

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE RESOLUTION NO. 1794

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

22 Whereas, over the course of several months, the Committee

1 held public hearings to receive the testimony of witnesses and
2 develop recommendations for the Missouri Senate; and

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

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

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

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

28 Whereas, the objections to the subpoena duces tecum

1 contained in the letter to President Pro Tempore Richard by Dr.
2 Miller and Pathology Services on December 10, 2015, have been
3 distributed to the members of the Senate Committee on Rules,
4 Joint Rules, Resolutions, and Ethics; and

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

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

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

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

20 Whereas, the General Assembly is authorized to issue
21 subpoenas pursuant to Senate Rule 14 as well as Section 21.400,
22 RSMo, which states "Subpoenas for witnesses and the production of
23 records shall be issued at the request of any member of the
24 senate or the house of representatives, or the party accused, or
25 any member of any committee; and all process awarded by the
26 senate or house of representatives, and subpoenas and other
27 process for witnesses whose attendance is required by either the
28 senate or the house, or before any committee, shall be under the

1 hand of the president pro tem, or the speaker and attested by the
2 secretary or chief clerk, as the case may be, and shall be
3 executed by the sergeant at arms of such house, or by a special
4 messenger appointed for that purpose."; and

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

15 Whereas, Dr. James Miller and Pathology Services Inc. appear
16 to have had no lawful excuse for not complying with the subpoena
17 duces tecum; that the information to be obtained by the Committee
18 from Dr. Miller and Pathology Services Inc. would be important
19 and material for the Committee in fulfilling its legislative
20 duties; that absent any lawful excuse it was the duty of Dr.
21 James Miller and Pathology Services Inc. to have provided the
22 requested documents:

23 Now Therefore Be It Resolved that the members of the
24 Missouri Senate, Ninety-eighth General Assembly, Second Regular
25 Session, hereby take notice of the aforementioned failure to
26 comply with the subpoena duces tecum issued by the Missouri
27 Senate; and

28 Be It Further Resolved that Dr. Miller be summoned to appear

1 at the bar of this body and show cause why he should not be found
2 to have engaged in contemptuous behavior under Article III,
3 Section 18 of the Missouri Constitution by refusing to comply
4 with the subpoena issued under authority granted by Senate Rule
5 14 and Section 21.400, RSMo, and be punished for said contempt;
6 and

7 Be It Further Resolved that the President Pro Tempore of the
8 Senate and the Secretary of the Senate are hereby authorized to
9 issue the necessary process to bring Dr. Miller to the Senate
10 Chamber within the Missouri State Capitol on April 25, 2016, at
11 2:00 p.m., and the Sergeant-at-Arms, or his designee, is
12 authorized and required to execute such process in the manner
13 directed therein.