any of its members, or if a corporation, of
any of its officers or directors, or of the person designated to manage or supervise
the facility, from any other state, federal district or land, territory or
commonwealth of the United States, or of any foreign country where the applicant
has done business in a similar capacity indicates that granting a license to the
applicant would be detrimental to the interests of the public.

197.225. 1. The department of health and senior services may adopt such
reasonable rules, regulations, and standards for the types of services provided as
are necessary to carry out the provisions of sections 197.200 to 197.240, and to
assure quality patient care and patient safety, which shall include, but not be
limited to:

(1) Construction of the facility including, but not limited to, plumbing,
heating, lighting, and ventilation which should insure the health, safety, comfort,
and privacy of patients and protection from fire hazard;

(2) Number, qualifications, and organization of all personnel, having
responsibility for any part of the care provided to the patients;

(3) Equipment essential to the health, welfare, and safety of the patients;

(4) Facilities, programs, and services to be provided in connection with the
care of patients in ambulatory surgical centers; and

(5) Procedures for peer review and for receiving and investigating
complaints regarding any ambulatory surgical center or any physician, dentist,
podiatrist, nurse, assistant, manager, supervisor, or employee practicing or
working in any such facility.

2. The department of health and senior services may adopt
separate rules, regulations, or standards to apply to ambulatory
surgical centers and to apply to abortion facilities.

3. Abortion facilities shall be required to maintain a written
protocol for managing medical emergencies and the transfer of patients
requiring further emergency care to a hospital within a reasonable
distance from the abortion facility.

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

2. In the case of any abortion facility, the department shall make or cause to be made an unannounced on-site inspection and investigation at least annually. Such on-site inspection and investigation shall include, but not be limited to, the following areas:

   (1) Compliance with all statutory and regulatory requirements for an abortion facility, including requirements that the facility maintain adequate staffing and equipment to respond to medical emergencies;

   (2) Compliance with the provisions of chapter 188; and

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

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

197.235. 1. Any person operating, conducting, managing, or establishing an ambulatory surgical center or abortion facility without a license required by sections 197.200 to 197.240 is guilty of a class A misdemeanor and, upon conviction, shall be subject to a fine of not more than five hundred dollars. Each day of continuing violation shall constitute a separate offense.

2. The attorney general shall represent the department of health and senior services and shall institute an action in the name of the state for injunctive or other relief against any person or governmental unit to restrain or
prevent the establishment, conduct, management, or operation of an ambulatory surgical center or abortion facility without a license issued pursuant to the provisions of sections 197.200 to 197.240.

3. Any person operating, conducting, managing, or establishing an ambulatory surgical center or abortion facility who, in the course of advertising, promoting, or otherwise publicizing the activities, business, location, or any other matter concerning the operations of said ambulatory surgical center or abortion facility, uses or employs in any manner the words "State, Missouri, State of Missouri, Department of Health and Senior Services, the initials 'Mo.'," or any emblem of the state of Missouri or the department of health and senior services, for the purpose of conveying or in any manner reasonably calculated to convey the false impression that the state of Missouri or any department, agency, bureau, or instrumentality thereof is involved in the business of said ambulatory surgical center or abortion facility, or took part in said advertisement, promotion, publicity, or other statement, shall be subject to a fine of one hundred dollars per day for each day during the period beginning with the day said advertisement, promotion, publication, or statement first appears and ending on the day on which it is withdrawn.

197.240. After September 28, 1975, no individual or group health insurance policy of insurance providing coverage on an expense incurred basis, nor individual or group service or indemnity type contract issued by a nonprofit corporation, nor any self-insured group health benefit plan or trust, of any kind or description, shall be issued or payment accepted therefor in renewal or continuation thereof unless coverage for any service performed in an ambulatory surgical center or abortion facility is provided for therein if such service would have been covered under the terms of the policy or contract as an eligible inpatient service, except as provided in section 376.805. Nothing in this section shall apply to a group contract, plan or trust which provides health care and surgical care directly to its members and their dependents. Nothing in this section shall be construed to mandate coverage under an individual or group health insurance policy of insurance providing coverage on an expense incurred basis, or an individual or group service or indemnity type contract issued by a nonprofit corporation, or any self-insured group health benefit plan or trust, of any kind or description, to provide health insurance for services which are usually performed in a physician's office.

