

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2012

101ST GENERAL ASSEMBLY

4488S.04C

ADRIANE D. CROUSE, Secretary

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,
2 208.151, 208.152, 208.153, 208.164, 208.659, 208.662, 338.270,
3 and 338.337, RSMo, are repealed and twenty-five new sections
4 enacted in lieu thereof, to be known as sections 188.035,
5 188.036, 188.047, 188.090, 188.165, 188.202, 188.207, 188.212,
6 188.220, 208.151, 208.152, 208.153, 208.164, 208.659, 208.662,
7 217.940, 217.941, 217.942, 217.943, 217.944, 217.945, 217.946,
8 217.947, 338.270, and 338.337, to read as follows:

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

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

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

10 3. Any health care provider licensed, registered, or
11 certified in this state who is present at the time a child
12 is born alive during or after an abortion or attempted
13 abortion shall:

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

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

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

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

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

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

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

42 (5) Knowingly, recklessly, or negligently supplies or
43 makes available any instrument, device, medicine, drug, or
44 any other means or substance for another person to undergo a
45 self-induced abortion or attempted self-induced abortion or
46 to procure an unlawful abortion or attempted unlawful
47 abortion; or

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

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

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

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

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

64 (4) An unborn child,

65 then a cause of action for personal injury, bodily injury,
66 or wrongful death may be brought. In a cause of action for
67 wrongful death, the spouse, partner, parents, and children
68 of the deceased person, child, or unborn child shall be
69 entitled to bring the action. Damages for injury or death
70 may be recovered for, including, but not limited to, any
71 damages described in chapters 537 and 538 that are
72 applicable; loss of future fertility; loss of love and

73 companionship of the spouse, partner, parent, child, or
74 unborn child; and for injury to or destruction of the
75 spouse, partner, parent, child, or unborn child relationship
76 in such amount as, under all the circumstances of the case,
77 may be just. The court shall also award a prevailing
78 plaintiff reasonable attorney's fees and litigation costs,
79 including, but not limited to, expert witness fees and
80 expenses as part of the costs. A defendant shall not be
81 permitted to plead or prove as a defense that the plaintiff
82 or deceased person assumed the risk of undergoing, or
83 consented to undergo, a self-induced abortion or attempted
84 self-induced abortion or that the plaintiff or deceased
85 person assumed the risk of procuring, or consented to
86 procure, an unlawful abortion or attempted unlawful
87 abortion. The fact that a plaintiff or deceased person
88 consented to undergo a self-induced abortion or attempted
89 self-induced abortion or to procure an unlawful abortion or
90 attempted unlawful abortion shall not, in and of itself, be
91 considered evidence of contributory or comparative
92 negligence. Any exculpatory agreement between or among
93 parties that is related to undergoing a self-induced
94 abortion or attempted self-induced abortion or to procuring
95 an unlawful abortion or attempted unlawful abortion shall be
96 against public policy and shall be void.

97 6. No person shall maintain a cause of action or
98 receive an award of damages under this section if such
99 person engaged in criminal conduct, or in domestic violence
100 or sexual assault, as defined in section 455.010, that
101 caused the pregnancy in which another person was injured or
102 died as the result of an abortion or attempted abortion. No
103 person shall maintain a cause of action or receive an award
104 of damages under this section if he or she is a family or

105 household member, as defined in section 455.010, who aided
106 or abetted such person who engaged in criminal conduct, or
107 in domestic violence or sexual assault, as defined in
108 section 455.010, that caused the pregnancy in which another
109 person was injured or died as the result of an abortion or
110 attempted abortion.

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

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

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

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

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

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

29 6. [If any provision in this section or the
30 application thereof to any person, circumstance or period of
31 gestation is held invalid, such invalidity shall not affect
32 the provisions or applications which can be given effect
33 without the invalid provision or application, and to this
34 end the provisions of this section are declared severable.]

