SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2012

AN ACT

To repeal sections 188.035, 188.036, 188.047, 188.220, 208.151, 208.152, 208.153, 208.164, 208.659, 208.662, 338.270, and 338.337, RSMo, and to enact in lieu thereof twenty-five new sections relating to health care, with penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 188.035, 188.036, 188.047, 188.220, 208.151, 208.152, 208.153, 208.164, 208.659, 208.662, 338.270, and 338.337, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 188.035, 188.036, 188.047, 188.090, 188.165, 188.202, 188.207, 188.212, 188.220, 208.151, 208.152, 208.153, 208.164, 208.659, 208.662, 217.940, 217.941, 217.942, 217.943, 217.944, 217.945, 217.946, 217.947, 338.270, and 338.337, to read as follows:

188.035. **[**Whoever, with intent to do so, shall take the life of a child aborted alive, shall be guilty of murder of the second degree.**]** 1. This section shall be known and may be cited as the "Born-Alive Abortion Survivors Protection Act".

2. A child born alive during or after an abortion or an attempted abortion shall have all the rights, privileges, and immunities available to other persons, citizens, and residents of this state, including any other liveborn child.

3. Any health care provider licensed, registered, or certified in this state who is present at the time a child

is born alive during or after an abortion or attempted abortion shall:

(1) Exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as a reasonably diligent and conscientious health care provider would render to any other child born alive at the same gestational age or with the same fetal weight. This shall include, but not be limited to, never abandoning the child, but instead determining whether to initiate resuscitation, to continue treatment, or to provide comfort and palliative care; and

(2) If necessary, ensure that the child born alive is immediately transported and admitted to a hospital following the exercise of skill, care, and diligence required under subdivision (1) of this subsection.

4. In addition to any criminal or administrative liability which may be incurred, a person shall be civilly liable when he or she:

(1) Knowingly, recklessly, or negligently causes the death of a child who is born alive during or after an abortion or an attempted abortion;

(2) Knowingly fails to comply with any of the provisions of subsection 3 of this section if the person is a health care provider subject to such provisions;

(3) Knowingly performs or induces, or attempts to perform or induce, an unlawful abortion upon another person;

(4) Knowingly aids or abets another person to undergo a self-induced abortion or attempted self-induced abortion or to procure an unlawful abortion or attempted unlawful abortion;

(5) Knowingly, recklessly, or negligently supplies or makes available any instrument, device, medicine, drug, or any other means or substance for another person to undergo a

self-induced abortion or attempted self-induced abortion or to procure an unlawful abortion or attempted unlawful abortion; or

(6) Knowingly incites, solicits, or otherwise uses speech or writing as an integral part of conduct in violation of a valid criminal statute to influence another person to undergo a self-induced abortion or attempted self-induced abortion or to procure an unlawful abortion or attempted unlawful abortion.

5. If injury or death arises out of or results from any circumstance under subsection 4 of this section to any of the following persons, including:

(1) A person upon whom the unlawful abortion or attempted unlawful abortion was performed or induced;

(2) A person who underwent a self-induced abortion or attempted self-induced abortion or who procured an unlawful abortion or attempted unlawful abortion;

(3) A child who was born alive during or after an abortion or attempted abortion; or

(4) An unborn child,

then a cause of action for personal injury, bodily injury, or wrongful death may be brought. In a cause of action for wrongful death, the spouse, partner, parents, and children of the deceased person, child, or unborn child shall be entitled to bring the action. Damages for injury or death may be recovered for, including, but not limited to, any damages described in chapters 537 and 538 that are applicable; loss of future fertility; loss of love and companionship of the spouse, partner, parent, child, or unborn child; and for injury to or destruction of the spouse, partner, parent, child, or unborn child relationship in such amount as, under all the circumstances of the case, may be just. The court shall also award a prevailing

plaintiff reasonable attorney's fees and litigation costs, including, but not limited to, expert witness fees and expenses as part of the costs. A defendant shall not be permitted to plead or prove as a defense that the plaintiff or deceased person assumed the risk of undergoing, or consented to undergo, a self-induced abortion or attempted self-induced abortion or that the plaintiff or deceased person assumed the risk of procuring, or consented to procure, an unlawful abortion or attempted unlawful abortion. The fact that a plaintiff or deceased person consented to undergo a self-induced abortion or attempted self-induced abortion or to procure an unlawful abortion or attempted unlawful abortion shall not, in and of itself, be considered evidence of contributory or comparative negligence. Any exculpatory agreement between or among parties that is related to undergoing a self-induced abortion or attempted self-induced abortion or to procuring an unlawful abortion or attempted unlawful abortion shall be against public policy and shall be void.

6. No person shall maintain a cause of action or receive an award of damages under this section if such person engaged in criminal conduct, or in domestic violence or sexual assault, as defined in section 455.010, that caused the pregnancy in which another person was injured or died as the result of an abortion or attempted abortion. No person shall maintain a cause of action or receive an award of damages under this section if he or she is a family or household member, as defined in section 455.010, who aided or abetted such person who engaged in criminal conduct, or in domestic violence or sexual assault, as defined in section 455.010, that caused the pregnancy in which another person was injured or died as the result of an abortion or attempted abortion.

7. The provisions of this section shall be applied, interpreted, and construed in a manner consistent with the Constitution of the United States and the constitution of this state.

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

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

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

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

5. No person shall knowingly offer or receive any valuable consideration for the fetal organs or tissue resulting from an abortion, provided that nothing in this subsection shall prohibit payment for burial or other final disposition of the fetal remains, or payment for a pathological examination, autopsy or postmortem examination of the fetal remains.

6. [If any provision in this section or the application thereof to any person, circumstance or period of gestation is held invalid, such invalidity shall not affect the provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.] No person shall knowingly donate or make an anatomical gift of the fetal organs or tissue resulting from an abortion to any person or entity for medical, scientific, experimental, therapeutic, or any other use.

7. Nothing in this section shall prohibit the utilization of fetal organs or tissue to determine the cause or causes of any anomaly, illness, death, or genetic condition of the unborn child or his or her mother, the paternity of the unborn child, or for law enforcement purposes.

8. Notwithstanding any other provision of law to the contrary, any person who knowingly violates any provision of this section shall be guilty of a class E felony and subject to suspension or revocation of his or her professional license by his or her professional licensing board.

188.047. 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 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 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. 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**]** abortion procedures used, the number and type of complications reported for each type of **[**termination**]** abortion 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**]** unborn child or his or her mother, the paternity of the **[**fetus**]** unborn child, 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 October 24, 2017, shall be invalid and void.

188.090. 1. A person or entity commits the offense of trafficking abortion-inducing drugs if such person or entity knowingly imports, exports, distributes, delivers, manufactures, produces, prescribes, administers, or dispenses or attempts to import, export, distribute, deliver, manufacture, produce, prescribe, administer, or

dispense any medicine, drug, or any other substance to be used for the purpose of inducing an abortion on another person in violation of any state or federal law.