197.285. 1. Hospitals [and], ambulatory surgical centers, and abortion
facilities shall establish and implement a written policy adopted by each hospital and ambulatory surgical center, and abortion facility relating to the protections for employees who disclose information pursuant to subsection 2 of this section. This policy shall include a time frame for completion of investigations related to complaints, not to exceed thirty days, and a method for notifying the complainant of the disposition of the investigation. This policy shall be submitted to the department of health and senior services to verify implementation. At a minimum, such policy shall include the following provisions:

1. No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center, or abortion facility shall prohibit employees from disclosing information pursuant to subsection 2 of this section;
2. No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center, or abortion facility shall use or threaten to use his or her supervisory authority to knowingly discriminate against, dismiss, penalize or in any way retaliate against or harass an employee because the employee in good faith reported or disclosed any information pursuant to subsection 2 of this section, or in any way attempt to dissuade, prevent or interfere with an employee who wishes to report or disclose such information;
3. Establish a program to identify a compliance officer who is a designated person responsible for administering the reporting and investigation process and an alternate person should the primary designee be implicated in the report.

2. This section shall apply to information disclosed or reported in good faith by an employee concerning:

1. Alleged facility mismanagement or fraudulent activity;
2. Alleged violations of applicable federal or state laws or administrative rules concerning patient care, patient safety or facility safety; or
3. The ability of employees to successfully perform their assigned duties.

All information disclosed, collected and maintained pursuant to this subsection and pursuant to the written policy requirements of this section shall be accessible to the department of health and senior services at all times and shall be reviewed by the department of health and senior services at least annually. Complainants shall be notified of the department of health and senior services' access to such information and of the complainant's right to notify the department of health and senior services of any information concerning alleged violations of applicable
federal or state laws or administrative rules concerning patient care, patient
safety or facility safety.

3. Prior to any disclosure to individuals or agencies other than the
department of health and senior services, employees wishing to make a disclosure
pursuant to the provisions of this section shall first report to the individual or
individuals designated by the hospital [or], ambulatory surgical center, or
abortion facility pursuant to subsection 1 of this section.

4. If the compliance officer, compliance committee or management official
discovers credible evidence of misconduct from any source and, after a reasonable
inquiry, has reason to believe that the misconduct may violate criminal, civil or
administrative law, then the hospital [or], ambulatory surgical center, or
abortion facility shall report the existence of misconduct to the appropriate
governmental authority within a reasonable period, but not more than seven days
after determining that there is credible evidence of a violation.

5. Reports made to the department of health and senior services shall be
subject to the provisions of section 197.477, provided that the restrictions of
section 197.477 shall not be construed to limit the employee's ability to subpoena
from the original source the information reported to the department pursuant to
this section.

6. Each written policy shall allow employees making a report who wish
to remain anonymous to do so, and shall include safeguards to protect the
confidentiality of the employee making the report, the confidentiality of patients
and the integrity of data, information and medical records.

7. Each hospital [and], ambulatory surgical center, and abortion
facility shall, within forty-eight hours of the receipt of a report, notify the
employee that his or her report has been received and is being reviewed.

197.287. By July 1, 2001, all hospitals and ambulatory surgical centers,
and by July 1, 2018, all abortion facilities shall provide training programs,
with measurable minimal training outcomes relating to quality of patient care
and patient safety, to all unlicensed staff providing patient care in their facility
within ninety days of the beginning date of employment. Standards for such
training shall be established by the department of health and senior services by
rule. It shall be a requirement of hospital [and], ambulatory surgical center, and
abortion facility licensure pursuant to this chapter that all hospitals [and],
ambulatory surgical centers, and abortion facilities submit documentation to
the department of health and senior services on the training program used.
197.289. 1. All hospitals [and], ambulatory surgical centers, and abortion facilities shall develop and implement a methodology which ensures adequate nurse staffing that will meet the needs of patients. At a minimum, there shall be on duty at all times a sufficient number of licensed registered nurses to provide patient care requiring the judgment and skills of a licensed registered nurse and to oversee the activities of all nursing personnel.

2. There shall be sufficient licensed and ancillary nursing personnel on duty on each nursing unit to meet the needs of each patient in accordance with accepted standards of quality patient care.