35 **No person shall knowingly donate or make an anatomical gift**
36 **of the fetal organs or tissue resulting from an abortion to**
37 **any person or entity for medical, scientific, experimental,**
38 **therapeutic, or any other use.**

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

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

188.047. 1. All tissue, except that tissue needed for
2 purposes described in subsection 5 of this section, removed
3 at the time of abortion shall be submitted within five days
4 to a board-eligible or certified pathologist for gross and

5 histopathological examination. The pathologist shall file a
6 copy of the tissue report with the [state] department [of
7 health and senior services], and shall provide within
8 seventy-two hours a copy of the report to the abortion
9 facility or hospital in which the abortion was performed or
10 induced. The pathologist's report shall be made a part of
11 the patient's permanent record. If the pathological
12 examination fails to identify evidence of a completed
13 abortion, the pathologist shall notify the abortion facility
14 or hospital within twenty-four hours.

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

29 3. Beginning January 1, 2018, the department shall
30 make an annual report to the general assembly. The report
31 shall include the number of any deficiencies and inquiries
32 by the department of each abortion facility in the calendar
33 year and whether any deficiencies were remedied and, for
34 each abortion facility, aggregated de-identified data about
35 the total number of abortions performed at the facility, the
36 [termination] **abortion** procedures used, the number and type

37 of complications reported for each type of [termination]
38 **abortion** procedure, whether the department received the
39 tissue report for each abortion, and the existence and
40 nature, if any, of any inconsistencies or concerns between
41 the abortion reports submitted under section 188.052 and the
42 tissue report submitted under this section. The report
43 shall not contain any personal patient information the
44 disclosure of which is prohibited by state or federal law.

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

49 5. Nothing in this section shall prohibit the
50 utilization of fetal organs or tissue [resulting from an
51 **abortion for medical or scientific purposes**] to determine
52 the cause or causes of any anomaly, illness, death, or
53 genetic condition of the [fetus] **unborn child or his or her**
54 **mother**, the paternity of the [fetus] **unborn child**, or for
55 law enforcement purposes.

56 6. The department may adopt rules, regulations, and
57 standards governing the reports required under this
58 section. In doing so, the department shall ensure that
59 these reports contain all information necessary to ensure
60 compliance with all applicable laws and regulations. Any
61 rule or portion of a rule, as that term is defined in
62 section 536.010, that is created under the authority
63 delegated in this section shall become effective only if it
64 complies with and is subject to all of the provisions of
65 chapter 536 and, if applicable, section 536.028. This
66 section and chapter 536 are nonseverable and if any of the
67 powers vested with the general assembly pursuant to chapter
68 536 to review, to delay the effective date, or to disapprove

69 and annul a rule are subsequently held unconstitutional,
70 then the grant of rulemaking authority and any rule proposed
71 or adopted after October 24, 2017, shall be invalid and void.

188.090. 1. A person or entity commits the offense of
2 trafficking abortion-inducing drugs if such person or entity
3 knowingly imports, exports, distributes, delivers,
4 manufactures, produces, prescribes, administers, or
5 dispenses or attempts to import, export, distribute,
6 deliver, manufacture, produce, prescribe, administer, or
7 dispense any medicine, drug, or any other substance to be
8 used for the purpose of inducing an abortion on another
9 person in violation of any state or federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 2. In any action to enforce the provisions of sections
25 188.200 to 188.215 by a taxpayer under the provisions of
26 section 188.220, a court of competent jurisdiction may order
27 injunctive or other equitable relief, recovery of damages or
28 other legal remedies, or both, as well as payment of
29 reasonable attorney's fees, costs, and expenses of the
30 taxpayer. The relief and remedies set forth shall not be
31 deemed exclusive and shall be in addition to any other
32 relief or remedies permitted by law.