2. The offense of trafficking abortion-inducing drugs is a class B felony.

3. A woman upon whom an abortion was induced, or was attempted to be induced, in violation of this section shall not be prosecuted for:

(1) Violating any of the provisions of this section;

(2) A conspiracy to violate any of the provisions of this section; or

(3) Being criminally responsible for the conduct of another person who, or an entity that, violated any of the provisions of this section.

188.165. 1. A person commits the offense of hoarding of aborted human remains if he or she knowingly possesses, outside of a hospital or abortion facility licensed under chapter 197, two or more bodies of unborn children, or the arms, legs, fingers, toes, heads, trunks, limbs, appendages, or organs of two or more unborn children, which were obtained after he or she had performed or induced abortions upon other persons.

2. The offense of hoarding of aborted human remains is a class D felony.

3. The court shall order a person who has been found guilty of or pleaded guilty or nolo contendere to the offense of hoarding of aborted human remains to undergo a psychological or psychiatric evaluation and to undergo such treatment that the court determines to be appropriate after due consideration of the evaluation.

188.202. 1. No federal act, law, executive order, administrative order, rule, or regulation shall infringe on the right of the people of Missouri to:

(1) Protect state sovereignty and state taxpayers by restricting public funds, public facilities, and public employees from being used to perform, induce, or assist in an abortion, except as provided for in state statutes;

(2) Encourage childbirth over abortion in the use of the state's public funds, public facilities, and public employees;

(3) Defend the religious beliefs or moral convictions of any person who, or entity that, does not want to be forced to directly or indirectly fund or participate in abortion;

(4) Prevent the state or its political subdivisions from being coerced, compelled, or commandeered by the federal government to enact, administer, or enforce a federal regulatory program that directly or indirectly funds abortion; and

(5) Prohibit the federal government from commanding or conscripting public officials of the state or its political subdivisions to enforce a federal regulatory program that directly or indirectly funds abortion.

2. In any action to enforce the provisions of sections 188.200 to 188.215 by a taxpayer under the provisions of section 188.220, 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 of the taxpayer. 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.

3. In addition to a cause of action brought by a taxpayer under section 188.220, the attorney general is also authorized to bring a cause of action to enforce the provisions of sections 188.200 to 188.215.

188.207. It shall be unlawful for any public funds to be expended to any abortion facility, or to any affiliate or associate of such abortion facility.

188.212. 1. As used in this section, the following terms shall mean:

(1) "Project", any work or undertaking to:

(a) Purchase or acquire by any means, or sell, transfer, or dispose of by any means, any lands, buildings, structures, facilities, places, or premises;

(b) Build, house, rent to, lease to, sublease to, license to, or otherwise provide or make available lands, buildings, structures, facilities, places, or premises for residential, recreational, commercial, medical, industrial, nonprofit, governmental, or other public or private use;

(c) Demolish or remove existing buildings, structures, facilities, places, or premises to prepare the site for use; or

(d) Develop, construct, expand, erect, alter, reconstruct, rehabilitate, renovate, repair, or otherwise improve or change lands, buildings, structures, facilities, places, or premises;

(2) "Public financial benefit", any economic or financial benefit offered or provided by the state or any of its political subdivisions by or through:

(a) Any money appropriated, or any other money or thing of value made available by gift, donation, bequest, devise, contribution, advance, loan, grant, including pass-through or pass-on grants or funds, or by any means;

(b) Any tax reduction, diversion, credit, forgiveness, abatement, subsidy, or other tax-relieving measure;

(c) Any tax increment financing or similar financial arrangement;

(d) Any monetary or nonmonetary benefit related to any bond, loan, or similar financial arrangement;

(e) Any reduction, credit, forgiveness, abatement, subsidy, or other relief related to any bond, loan, or similar financial arrangement; or

(f) The ability to form, own, direct, or receive any economic or financial benefit from any special taxation district.

2. Notwithstanding any provision of law to the contrary, beginning August 28, 2022:

(1) No project for a proposed or existing abortion facility or affiliate or associate of an abortion facility shall be eligible for a public financial benefit;

(2) Any lands, buildings, structures, facilities, places, or premises upon which a project that received a public financial benefit has been completed shall be restricted in perpetuity from being used by or for the benefit of an abortion facility or affiliate or associate of an abortion facility. Such restriction shall be considered a covenant that runs with the land; and

(3) The state or any of its political subdivisions that is offering or providing a public financial benefit to a project shall notify the recipient or recipients of such benefit of the restrictions set forth in this section.

3. Nothing in this section shall be construed to prohibit the state or any of its political subdivisions from providing a service that is intended for the health, safety, or welfare of the public at large and which may have the indirect effect of benefitting an abortion facility or affiliate or associate of an abortion facility.

4. Any person who or entity that receives a public financial benefit for a project and violates the provisions of this section shall:

(1) Forfeit all rights to retain or receive such benefit;

(2) Be subject to such action as the state or any of its political subdivisions deems appropriate to effect and secure repayment of any benefit received, along with interest and a ten percent penalty on the total amount of the benefit; and

(3) Not be eligible to retain or receive a public financial benefit from the state or any of its political subdivisions for another otherwise eligible project.

5. In any taxpayer suit 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 of the taxpayer. 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.

6. If the state auditor audits the state or any of its political subdivisions for an alleged violation of the provisions of this section and has reasonable cause to believe or suspect a violation has occurred, the state auditor shall notify the attorney general.

188.220. Any taxpayer of this state or its political subdivisions shall have standing to bring **[**suit in a circuit court of proper venue**]** a cause of action in any court or administrative agency of competent jurisdiction to enforce the provisions of sections 188.200 to 188.215.

208.151. 1. Medical assistance on behalf of needy persons shall be known as "MO HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.) as amended,

the following needy persons shall be eligible to receive MO HealthNet benefits to the extent and in the manner hereinafter provided:

(1) All participants receiving state supplemental payments for the aged, blind and disabled;

(2) All participants receiving aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040. Participants eligible under this subdivision who are participating in treatment court, as defined in section 478.001, shall have their eligibility automatically extended sixty days from the time their dependent child is removed from the custody of the participant, subject to approval of the Centers for Medicare and Medicaid Services;

(3) All participants receiving blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the family support division, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. Section 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All participants receiving family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were participants receiving old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) (42 U.S.C. Sections 1396a to 1396b). The family support division shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the family support division shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide MO HealthNet coverage under this subdivision, the department of social services may revise the state MO HealthNet plan to extend coverage under 42 U.S.C. Section 1396a(a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. Section 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. Section 1396a;

(15) The family support division shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The MO HealthNet division shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12),

(13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder;

(16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as amended;