197.293. 1. In addition to the powers established in sections 197.070 and 197.220, the department of health and senior services shall use the following standards for enforcing hospital [and], ambulatory surgical center, and abortion facility licensure regulations promulgated to enforce the provisions of sections 197.010 to 197.120, sections 197.150 to 197.165, and sections 197.200 to 197.240:

(1) Upon notification of a deficiency in meeting regulatory standards, the hospital [or], ambulatory surgical center, or abortion facility shall develop and implement a plan of correction approved by the department which includes, but is not limited to, the specific type of corrective action to be taken and an estimated time to complete such action;

(2) If the plan as implemented does not correct the deficiency, the department may either:

(a) Direct the hospital [or], ambulatory surgical center, or abortion facility to develop and implement a plan of correction pursuant to subdivision (1) of this subsection; or

(b) Require the hospital [or], ambulatory surgical center, or abortion facility to implement a plan of correction developed by the department;

(3) If there is a continuing deficiency after implementation of the plan of correction pursuant to subdivision (2) of this subsection and the hospital [or], ambulatory surgical center, or abortion facility has had an opportunity to correct such deficiency, the department may restrict new inpatient admissions or outpatient entrants to the service or services affected by such deficiency;

(4) If there is a continuing deficiency after the department restricts new inpatient admissions or outpatient entrants to the service or services pursuant to subdivision (3) of this subsection and the hospital [or], ambulatory surgical center, or abortion facility has had an opportunity to correct such deficiency, the department may suspend operations in all or part of the service or services.
affected by such deficiency;

(5) If there is a continuing deficiency after suspension of operations pursuant to subdivision (4) of this subsection, the department may deny, suspend or revoke the hospital's, ambulatory surgical center's, or abortion facility's license pursuant to section 197.070 or section 197.220.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, if a deficiency in meeting licensure standards presents an immediate and serious threat to the patients' health and safety, the department may, based on the scope and severity of the deficiency, restrict access to the service or services affected by the deficiency until the hospital, ambulatory surgical center, or abortion facility has developed and implemented an approved plan of correction. Decisions as to whether a deficiency constitutes an immediate and serious threat to the patients' health and safety shall be made in accordance with guidelines established pursuant to regulation of the department of health and senior services and such decisions shall be approved by the bureau of health facility licensing in the department of health and senior services, or its successor agency, or by a person authorized by the regulations to approve such decisions in the absence of the director.

197.295. 1. A hospital, ambulatory surgical center, or abortion facility aggrieved by a decision of the department pursuant to the provisions of paragraph (b) of subdivision (2) and subdivisions (3), (4) and (5) of subsection 1 of section 197.293 may appeal such decision to the administrative hearing commission pursuant to section 197.071 or section 197.221, and seek judicial review pursuant to section 621.145. An appeal of an action to restrict new inpatient admissions or outpatient entrants, suspend operations or revoke a license shall be heard on an expedited basis by the administrative hearing commission. The hospital, ambulatory surgical center, or abortion facility may apply to the administrative hearing commission for an order to stay or suspend any such departmental action pending the commission's findings and ruling as authorized by section 621.035.

2. If both the department and the hospital, ambulatory surgical center, or abortion facility agree to do so, prior to an appeal to the administrative hearing commission pursuant to section 197.071 or section 197.221, an official action of the department made pursuant to sections 197.010 to 197.120 or sections 197.200 to 197.240 may be appealed to a departmental hearing officer. The department of health and senior services shall promulgate
rules specifying the qualifications of such a hearing officer, establish procedures
to ensure impartial decisions and provide for comparable appeal remedies when
a departmental hearing officer is unavailable.

574.200. 1. A person commits the offense of interference with
medical assistance if he or she, while serving in his or her capacity as
an employee of an abortion facility:
   (1) Knowingly orders or requests medical personnel to deviate
       from any applicable standard of care or ordinary practice while
       providing medical assistance to a patient for reasons unrelated to the
       patient's health or welfare; or
   (2) Knowingly attempts to prevent medical personnel from
       providing medical assistance to a patient in accordance with all
       applicable standards of care or ordinary practice for reasons unrelated
       to the patient's health or welfare.

2. The offense of interference with medical assistance is a class
   A misdemeanor.

3. For purposes of this section, the term "medical personnel" shall
   include, but not be limited to, the following:
   (1) Physicians and surgeons licensed under chapter 334;
   (2) Nurses licensed under chapter 335;
   (3) Emergency medical services personnel as defined in section
       190.600; or
   (4) Any person operating under the supervision of such medical
       personnel.

595.027. 1. Upon request by the department for verification of injuries
of victims, medical providers shall submit the information requested by the
department within twenty working days of the request at no cost to the fund.

2. For purposes of this section, "medical providers" means physicians,
dentists, clinical psychologists, optometrists, podiatrists, registered nurses,
physician's assistants, chiropractors, physical therapists, hospitals, ambulatory
surgical centers, abortion facilities, and nursing homes.

3. Failure to submit the information as required by this section shall be
an infraction.

Section B. In accordance with the provisions of section 1.140, the
provisions of section A are severable. If any provision of section A is found by a
court of competent jurisdiction to be invalid, the remaining provisions shall
remain valid and enforceable.