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

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

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

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

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

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

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

15 (d) Develop, construct, expand, erect, alter,
16 reconstruct, rehabilitate, renovate, repair, or otherwise

17 improve or change lands, buildings, structures, facilities,
18 places, or premises;

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

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

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

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

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

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

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

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

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

43 (2) Any lands, buildings, structures, facilities,
44 places, or premises upon which a project that received a
45 public financial benefit has been completed shall be
46 restricted in perpetuity from being used by or for the
47 benefit of an abortion facility or affiliate or associate of

48 an abortion facility. Such restriction shall be considered
49 a covenant that runs with the land; and

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

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

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

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

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

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

73 5. In any taxpayer suit to enforce the provisions of
74 this section, a court of competent jurisdiction may order
75 injunctive or other equitable relief, recovery of damages or
76 other legal remedies, or both, as well as payment of
77 reasonable attorney's fees, costs, and expenses of the
78 taxpayer. The relief and remedies set forth shall not be

79 **deemed exclusive and shall be in addition to any other**
80 **relief or remedies permitted by law.**

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

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

208.151. 1. Medical assistance on behalf of needy
2 persons shall be known as "MO HealthNet". For the purpose
3 of paying MO HealthNet benefits and to comply with Title
4 XIX, Public Law 89-97, 1965 amendments to the federal Social
5 Security Act (42 U.S.C. Section 301, et seq.) as amended,
6 the following needy persons shall be eligible to receive MO
7 HealthNet benefits to the extent and in the manner
8 hereinafter provided:

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

11 (2) All participants receiving aid to families with
12 dependent children benefits, including all persons under
13 nineteen years of age who would be classified as dependent
14 children except for the requirements of subdivision (1) of
15 subsection 1 of section 208.040. Participants eligible
16 under this subdivision who are participating in treatment
17 court, as defined in section 478.001, shall have their
18 eligibility automatically extended sixty days from the time
19 their dependent child is removed from the custody of the

20 participant, subject to approval of the Centers for Medicare
21 and Medicaid Services;

22 (3) All participants receiving blind pension benefits;

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

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

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

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

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

49 (9) All persons who were participants receiving old
50 age assistance benefits, aid to the permanently and totally
51 disabled, or aid to the blind benefits on December 31, 1973,

52 and who continue to meet the eligibility requirements,
53 except income, for these assistance categories, but who are
54 no longer receiving such benefits because of the
55 implementation of Title XVI of the federal Social Security
56 Act, as amended;

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

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

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

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

80 (14) Children who have attained six years of age but
81 have not attained nineteen years of age. For children who
82 have attained six years of age but have not attained
83 nineteen years of age, the family support division shall use

84 an income assessment methodology which provides for
85 eligibility when family income is equal to or less than
86 equal to one hundred percent of the federal poverty level
87 established by the Department of Health and Human Services,
88 or its successor agency. As necessary to provide MO
89 HealthNet coverage under this subdivision, the department of
90 social services may revise the state MO HealthNet plan to
91 extend coverage under 42 U.S.C. Section
92 1396a(a)(10)(A)(i)(III) to children who have attained six
93 years of age but have not attained nineteen years of age as
94 permitted by paragraph (2) of subsection (n) of 42 U.S.C.
95 Section 1396d using a more liberal income assessment
96 methodology as authorized by paragraph (2) of subsection (r)
97 of 42 U.S.C. Section 1396a;

98 (15) The family support division shall not establish a
99 resource eligibility standard in assessing eligibility for
100 persons under subdivision (12), (13) or (14) of this
101 subsection. The MO HealthNet division shall define the
102 amount and scope of benefits which are available to
103 individuals eligible under each of the subdivisions (12),
104 (13), and (14) of this subsection, in accordance with the
105 requirements of federal law and regulations promulgated
106 thereunder;

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

112 (17) A child born to a woman eligible for and
113 receiving MO HealthNet benefits under this section on the
114 date of the child's birth shall be deemed to have applied
115 for MO HealthNet benefits and to have been found eligible