(17) A child born to a woman eligible for and receiving MO HealthNet benefits under this section on the date of the child's birth shall be deemed to have applied for MO HealthNet benefits and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the family support division shall assign a MO HealthNet eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(18) Pregnant women and children eligible for MO HealthNet benefits pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for MO HealthNet benefits be required to apply for aid to families with dependent children. The family support division shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for MO HealthNet benefits. The division shall provide such

application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for MO HealthNet benefits under subdivision (12), (13) or (14) of this subsection shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the family support division for assessing eligibility under this chapter shall be as simple as practicable;

(19) Subject to appropriations necessary to recruit and train such staff, the family support division shall provide one or more full-time, permanent eligibility specialists to process applications for MO HealthNet benefits at the site of a health care provider, if the health care provider requests the placement of such eligibility specialists and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment of such eligibility specialists. The division may provide a health care provider with a part-time or temporary eligibility specialist at the site of a health care provider if the health care provider requests the placement of such an eligibility specialist and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such an eligibility specialist. The division may seek to employ such eligibility specialists who are otherwise qualified for such positions and who are current or former welfare participants. The division may consider training such current or former welfare participants as eligibility specialists for this program;

(20) Pregnant women who are eligible for, have applied for and have received MO HealthNet benefits under

subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum MO HealthNet benefits provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy. Pregnant women receiving mental health treatment for postpartum depression or related mental health conditions within sixty days of giving birth shall, subject to appropriations and any necessary federal approval, be eligible for MO HealthNet benefits for mental health services for the treatment of postpartum depression and related mental health conditions for up to twelve additional months. Pregnant women receiving substance abuse treatment within sixty days of giving birth shall, subject to appropriations and any necessary federal approval, be eligible for MO HealthNet benefits for substance abuse treatment and mental health services for the treatment of substance abuse for no more than twelve additional months, as long as the woman remains adherent with treatment. The department of mental health and the department of social services shall seek any necessary waivers or state plan amendments from the Centers for Medicare and Medicaid Services and shall develop rules relating to treatment plan adherence. No later than fifteen months after receiving any necessary waiver, the department of mental health and the department of social services shall report to the house of representatives budget committee and the senate appropriations committee on the compliance with federal cost neutrality requirements;

(21) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant

women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192 or chapter 205 or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and the department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of intellectual disability and developmental disability program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective MO HealthNet-eligible high-risk mothers and enroll them in the state's MO HealthNet program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the MO HealthNet program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any MO HealthNet prepaid, case-managed programs;

(22) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department

of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207;

(23) All participants who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(24) (a) All persons who would be determined to be eligible for old age assistance benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriation;

(b) All persons who would be determined to be eligible for aid to the blind benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty level;

(c) All persons who would be determined to be eligible for permanent and total disability benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f); or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as

authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriations. Eligibility standards for permanent and total disability benefits shall not be limited by age;

(25) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. Section 1396a(a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. Section 1396r-1;

(26) Persons who are in foster care under the responsibility of the state of Missouri on the date such persons attained the age of eighteen years, or at any time during the thirty-day period preceding their eighteenth birthday, or persons who received foster care for at least six months in another state, are residing in Missouri, and are at least eighteen years of age, without regard to income or assets, if such persons:

(a) Are under twenty-six years of age;

(b) Are not eligible for coverage under another mandatory coverage group; and

(c) Were covered by Medicaid while they were in foster care;

(27) Any homeless child or homeless youth, as those terms are defined in section 167.020, subject to approval of a state plan amendment by the Centers for Medicare and Medicaid Services;

(28) (a) Beginning April 1, 2022, or the effective date of this act, whichever is later, pregnant women who are eligible for, have applied for, and have received MO HealthNet benefits under subdivision (2), (10), (11), or (12) of this subsection shall be eligible for medical assistance during the pregnancy and during the twelve-month period that begins on the last day of the woman's pregnancy

and ends on the last day of the month in which such twelve-month period ends, consistent with the provisions of 42 U.S.C. Section 1396a(e)(16). The department shall submit a state plan amendment to the Centers for Medicare and Medicaid Services within sixty days of the effective date of this act;

(b) The provisions of this subdivision shall remain in effect for any period of time during which the federal authority under 42 U.S.C. Section 1396a(e)(16), as amended, or any successor statutes or implementing regulations, is in effect.

2. Rules and regulations to implement this section shall be promulgated in accordance with chapter 536. 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 August 28, 2002, shall be invalid and void.

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. Section 601, et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for MO HealthNet benefits for four calendar months following the month in which such family would otherwise be determined to be

ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. Section 601, et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for MO HealthNet benefits for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. Section 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. Section 1396r-6 shall receive MO HealthNet benefits without fee for an additional six months. The MO HealthNet division may provide by rule and as authorized by annual appropriation the scope of MO HealthNet coverage to be granted to such families.

4. When any individual has been determined to be eligible for MO HealthNet benefits, such medical assistance will be made available to him or her for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid.

5. The department of social services may apply to the federal Department of Health and Human Services for a MO HealthNet waiver amendment to the Section 1115 demonstration waiver or for any additional MO HealthNet waivers necessary not to exceed one million dollars in additional costs to the

state, unless subject to appropriation or directed by statute, but in no event shall such waiver applications or amendments seek to waive the services of a rural health clinic or a federally qualified health center as defined in 42 U.S.C. Section 1396d(l)(1) and (2) or the payment requirements for such clinics and centers as provided in 42 U.S.C. Section 1396a(a)(15) and 1396a(bb) unless such waiver application is approved by the oversight committee created in section 208.955. A request for such a waiver so submitted shall only become effective by executive order not sooner than ninety days after the final adjournment of the session of the general assembly to which it is submitted, unless it is disapproved within sixty days of its submission to a regular session by a senate or house resolution adopted by a majority vote of the respective elected members thereof, unless the request for such a waiver is made subject to appropriation or directed by statute.

6. Notwithstanding any other provision of law to the contrary, in any given fiscal year, any persons made eligible for MO HealthNet benefits under subdivisions (1) to (22) of subsection 1 of this section shall only be eligible if annual appropriations are made for such eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section 1396a(a)(10)(A)(i).

7. (1) Notwithstanding any provision of law to the contrary, a military service member, or an immediate family member residing with such military service member, who is a legal resident of this state and is eligible for MO HealthNet developmental disability services, shall have his or her eligibility for MO HealthNet developmental disability services temporarily suspended for any period of time during which such person temporarily resides outside of this state for reasons relating to military service, but shall have his

or her eligibility immediately restored upon returning to this state to reside.

(2) Notwithstanding any provision of law to the contrary, if a military service member, or an immediate family member residing with such military service member, is not a legal resident of this state, but would otherwise be eligible for MO HealthNet developmental disability services, such individual shall be deemed eligible for MO HealthNet developmental disability services for the duration of any time in which such individual is temporarily present in this state for reasons relating to military service.

