

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
SENATE RESOLUTION NO. 1793

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

6           1. Conduct an in-depth analysis of the Planned Parenthood  
7       business model and the methods by which they dispose of human  
8       remains from aborted fetuses;

9           2. Investigate whether Planned Parenthood, and any of its  
10      affiliates or associates, is or has engaged in activity contrary  
11      to the laws of this state;

12          3. Determine whether any state dollars have been directly  
13      used in such activity or used in a manner to offset expenses so  
14      that Planned Parenthood and any of its affiliates and associates  
15      might engage in such alleged activities;

16          4. Investigate whether any person, past or present,  
17      employed by the state of Missouri had any prior knowledge of any  
18      such alleged activity or misuse of state funds; and

19          5. Examine and investigate any other issues the Committee  
20      deems relevant to the allegations brought forth against Planned  
21      Parenthood; and

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

4           Whereas, on November 24, 2015, the Committee, pursuant to  
5 the call issued by the President Pro Tempore of the Senate on  
6 July 21, 2015, and as part of its legislative duties to  
7 investigate whether or not an entity that is receiving state  
8 funds violated any state laws, issued a subpoena duces tecum to  
9 Mary Kogut of Planned Parenthood of the St. Louis Region and  
10 Southwest Missouri (attached as Exhibit 1). The subpoena was  
11 properly signed by President Pro Tempore of the Missouri Senate  
12 Ron Richard and attested to by the Secretary of the Missouri  
13 Senate and received by Ms. Kogut on or about November 24, 2015;  
14 and

15           Whereas, the subpoena duces tecum commanded Ms. Kogut to  
16 provide the records contained in Attachment A to the subpoena  
17 within fourteen days after receiving service of the subpoena; and

18           Whereas, on December 4, 2015, an attorney representing  
19 Planned Parenthood of the St. Louis Region and Southwest Missouri  
20 (PPSLR) sent a letter to President Pro Tempore Richard objecting  
21 to the subpoena and indicating that PPSLR would not be producing  
22 responsive documents; and

23           Whereas, the objections to the subpoena duces tecum  
24 contained in the letter to President Pro Tempore Richard by PPSLR  
25 on December 4, 2015, have been distributed to the members of the  
26 Senate Committee on Rules, Joint Rules, Resolutions, and Ethics;  
27 and

28           Whereas, in the judgment of the Senate Committee on Rules,

1 Joint Rules, Resolutions, and Ethics, the objections to the  
2 subpoena duces tecum are without merit and that such subpoena  
3 should be fully complied with; and

4 Whereas, correspondence between the counsel for the  
5 President Pro Tempore and PPSLR dated March 21, 2016, removed any  
6 possible ambiguity by clarifying that the subpoena duces tecum  
7 did not seek any personally identifiable information from any  
8 client; and

9 Whereas, to this day, PPSLR has failed to comply with a  
10 properly executed subpoena duces tecum issued by the Missouri  
11 Senate and has not indicated that it intends to ever comply with  
12 the subpoena duces tecum; and

13 Whereas, in the judgment of this body, the documents sought  
14 by the Committee were relevant and pertinent to the charge of the  
15 Committee and should have been produced by PPSLR in the time  
16 period denoted in the subpoena duces tecum; and

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

1 messenger appointed for that purpose."; and

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

12       Whereas, Ms. Kogut and PPSLR appear to have had no lawful  
13 excuse for not complying with the subpoena duces tecum; that the  
14 information to be obtained by the Committee from PPSLR would be  
15 important and material for the Committee in fulfilling its  
16 legislative duties; that absent any lawful excuse it was the duty  
17 of Ms. Kogut and PPSLR to have provided the requested documents:

18       Now Therefore Be It Resolved that the members of the  
19 Missouri Senate, Ninety-eighth General Assembly, Second Regular  
20 Session, hereby take notice of the aforementioned failure to  
21 comply with the subpoena duces tecum issued by the Missouri  
22 Senate; and

23       Be It Further Resolved that Ms. Kogut be summoned to appear  
24 at the bar of this body and show cause why she should not be  
25 found to have engaged in contemptuous behavior under Article III,  
26 Section 18 of the Missouri Constitution by refusing to comply  
27 with the subpoena issued under authority granted by Senate Rule  
28 14 and section 21.400, RSMo, and be punished for said contempt;

1     and

2             Be It Further Resolved that the President Pro Tempore of the  
3     Senate and the Secretary of the Senate are hereby authorized to  
4     issue the necessary process to bring Ms. Kogut to the Senate  
5     Chamber within the Missouri State Capitol on April 25, 2016, at  
6     2:00 p.m., and the Sergeant-at-Arms, or his designee, is  
7     authorized and required to execute such process in the manner  
8     directed therein.