116 for such assistance under such plan on the date of such
117 birth and to remain eligible for such assistance for a
118 period of time determined in accordance with applicable
119 federal and state law and regulations so long as the child
120 is a member of the woman's household and either the woman
121 remains eligible for such assistance or for children born on
122 or after January 1, 1991, the woman would remain eligible
123 for such assistance if she were still pregnant. Upon
124 notification of such child's birth, the family support
125 division shall assign a MO HealthNet eligibility
126 identification number to the child so that claims may be
127 submitted and paid under such child's identification number;

128 (18) Pregnant women and children eligible for MO
129 HealthNet benefits pursuant to subdivision (12), (13) or
130 (14) of this subsection shall not as a condition of
131 eligibility for MO HealthNet benefits be required to apply
132 for aid to families with dependent children. The family
133 support division shall utilize an application for
134 eligibility for such persons which eliminates information
135 requirements other than those necessary to apply for MO
136 HealthNet benefits. The division shall provide such
137 application forms to applicants whose preliminary income
138 information indicates that they are ineligible for aid to
139 families with dependent children. Applicants for MO
140 HealthNet benefits under subdivision (12), (13) or (14) of
141 this subsection shall be informed of the aid to families
142 with dependent children program and that they are entitled
143 to apply for such benefits. Any forms utilized by the
144 family support division for assessing eligibility under this
145 chapter shall be as simple as practicable;

146 (19) Subject to appropriations necessary to recruit
147 and train such staff, the family support division shall

148 provide one or more full-time, permanent eligibility
149 specialists to process applications for MO HealthNet
150 benefits at the site of a health care provider, if the
151 health care provider requests the placement of such
152 eligibility specialists and reimburses the division for the
153 expenses including but not limited to salaries, benefits,
154 travel, training, telephone, supplies, and equipment of such
155 eligibility specialists. The division may provide a health
156 care provider with a part-time or temporary eligibility
157 specialist at the site of a health care provider if the
158 health care provider requests the placement of such an
159 eligibility specialist and reimburses the division for the
160 expenses, including but not limited to the salary, benefits,
161 travel, training, telephone, supplies, and equipment, of
162 such an eligibility specialist. The division may seek to
163 employ such eligibility specialists who are otherwise
164 qualified for such positions and who are current or former
165 welfare participants. The division may consider training
166 such current or former welfare participants as eligibility
167 specialists for this program;

168 (20) Pregnant women who are eligible for, have applied
169 for and have received MO HealthNet benefits under
170 subdivision (2), (10), (11) or (12) of this subsection shall
171 continue to be considered eligible for all pregnancy-related
172 and postpartum MO HealthNet benefits provided under section
173 208.152 until the end of the sixty-day period beginning on
174 the last day of their pregnancy. Pregnant women receiving
175 mental health treatment for postpartum depression or related
176 mental health conditions within sixty days of giving birth
177 shall, subject to appropriations and any necessary federal
178 approval, be eligible for MO HealthNet benefits for mental
179 health services for the treatment of postpartum depression

180 and related mental health conditions for up to twelve
181 additional months. Pregnant women receiving substance abuse
182 treatment within sixty days of giving birth shall, subject
183 to appropriations and any necessary federal approval, be
184 eligible for MO HealthNet benefits for substance abuse
185 treatment and mental health services for the treatment of
186 substance abuse for no more than twelve additional months,
187 as long as the woman remains adherent with treatment. The
188 department of mental health and the department of social
189 services shall seek any necessary waivers or state plan
190 amendments from the Centers for Medicare and Medicaid
191 Services and shall develop rules relating to treatment plan
192 adherence. No later than fifteen months after receiving any
193 necessary waiver, the department of mental health and the
194 department of social services shall report to the house of
195 representatives budget committee and the senate
196 appropriations committee on the compliance with federal cost
197 neutrality requirements;

198 (21) Case management services for pregnant women and
199 young children at risk shall be a covered service. To the
200 greatest extent possible, and in compliance with federal law
201 and regulations, the department of health and senior
202 services shall provide case management services to pregnant
203 women by contract or agreement with the department of social
204 services through local health departments organized under
205 the provisions of chapter 192 or chapter 205 or a city
206 health department operated under a city charter or a
207 combined city-county health department or other department
208 of health and senior services designees. To the greatest
209 extent possible the department of social services and the
210 department of health and senior services shall mutually
211 coordinate all services for pregnant women and children with