208.152. 1. MO HealthNet payments shall be made on behalf of those eligible needy persons as described in section 208.151 who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the MO HealthNet division shall provide through rule and regulation an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay schedule; and provided further that the MO HealthNet division shall take into account through its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.), but the MO HealthNet division may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the MO HealthNet division not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for participants, except to persons with more than five hundred thousand dollars equity in their home or except for persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health and senior services or a nursing home licensed by the department of health and senior services or appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX of the federal Social Security Act (42 U.S.C. Section 301, et seq.), as amended, for nursing facilities. The MO HealthNet division may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of MO HealthNet patients. The MO HealthNet division when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of

twenty-one as a classification separate from other nursing facilities;

(5) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection for those days, which shall not exceed twelve per any period of six consecutive months, during which the participant is on a temporary leave of absence from the hospital or nursing home, provided that no such participant shall be allowed a temporary leave of absence unless it is specifically provided for in his or her plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a participant is away from the hospital or nursing home overnight because he or she is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere; provided that, no funds shall be expended to any abortion facility, as defined in section 188.015, or to any affiliate or associate of such abortion facility;

(7) Subject to appropriation, up to twenty visits per year for services limited to examinations, diagnoses, adjustments, and manipulations and treatments of malpositioned articulations and structures of the body provided by licensed chiropractic physicians practicing within their scope of practice. Nothing in this subdivision shall be interpreted to otherwise expand MO HealthNet services;

(8) Drugs and medicines when prescribed by a licensed physician, dentist, podiatrist, or an advanced practice registered nurse; except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a licensed physician, dentist, podiatrist, or an advanced practice registered nurse may be made on behalf of any

person who qualifies for prescription drug coverage under the provisions of P.L. 108-173;

(9) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments;

(10) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and federal regulations promulgated thereunder;

(11) Home health care services;

(12) Family planning as defined by federal rules and regulations; provided that, no funds shall be expended to any abortion facility, as defined in section 188.015, or to any affiliate or associate of such abortion facility; and further provided, however, that such family planning services shall not include abortions or any abortifacient drug or device that is used for the purpose of inducing an abortion unless such abortions are certified in writing by a physician to the MO HealthNet agency that, in the physician's professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(13) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. Section 1396d, et seq.);

(14) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities which are licensed by the department of health and senior services of the state of Missouri; except,

that such outpatient surgical services shall not include persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(15) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his or her physician on an outpatient rather than on an inpatient or residential basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the participant's family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one participant one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time. Such services, when delivered in a residential care facility or assisted living facility licensed under chapter 198 shall be authorized on a tier level based on the services the resident requires and the frequency of the services. A resident of such facility who qualifies for assistance under section 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the fewest services. The rate paid to providers for each tier of service shall be set subject to appropriations. Subject to

appropriations, each resident of such facility who qualifies for assistance under section 208.030 and meets the level of care required in this section shall, at a minimum, if prescribed by a physician, be authorized up to one hour of personal care services per day. Authorized units of personal care services shall not be reduced or tier level lowered unless an order approving such reduction or lowering is obtained from the resident's personal physician. Such authorized units of personal care services or tier level shall be transferred with such resident if he or she transfers to another such facility. Such provision shall terminate upon receipt of relevant waivers from the federal Department of Health and Human Services. If the Centers for Medicare and Medicaid Services determines that such provision does not comply with the state plan, this provision shall be null and void. The MO HealthNet division shall notify the revisor of statutes as to whether the relevant waivers are approved or a determination of noncompliance is made;

(16) Mental health services. The state plan for providing medical assistance under Title XIX of the Social Security Act, 42 U.S.C. Section 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility or as a child-serving agency within the comprehensive children's mental health service system established in section 630.097. The department of mental health shall establish by administrative rule the definition and criteria for designation as a community mental health facility and for

designation as an alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including home and community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, mental health professional and alcohol and drug abuse professional shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, MO HealthNet division, shall enter into an agreement with the department of mental

health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the MO HealthNet division. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed;

(17) Such additional services as defined by the MO HealthNet division to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. Section 301, et seq.) subject to appropriation by the general assembly;

(18) The services of an advanced practice registered nurse with a collaborative practice agreement to the extent that such services are provided in accordance with chapters 334 and 335, and regulations promulgated thereunder;

(19) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection to reserve a bed for the participant in the nursing home during the time that the participant is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO HealthNet certified licensed beds, according to the most recent quarterly census provided to the department of health and senior services which was taken prior to when the participant is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made under this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf of a participant under this subdivision during any period of six consecutive months such participant shall, during the same period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided under subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the participant or the participant's responsible party that the participant intends to return to the nursing home following the hospital stay. If the nursing home receives such notification and all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the participant or the participant's responsible party prior to release of the reserved bed;

(20) Prescribed medically necessary durable medical equipment. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(21) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care

to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(22) Prescribed medically necessary dental services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(23) Prescribed medically necessary optometric services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(24) Blood clotting products-related services. For persons diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section 338.400, such services include:

(a) Home delivery of blood clotting products and ancillary infusion equipment and supplies, including the emergency deliveries of the product when medically necessary;

(b) Medically necessary ancillary infusion equipment and supplies required to administer the blood clotting products; and

(c) Assessments conducted in the participant's home by a pharmacist, nurse, or local home health care agency trained in bleeding disorders when deemed necessary by the participant's treating physician;

(25) The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of the Medicare reimbursement rates and compared to the average dental reimbursement rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and for third-party payor average dental reimbursement rates. Such plan shall be subject to appropriation and the division shall include in its annual budget request to the governor the necessary funding needed to complete the four-year plan developed under this subdivision.

2. Additional benefit payments for medical assistance shall be made on behalf of those eligible needy children, pregnant women and blind persons with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

(1) Dental services;

(2) Services of podiatrists as defined in section 330.010;

(3) Optometric services as described in section 336.010;

(4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(5) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(6) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO HealthNet division shall establish by administrative rule the definition and criteria for designation of a comprehensive day rehabilitation

service facility, benefit limitations and payment mechanism. 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 subdivision 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 August 28, 2005, shall be invalid and void.

3. The MO HealthNet division may require any participant receiving MO HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered services except for those services covered under subdivisions (15) and (16) of subsection 1 of this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. Section 1396, et seq.) and regulations thereunder. When substitution of a generic drug is permitted by the prescriber according to section 338.056, and a generic drug is substituted for a name-brand drug, the MO HealthNet division may not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described under this section must collect from all participants the additional payment that may be required by the MO HealthNet division under authority granted herein, if the division exercises that authority, to

remain eligible as a provider. Any payments made by participants under this section shall be in addition to and not in lieu of payments made by the state for goods or services described herein except the participant portion of the pharmacy professional dispensing fee shall be in addition to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time a service is provided or at a later date. A provider shall not refuse to provide a service if a participant is unable to pay a required payment. If it is the routine business practice of a provider to terminate future services to an individual with an unclaimed debt, the provider may include uncollected co-payments under this practice. Providers who elect not to undertake the provision of services based on a history of bad debt shall give participants advance notice and a reasonable opportunity for payment. A provider, representative, employee, independent contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for Medicare and Medicaid Services does not approve the MO HealthNet state plan amendment submitted by the department of social services that would allow a provider to deny future services to an individual with uncollected co-payments, the denial of services shall not be allowed. The department of social services shall inform providers regarding the acceptability of denying services as the result of unpaid co-payments.