212 the crippled children's program, the prevention of
213 intellectual disability and developmental disability program
214 and the prenatal care program administered by the department
215 of health and senior services. The department of social
216 services shall by regulation establish the methodology for
217 reimbursement for case management services provided by the
218 department of health and senior services. For purposes of
219 this section, the term "case management" shall mean those
220 activities of local public health personnel to identify
221 prospective MO HealthNet-eligible high-risk mothers and
222 enroll them in the state's MO HealthNet program, refer them
223 to local physicians or local health departments who provide
224 prenatal care under physician protocol and who participate
225 in the MO HealthNet program for prenatal care and to ensure
226 that said high-risk mothers receive support from all private
227 and public programs for which they are eligible and shall
228 not include involvement in any MO HealthNet prepaid, case-
229 managed programs;

230 (22) By January 1, 1988, the department of social
231 services and the department of health and senior services
232 shall study all significant aspects of presumptive
233 eligibility for pregnant women and submit a joint report on
234 the subject, including projected costs and the time needed
235 for implementation, to the general assembly. The department
236 of social services, at the direction of the general
237 assembly, may implement presumptive eligibility by
238 regulation promulgated pursuant to chapter 207;

239 (23) All participants who would be eligible for aid to
240 families with dependent children benefits except for the
241 requirements of paragraph (d) of subdivision (1) of section
242 208.150;

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

253 (b) All persons who would be determined to be eligible
254 for aid to the blind benefits under the eligibility
255 standards in effect December 31, 1973, as authorized by 42
256 U.S.C. Section 1396a(f), or less restrictive methodologies
257 as contained in the MO HealthNet state plan as of January 1,
258 2005, except that less restrictive income methodologies, as
259 authorized in 42 U.S.C. Section 1396a(r)(2), shall be used
260 to raise the income limit to one hundred percent of the
261 federal poverty level;

262 (c) All persons who would be determined to be eligible
263 for permanent and total disability benefits under the
264 eligibility standards in effect December 31, 1973, as
265 authorized by 42 U.S.C. Section 1396a(f); or less
266 restrictive methodologies as contained in the MO HealthNet
267 state plan as of January 1, 2005; except that, on or after
268 July 1, 2005, less restrictive income methodologies, as
269 authorized in 42 U.S.C. Section 1396a(r)(2), may be used to
270 change the income limit if authorized by annual
271 appropriations. Eligibility standards for permanent and
272 total disability benefits shall not be limited by age;

273 (25) Persons who have been diagnosed with breast or
274 cervical cancer and who are eligible for coverage pursuant

275 to 42 U.S.C. Section 1396a(a)(10)(A)(ii)(XVIII). Such
276 persons shall be eligible during a period of presumptive
277 eligibility in accordance with 42 U.S.C. Section 1396r-1;

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

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

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

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

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

295 (28) (a) **Beginning April 1, 2022, or the effective**
296 **date of this act, whichever is later, pregnant women who are**
297 **eligible for, have applied for, and have received MO**
298 **HealthNet benefits under subdivision (2), (10), (11), or**
299 **(12) of this subsection shall be eligible for medical**
300 **assistance during the pregnancy and during the twelve-month**
301 **period that begins on the last day of the woman's pregnancy**
302 **and ends on the last day of the month in which such twelve-**
303 **month period ends, consistent with the provisions of 42**
304 **U.S.C. Section 1396a(e)(16). The department shall submit a**
305 **state plan amendment to the Centers for Medicare and**

306 **Medicaid Services within sixty days of the effective date of**
307 **this act;**

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

313 2. Rules and regulations to implement this section
314 shall be promulgated in accordance with chapter 536. Any
315 rule or portion of a rule, as that term is defined in
316 section 536.010, that is created under the authority
317 delegated in this section shall become effective only if it
318 complies with and is subject to all of the provisions of
319 chapter 536 and, if applicable, section 536.028. This
320 section and chapter 536 are nonseverable and if any of the
321 powers vested with the general assembly pursuant to chapter
322 536 to review, to delay the effective date or to disapprove
323 and annul a rule are subsequently held unconstitutional,
324 then the grant of rulemaking authority and any rule proposed
325 or adopted after August 28, 2002, shall be invalid and void.