4. The MO HealthNet division shall have the right to collect medication samples from participants in order to maintain program integrity.

5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1 of this

section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for MO HealthNet benefits at least to the extent that such care and services are available to the general population in the geographic area, as required under subparagraph (a)(30)(A) of 42 U.S.C. Section 1396a and federal regulations promulgated thereunder.

6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

7. Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for MO HealthNet benefits under section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health and senior services. Such notification and referral shall conform to the requirements of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8. Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. Section 1396a, as amended, and regulations promulgated thereunder.

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the MO HealthNet program shall not increase payments in excess of the increase that would

result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. Section 1396a (a)(13)(C).

10. The MO HealthNet division may enroll qualified residential care facilities and assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

11. Any income earned by individuals eligible for certified extended employment at a sheltered workshop under chapter 178 shall not be considered as income for purposes of determining eligibility under this section.

12. If the Missouri Medicaid audit and compliance unit changes any interpretation or application of the requirements for reimbursement for MO HealthNet services from the interpretation or application that has been applied previously by the state in any audit of a MO HealthNet provider, the Missouri Medicaid audit and compliance unit shall notify all affected MO HealthNet providers five business days before such change shall take effect. Failure of the Missouri Medicaid audit and compliance unit to notify a provider of such change shall entitle the provider to continue to receive and retain reimbursement until such notification is provided and shall waive any liability of such provider for recoupment or other loss of any payments previously made prior to the five business days after such notice has been sent. Each provider shall provide the Missouri Medicaid audit and compliance unit a valid email address and shall agree to receive communications electronically. The notification required under this section shall be delivered in writing by the United States Postal Service or electronic mail to each provider.

13. Nothing in this section shall be construed to abrogate or limit the department's statutory requirement to promulgate rules under chapter 536.

14. Beginning July 1, 2016, and subject to appropriations, providers of behavioral, social, and psychophysiological services for the prevention, treatment, or management of physical health problems shall be reimbursed utilizing the behavior assessment and intervention reimbursement codes 96150 to 96154 or their successor codes under the Current Procedural Terminology (CPT) coding system. Providers eligible for such reimbursement shall include psychologists.

208.153. 1. Pursuant to and not inconsistent with the provisions of sections 208.151 and 208.152, the MO HealthNet division shall by rule and regulation define the reasonable costs, manner, extent, quantity, quality, charges and fees of MO HealthNet benefits herein provided. The benefits available under these sections shall not replace those provided under other federal or state law or under other contractual or legal entitlements of the persons receiving them, and all persons shall be required to apply for and utilize all benefits available to them and to pursue all causes of action to which they are entitled. Any person entitled to MO HealthNet benefits may obtain it from any provider of services which is not excluded or disqualified as a provider under any provision of law, including, but not limited to, section 208.164, with which an agreement is in effect under this section and which undertakes to provide the services, as authorized by the MO HealthNet division. At the discretion of the director of the MO HealthNet division and with the approval of the governor, the MO HealthNet division is authorized to provide medical benefits for participants receiving public assistance by expending funds for the payment of federal medical insurance premiums, coinsurance and deductibles pursuant to the provisions of Title XVIII B and XIX, Public Law 89-97, 1965 amendments to

the federal Social Security Act (42 U.S.C. 301, et seq.), as amended.

2. MO HealthNet shall include benefit payments on behalf of qualified Medicare beneficiaries as defined in 42 U.S.C. Section 1396d(p). The family support division shall by rule and regulation establish which qualified Medicare beneficiaries are eligible. The MO HealthNet division shall define the premiums, deductible and coinsurance provided for in 42 U.S.C. Section 1396d(p) to be provided on behalf of the qualified Medicare beneficiaries.

3. MO HealthNet shall include benefit payments for Medicare Part A cost sharing as defined in clause (p)(3)(A)(i) of 42 U.S.C. 1396d on behalf of qualified disabled and working individuals as defined in subsection (s) of Section 42 U.S.C. 1396d as required by subsection (d) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The MO HealthNet division may impose a premium for such benefit payments as authorized by paragraph (d)(3) of Section 6408 of P.L. 101-239.

4. MO HealthNet shall include benefit payments for Medicare Part B cost sharing described in 42 U.S.C. Section 1396(d)(p)(3)(A)(ii) for individuals described in subsection 2 of this section, but for the fact that their income exceeds the income level established by the state under 42 U.S.C. Section 1396(d)(p)(2) but is less than one hundred and ten percent beginning January 1, 1993, and less than one hundred and twenty percent beginning January 1, 1995, of the official poverty line for a family of the size involved.

5. For an individual eligible for MO HealthNet under Title XIX of the Social Security Act, MO HealthNet shall include payment of enrollee premiums in a group health plan and all deductibles, coinsurance and other cost-sharing for items and services otherwise covered under the state Title

XIX plan under Section 1906 of the federal Social Security Act and regulations established under the authority of Section 1906, as may be amended. Enrollment in a group health plan must be cost effective, as established by the Secretary of Health and Human Services, before enrollment in the group health plan is required. If all members of a family are not eligible for MO HealthNet and enrollment of the Title XIX eligible members in a group health plan is not possible unless all family members are enrolled, all premiums for noneligible members shall be treated as payment for MO HealthNet of eligible family members. Payment for noneligible family members must be cost effective, taking into account payment of all such premiums. Non-Title XIX eligible family members shall pay all deductible, coinsurance and other cost-sharing obligations. Each individual as a condition of eligibility for MO HealthNet benefits shall apply for enrollment in the group health plan.

6. Any Social Security cost-of-living increase at the beginning of any year shall be disregarded until the federal poverty level for such year is implemented.

7. If a MO HealthNet participant has paid the requested spenddown in cash for any month and subsequently pays an out-of-pocket valid medical expense for such month, such expense shall be allowed as a deduction to future required spenddown for up to three months from the date of such expense.

208.164. 1. As used in this section, unless the context clearly requires otherwise, the following terms mean:

(1) "Abuse", a documented pattern of inducing, furnishing, or otherwise causing a recipient to receive services or merchandise not otherwise required or requested by the recipient, attending physician or appropriate utilization review team; a documented pattern of performing

and billing tests, examinations, patient visits, surgeries, drugs or merchandise that exceed limits or frequencies determined by the department for like practitioners for which there is no demonstrable need, or for which the provider has created the need through ineffective services or merchandise previously rendered. The decision to impose any of the sanctions authorized in this section shall be made by the director of the department, following a determination of demonstrable need or accepted medical practice made in consultation with medical or other health care professionals, or qualified peer review teams;

(2) "Department", the department of social services;

(3) "Excessive use", the act, by a person eligible for services under a contract or provider agreement between the department of social services or its divisions and a provider, of seeking and/or obtaining medical assistance benefits from a number of like providers and in quantities which exceed the levels that are considered medically necessary by current medical practices and standards for the eligible person's needs;

(4) "Fraud", a known false representation, including the concealment of a material fact that the provider knew or should have known through the usual conduct of his or her profession or occupation, upon which the provider claims reimbursement under the terms and conditions of a contract or provider agreement and the policies pertaining to such contract or provider agreement of the department or its divisions in carrying out the providing of services, or under any approved state plan authorized by the federal Social Security Act;

(5) "Health plan", a group of services provided to recipients of medical assistance benefits by providers under a contract with the department;

(6) "Medical assistance benefits", those benefits authorized to be provided by sections 208.152 and 208.162;

(7) "Prior authorization", approval to a provider to perform a service or services for an eligible person required by the department or its divisions in advance of the actual service being provided or approved for a recipient to receive a service or services from a provider, required by the department or its designated division in advance of the actual service or services being received;

(8) "Provider", any person, partnership, corporation, not-for-profit corporation, professional corporation, or other business entity that enters into a contract or provider agreement with the department or its divisions for the purpose of providing services to eligible persons, and obtaining from the department or its divisions reimbursement therefor;

(9) "Recipient", a person who is eligible to receive medical assistance benefits allocated through the department;

(10) "Service", the specific function, act, successive acts, benefits, continuing benefits, requested by an eligible person or provided by the provider under contract with the department or its divisions.

2. The department or its divisions shall have the authority to suspend, revoke, or cancel any contract or provider agreement or refuse to enter into a new contract or provider agreement with any provider where it is determined the provider has committed or allowed its agents, servants, or employees to commit acts defined as abuse or fraud in this section.

3. The department or its divisions shall have the authority to impose prior authorization as defined in this section:

(1) When it has reasonable cause to believe a provider or recipient has knowingly followed a course of conduct which is defined as abuse or fraud or excessive use by this section; or

(2) When it determines by rule that prior authorization is reasonable for a specified service or procedure.

4. If a provider or recipient reports to the department or its divisions the name or names of providers or recipients who, based upon their personal knowledge has reasonable cause to believe an act or acts are being committed which are defined as abuse, fraud or excessive use by this section, such report shall be confidential and the reporter's name shall not be divulged to anyone by the department or any of its divisions, except at a judicial proceeding upon a proper protective order being entered by the court.

5. Payments for services under any contract or provider agreement between the department or its divisions and a provider may be withheld by the department or its divisions from the provider for acts or omissions defined as abuse or fraud by this section, until such time as an agreement between the parties is reached or the dispute is adjudicated under the laws of this state.

6. The department or its designated division shall have the authority to review all cases and claim records for any recipient of public assistance benefits and to determine from these records if the recipient has, as defined in this section, committed excessive use of such services by seeking or obtaining services from a number of like providers of services and in quantities which exceed the levels considered necessary by current medical or health care professional practice standards and policies of the program.

7. The department or its designated division shall have the authority with respect to recipients of medical assistance benefits who have committed excessive use to limit or restrict the use of the recipient's Medicaid identification card to designated providers and for designated services; the actual method by which such restrictions are imposed shall be at the discretion of the department of social services or its designated division.

8. The department or its designated division shall have the authority with respect to any recipient of medical assistance benefits whose use has been restricted under subsection 7 of this section and who obtains or seeks to obtain medical assistance benefits from a provider other than one of the providers for designated services to terminate medical assistance benefits as defined by this chapter, where allowed by the provisions of the federal Social Security Act.

9. The department or its designated division shall have the authority with respect to any provider who knowingly allows a recipient to violate subsection 7 of this section or who fails to report a known violation of subsection 7 of this section to the department of social services or its designated division to terminate or otherwise sanction such provider's status as a participant in the medical assistance program. Any person making such a report shall not be civilly liable when the report is made in good faith.

10. The department or its designated division shall have the authority to suspend, revoke, or cancel any contract or provider agreement or refuse to enter into a new contract or provider agreement with any provider where it is determined that the provider, or any affiliate or associate thereof, has committed fraud, abuse, or unethical behavior

and has been removed or prohibited from being a Medicaid provider in another state's Medicaid program; provided, that such fraud, abuse, or unethical behavior, if it had occurred in this state, would be grounds for suspension, revocation, cancellation, or refusal to enter into a contract or provider agreement as a MO HealthNet provider.

11. In order to comply with the provisions of 42 U.S.C. Section 1320a-7(a) relating to mandatory exclusion of certain individuals and entities from participation in any federal health care program, and in furtherance of the state's authority under federal law, as implemented by 42 CFR 1002.3(b), to exclude an individual or entity from MO HealthNet for any reason or period authorized by state law, the department or its divisions shall suspend, revoke, or cancel any contract or provider agreement or refuse to enter into a new contract or provider agreement with any provider where it is determined that such provider is not qualified to perform the service or services required, as described in 42 U.S.C. Section 1396a(a)(23), because such provider, or such provider's agent, servant, or employee acting under such provider's authority:

(1) Has a conviction related to the delivery of any item or service under Medicare or under any state health care program, as described in 42 U.S.C. Section 1320a-7(a)(1);

(2) Has a conviction related to the neglect or abuse of a patient in connection with the delivery of any health care item or service, as described in 42 U.S.C. Section 1320a-7(a)(2);

(3) Has a felony conviction related to health care fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct, as described in 42 U.S.C. Section 1320a-7(a)(3);

(4) Has a felony conviction related to the unlawful manufacture, distribution, prescription, or dispensation of a controlled substance, as described in 42 U.S.C. Section 1320a-7(a)(4);

(5) Has been found guilty of a pattern of intentional discrimination in the delivery or nondelivery of any health care item or service based on the race, color, or national origin of recipients, as described in 42 U.S.C. Section 175 2000d; or is an organization whose original "principles and aims" were to limit the "reckless procreation" of "[t]hose least fit to carry on the race", "[t]o create a race of well born children", and for the "sterilization of the insane and feebleminded", and whose founder and first president supported eugenics as the solution for racial, political, and social problems and advocated for the use of birth control for "the elimination of the unfit" and stopping "the reproduction of the unfit"; or

(6) Is an abortion facility, as defined in section 188.015, or an affiliate or associate of such abortion facility.

208.659. The MO HealthNet division shall revise the eligibility requirements for the uninsured women's health program, as established in 13 CSR Section 70- 4.090, to include women who are at least eighteen years of age and with a net family income of at or below one hundred eighty-five percent of the federal poverty level. In order to be eligible for such program, the applicant shall not have assets in excess of two hundred and fifty thousand dollars, nor shall the applicant have access to employer-sponsored health insurance. Such change in eligibility requirements shall not result in any change in services provided under the program. No funds shall be expended to any abortion

facility, as defined in section 188.015, or to any affiliate or associate of such abortion facility.