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

338 amended, in at least three of the six months immediately
339 preceding the month in which such family becomes ineligible
340 for such aid, because of hours of employment or income from
341 employment of the caretaker relative, shall remain eligible
342 for MO HealthNet benefits for six calendar months following
343 the month of such ineligibility as long as such family
344 includes a child as provided in 42 U.S.C. Section 1396r-6.
345 Each family which has received such medical assistance
346 during the entire six-month period described in this section
347 and which meets reporting requirements and income tests
348 established by the division and continues to include a child
349 as provided in 42 U.S.C. Section 1396r-6 shall receive MO
350 HealthNet benefits without fee for an additional six
351 months. The MO HealthNet division may provide by rule and
352 as authorized by annual appropriation the scope of MO
353 HealthNet coverage to be granted to such families.

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

363 5. The department of social services may apply to the
364 federal Department of Health and Human Services for a MO
365 HealthNet waiver amendment to the Section 1115 demonstration
366 waiver or for any additional MO HealthNet waivers necessary
367 not to exceed one million dollars in additional costs to the
368 state, unless subject to appropriation or directed by
369 statute, but in no event shall such waiver applications or

370 amendments seek to waive the services of a rural health
371 clinic or a federally qualified health center as defined in
372 42 U.S.C. Section 1396d(1) (1) and (2) or the payment
373 requirements for such clinics and centers as provided in 42
374 U.S.C. Section 1396a(a) (15) and 1396a(bb) unless such waiver
375 application is approved by the oversight committee created
376 in section 208.955. A request for such a waiver so
377 submitted shall only become effective by executive order not
378 sooner than ninety days after the final adjournment of the
379 session of the general assembly to which it is submitted,
380 unless it is disapproved within sixty days of its submission
381 to a regular session by a senate or house resolution adopted
382 by a majority vote of the respective elected members
383 thereof, unless the request for such a waiver is made
384 subject to appropriation or directed by statute.

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

392 7. (1) Notwithstanding any provision of law to the
393 contrary, a military service member, or an immediate family
394 member residing with such military service member, who is a
395 legal resident of this state and is eligible for MO
396 HealthNet developmental disability services, shall have his
397 or her eligibility for MO HealthNet developmental disability
398 services temporarily suspended for any period of time during
399 which such person temporarily resides outside of this state
400 for reasons relating to military service, but shall have his

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

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

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

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

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

34 (3) Laboratory and X-ray services;

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

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

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

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

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

81 (8) Drugs and medicines when prescribed by a licensed
82 physician, dentist, podiatrist, or an advanced practice
83 registered nurse; except that no payment for drugs and
84 medicines prescribed on and after January 1, 2006, by a
85 licensed physician, dentist, podiatrist, or an advanced

86 practice registered nurse may be made on behalf of any
87 person who qualifies for prescription drug coverage under
88 the provisions of P.L. 108-173;

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

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

100 (11) Home health care services;

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

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

116 (14) Outpatient surgical procedures, including
117 presurgical diagnostic services performed in ambulatory

118 surgical facilities which are licensed by the department of
119 health and senior services of the state of Missouri; except,
120 that such outpatient surgical services shall not include
121 persons who are eligible for coverage under Part B of Title
122 XVIII, Public Law 89-97, 1965 amendments to the federal
123 Social Security Act, as amended, if exclusion of such
124 persons is permitted under Title XIX, Public Law 89-97, 1965
125 amendments to the federal Social Security Act, as amended;