208.662. 1. There is hereby established within the department of social services the "Show-Me Healthy Babies Program" as a separate children's health insurance program (CHIP) for any low-income unborn child. The program shall be established under the authority of Title XXI of the federal Social Security Act, the State Children's Health Insurance Program, as amended, and 42 CFR 457.1.

2. For an unborn child to be enrolled in the show-me healthy babies program, his or her mother shall not be eligible for coverage under Title XIX of the federal Social Security Act, the Medicaid program, as it is administered by the state, and shall not have access to affordable employer-subsidized health care insurance or other affordable health care coverage that includes coverage for the unborn child. In addition, the unborn child shall be in a family with income eligibility of no more than three hundred percent of the federal poverty level, or the equivalent modified adjusted gross income, unless the income eligibility is set lower by the general assembly through appropriations. In calculating family size as it relates to income eligibility, the family shall include, in addition to other family members, the unborn child, or in the case of a mother with a multiple pregnancy, all unborn children.

3. Coverage for an unborn child enrolled in the show-me healthy babies program shall include all prenatal care and pregnancy-related services that benefit the health of the unborn child and that promote healthy labor, delivery, and birth. Coverage need not include services that are solely for the benefit of the pregnant mother, that are unrelated to maintaining or promoting a healthy pregnancy, and that provide no benefit to the unborn child. However,

the department may include pregnancy-related assistance as defined in 42 U.S.C. Section 1397ll.

4. There shall be no waiting period before an unborn child may be enrolled in the show-me healthy babies program. In accordance with the definition of child in 42 CFR 457.10, coverage shall include the period from conception to birth. The department shall develop a presumptive eligibility procedure for enrolling an unborn child. There shall be verification of the pregnancy.

5. Coverage for the child shall continue for up to one year after birth, unless otherwise prohibited by law or unless otherwise limited by the general assembly through appropriations.

6. (1) Pregnancy-related and postpartum coverage for the mother shall begin on the day the pregnancy ends and extend through the last day of the month that includes the sixtieth day after the pregnancy ends, unless otherwise prohibited by law or unless otherwise limited by the general assembly through appropriations. The department may include pregnancy-related assistance as defined in 42 U.S.C. Section 1397ll.

(2) Beginning April 1, 2022, or the effective date of this act, whichever is later, mothers eligible to receive coverage under this section shall receive medical assistance benefits during the pregnancy and during the twelve-month period that begins on the last day of the woman's pregnancy and ends on the last day of the month in which such twelve-month period ends, consistent with the provisions of 42 U.S.C. Section 1397gg(e)(1)(J). The department shall seek any necessary state plan amendments or waivers to implement the provisions of this subdivision within sixty days of the effective date of this act. The provisions of this subdivision shall remain in effect for any period of time

during which the federal authority under 42 U.S.C. Section 1397gg(e)(1)(J), as amended, or any successor statutes or implementing regulations, is in effect.

7. The department shall provide coverage for an unborn child enrolled in the show-me healthy babies program in the same manner in which the department provides coverage for the children's health insurance program (CHIP) in the county of the primary residence of the mother.

8. The department shall provide information about the show-me healthy babies program to maternity homes as defined in section 135.600, pregnancy resource centers as defined in section 135.630, and other similar agencies and programs in the state that assist unborn children and their mothers. The department shall consider allowing such agencies and programs to assist in the enrollment of unborn children in the program, and in making determinations about presumptive eligibility and verification of the pregnancy.

9. Within sixty days after August 28, 2014, the department shall submit a state plan amendment or seek any necessary waivers from the federal Department of Health and Human Services requesting approval for the show-me healthy babies program.

10. At least annually, the department shall prepare and submit a report to the governor, the speaker of the house of representatives, and the president pro tempore of the senate analyzing and projecting the cost savings and benefits, if any, to the state, counties, local communities, school districts, law enforcement agencies, correctional centers, health care providers, employers, other public and private entities, and persons by enrolling unborn children in the show-me healthy babies program. The analysis and projection of cost savings and benefits, if any, may include but need not be limited to:

(1) The higher federal matching rate for having an unborn child enrolled in the show-me healthy babies program versus the lower federal matching rate for a pregnant woman being enrolled in MO HealthNet or other federal programs;

(2) The efficacy in providing services to unborn children through managed care organizations, group or individual health insurance providers or premium assistance, or through other nontraditional arrangements of providing health care;

(3) The change in the proportion of unborn children who receive care in the first trimester of pregnancy due to a lack of waiting periods, by allowing presumptive eligibility, or by removal of other barriers, and any resulting or projected decrease in health problems and other problems for unborn children and women throughout pregnancy; at labor, delivery, and birth; and during infancy and childhood;

(4) The change in healthy behaviors by pregnant women, such as the cessation of the use of tobacco, alcohol, illicit drugs, or other harmful practices, and any resulting or projected short-term and long-term decrease in birth defects; poor motor skills; vision, speech, and hearing problems; breathing and respiratory problems; feeding and digestive problems; and other physical, mental, educational, and behavioral problems; and

(5) The change in infant and maternal mortality, preterm births and low birth weight babies and any resulting or projected decrease in short-term and long-term medical and other interventions.

11. The show-me healthy babies program shall not be deemed an entitlement program, but instead shall be subject to a federal allotment or other federal appropriations and matching state appropriations.

12. Nothing in this section shall be construed as obligating the state to continue the show-me healthy babies program if the allotment or payments from the federal government end or are not sufficient for the program to operate, or if the general assembly does not appropriate funds for the program.

13. Nothing in this section shall be construed as expanding MO HealthNet or fulfilling a mandate imposed by the federal government on the state.

217.940. 1. This act establishes the "Correctional Center Nursery Program". The department of corrections shall, subject to appropriations, establish a correctional center nursery in one or more of the correctional centers for women operated by the department, no later than July 1, 2025. The purpose of the correctional center nursery program is for bonding and unification between the mother and child. The program shall allow eligible inmates and children born from them while in the custody of the department to reside together in the institution for up to eighteen months post-delivery. In establishing this program, neither the inmate's participation in the program nor any provision of sections 217.940 to 217.947 shall affect, modify, or interfere with the inmate's custodial rights to the child nor does it establish legal custody of the child with the department.

2. As used in sections 217.940 to 217.947, the following terms shall mean:

(1) "Correctional center nursery program", the program authorized by sections 217.940 to 217.947;

(2) "Department", the department of corrections;

(3) "Public assistance", all forms of assistance, including monetary assistance from any public source paid

either to the mother or child or any other person on behalf of the child;

(4) "Support", the payment of money, including interest:

(a) For a child or spouse ordered by a court of competent jurisdiction, whether the payment is ordered in an emergency, temporary, permanent, or modified order, the amount of unpaid support shall bear simple interest from the date it accrued, at a rate of ten dollars upon one hundred dollars per annum, and proportionately for a greater or lesser sum, or for a longer or shorter time;

(b) To third parties on behalf of a child or spouse, including, but not limited to, payments to medical, dental or educational providers, payments to insurers for health and hospitalization insurance, payments of residential rent or mortgage payments, payments on an automobile, or payments for day care; or

(c) For a mother, ordered by a court of competent jurisdiction, for the necessary expenses incurred by or for the mother in connection with her confinement or of other expenses in connection with the pregnancy of the mother.

217.941. 1. An inmate is eligible to participate in the correctional center nursery program if:

(1) She delivers the child while in the custody of the department;

(2) She is expected to give birth or gives birth on or after the date the program is implemented;

(3) She has a presumptive release date established by the parole board of eighteen months or less from the date she applies to participate in the program;

(4) She has not pled guilty to or been convicted of a dangerous felony as defined in section 556.061;

(5) She has not pled guilty to or been convicted of any sexual offense contained in chapter 566 where the victim of the crime was a minor;

(6) She has not pled guilty to or been convicted of an offense against the family contained in chapter 568, excluding criminal nonsupport; and

(7) She and the child meet any other criteria established by the department.

2. Placement into the program shall be by internal classification of the department. A sentencing court is without jurisdiction to order a placement of an inmate into the program.

3. Program capacity shall be determined by the department.

4. Upon first release of the mother and child, the child shall not be eligible to return to the program if the mother is revoked or receives a new assignment to the department of corrections.

217.942. 1. To participate in the correctional center nursery program, each eligible inmate selected by the department shall agree in writing to:

(1) Comply with all department policies, procedures and other requirements related to the corrections nursery program and rules that apply to all incarcerated offenders generally;

(2) If eligible, have the child participate in the state children's health insurance program under sections 208.631 to 208.658;

(3) Abide by any court decisions regarding the allocation of parental rights and responsibilities with respect to the child; and

(4) Specify with whom the child is to be placed in the event the inmate's participation in the program is terminated for a reason other than release from imprisonment.

2. The department shall be required to establish policy for the operation of the program.

217.943. An inmate's participation in the correctional center nursery program may be terminated by the department if one of the following occurs:

(1) The inmate fails to comply with the agreement entered into under section 217.942;

(2) The inmate violates an institutional rule that results in alternative housing placement outside of the area designated for the program;

(3) The inmate's child becomes seriously ill, cannot receive the necessary medical care, or otherwise cannot safely participate in the program;

(4) A court of competent jurisdiction grants custody of the child to a person other than the inmate;

(5) A court of competent jurisdiction issues an order regarding the child granting temporary, permanent, or legal custody of the child to a person other than the inmate, or to a public children services agency or private child placing agency; or

(6) The inmate is released from imprisonment.

217.944. 1. The division of child support enforcement shall collect support payments made pursuant to the assignment and forward them to the department for deposit into the inmate's inmate banking account.

2. The department may accept monetary and property donations on behalf of the program.

3. All donations accepted by the department for the correctional center nursery program shall be used solely for

any expenses relating to the operation and maintenance of the program.

4. No donations of property shall be made on behalf of one particular inmate or child to be used while incarcerated.

5. Financial donations, public assistance, or support for a specific inmate or child shall be made through the inmate banking system.

217.945. 1. There is hereby created in the state treasury the "Correctional Center Nursery Program Fund", which shall consist of money collected under this section and section 217.944 as well as any appropriations made by the general assembly. The department shall obtain sufficient resources to initiate and maintain the program and may accept gifts, grants, and donations of any kind. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the department for the purposes of operating and maintaining sections 217.940 to 217.947.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

217.946. Notwithstanding any other provision of law to the contrary, neither the correctional center nursery program nor the department, with respect to the program, is subject to any regulation, licensing or oversight by the department of health and senior services, department of

social services, children's division, juvenile officer of any jurisdiction or the office of childhood unless the department voluntarily agrees to services, regulation, licensing, or oversight from any of the aforementioned entities.

217.947. The operation of a correctional center nursery program established under sections 217.940 to 217.947 and the presence of children of inmates participating in the correctional center nursery program shall not be considered a dangerous condition that would result in a waiver of sovereign immunity under section 537.600. The sovereign immunity provisions under section 537.600 and any other statute regarding the sovereign immunity of the state or public entities in existence as of August 28, 2022, shall remain in effect and shall be applied in the same manner as such provisions were applied prior to the establishment of the correctional center nursery program under sections 217.940 to 217.947.

338.270. 1. Application blanks for renewal permits shall be mailed to each permittee on or before the first day of the month in which the permit expires and, if application for renewal of permit is not made before the first day of the following month, the existing permit, or renewal thereof, shall lapse and become null and void upon the last day of that month.

2. The board of pharmacy shall not renew a nonresident pharmacy license if the renewal applicant does not hold a current pharmacy license or its equivalent in the state in which the nonresident pharmacy is located.

3. The board of pharmacy shall not issue or renew a nonresident pharmacy license if the applicant or licensee knowingly delivers directly to a patient within this state via common carrier, mail, carrier services, or any other

delivery service any medicine, drug, or any other substance to be used for the purpose of inducing an abortion, as defined in section 188.015.

338.337. 1. It shall be unlawful for any out-of-state wholesale drug distributor, out-of-state pharmacy acting as a distributor, drug outsourcers, or third-party logistics provider to do business in this state without first obtaining a license to do so from the board of pharmacy and paying the required fee, except as otherwise provided by section 338.335 and this section. Application for an out-of-state wholesale drug distributor's, drug outsourcer's, or out-of-state third-party logistics provider's license under this section shall be made on a form furnished by the board. The issuance of a license under sections 338.330 to 338.370 shall not change or affect tax liability imposed by the Missouri department of revenue on any entity. Any out-of-state wholesale drug distributor that is a drug manufacturer and which produces and distributes from a facility which has been inspected and approved by the Food and Drug Administration, maintains current approval by the federal Food and Drug Administration, and has provided a copy of the most recent Food and Drug Administration Establishment Inspection Report to the board, and which is licensed by the state in which the distribution facility is located, or, if located within a foreign jurisdiction, is authorized and in good standing to operate as a drug manufacturer within such jurisdiction, need not be licensed as provided in this section but such out-of-state distributor shall register its business name and address with the board of pharmacy and pay a filing fee in an amount established by the board.

2. It shall be unlawful for a licensed or registered out-of-state wholesale drug distributor, out-of-state

pharmacy acting as a distributor, drug outsourcer, or third-party logistics provider to knowingly deliver directly to a patient within this state via common carrier, mail, carrier service, or any other delivery service any medicine, drug, or any other substance to be used for the purpose of inducing an abortion, as defined in section 188.015.

Section B. Because of the importance of ensuring healthy pregnancies and healthy women and children in Missouri in the face of growing maternal mortality, the repeal and reenactment of sections 208.151 and 208.662 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 208.151 and 208.662 of this act shall be in full force and effect upon its passage and approval.