126 (15) Personal care services which are medically
127 oriented tasks having to do with a person's physical
128 requirements, as opposed to housekeeping requirements, which
129 enable a person to be treated by his or her physician on an
130 outpatient rather than on an inpatient or residential basis
131 in a hospital, intermediate care facility, or skilled
132 nursing facility. Personal care services shall be rendered
133 by an individual not a member of the participant's family
134 who is qualified to provide such services where the services
135 are prescribed by a physician in accordance with a plan of
136 treatment and are supervised by a licensed nurse. Persons
137 eligible to receive personal care services shall be those
138 persons who would otherwise require placement in a hospital,
139 intermediate care facility, or skilled nursing facility.

140 Benefits payable for personal care services shall not exceed
141 for any one participant one hundred percent of the average
142 statewide charge for care and treatment in an intermediate
143 care facility for a comparable period of time. Such
144 services, when delivered in a residential care facility or
145 assisted living facility licensed under chapter 198 shall be
146 authorized on a tier level based on the services the
147 resident requires and the frequency of the services. A
148 resident of such facility who qualifies for assistance under
149 section 208.030 shall, at a minimum, if prescribed by a

150 physician, qualify for the tier level with the fewest
151 services. The rate paid to providers for each tier of
152 service shall be set subject to appropriations. Subject to
153 appropriations, each resident of such facility who qualifies
154 for assistance under section 208.030 and meets the level of
155 care required in this section shall, at a minimum, if
156 prescribed by a physician, be authorized up to one hour of
157 personal care services per day. Authorized units of
158 personal care services shall not be reduced or tier level
159 lowered unless an order approving such reduction or lowering
160 is obtained from the resident's personal physician. Such
161 authorized units of personal care services or tier level
162 shall be transferred with such resident if he or she
163 transfers to another such facility. Such provision shall
164 terminate upon receipt of relevant waivers from the federal
165 Department of Health and Human Services. If the Centers for
166 Medicare and Medicaid Services determines that such
167 provision does not comply with the state plan, this
168 provision shall be null and void. The MO HealthNet division
169 shall notify the revisor of statutes as to whether the
170 relevant waivers are approved or a determination of
171 noncompliance is made;

172 (16) Mental health services. The state plan for
173 providing medical assistance under Title XIX of the Social
174 Security Act, 42 U.S.C. Section 301, as amended, shall
175 include the following mental health services when such
176 services are provided by community mental health facilities
177 operated by the department of mental health or designated by
178 the department of mental health as a community mental health
179 facility or as an alcohol and drug abuse facility or as a
180 child-serving agency within the comprehensive children's
181 mental health service system established in section

182 630.097. The department of mental health shall establish by
183 administrative rule the definition and criteria for
184 designation as a community mental health facility and for
185 designation as an alcohol and drug abuse facility. Such
186 mental health services shall include:

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

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

203 (c) Rehabilitative mental health and alcohol and drug
204 abuse services including home and community-based
205 preventive, diagnostic, therapeutic, rehabilitative, and
206 palliative interventions rendered to individuals in an
207 individual or group setting by a mental health or alcohol
208 and drug abuse professional in accordance with a plan of
209 treatment appropriately established, implemented, monitored,
210 and revised under the auspices of a therapeutic team as a
211 part of client services management. As used in this
212 section, mental health professional and alcohol and drug
213 abuse professional shall be defined by the department of

214 mental health pursuant to duly promulgated rules. With
215 respect to services established by this subdivision, the
216 department of social services, MO HealthNet division, shall
217 enter into an agreement with the department of mental
218 health. Matching funds for outpatient mental health
219 services, clinic mental health services, and rehabilitation
220 services for mental health and alcohol and drug abuse shall
221 be certified by the department of mental health to the MO
222 HealthNet division. The agreement shall establish a
223 mechanism for the joint implementation of the provisions of
224 this subdivision. In addition, the agreement shall
225 establish a mechanism by which rates for services may be
226 jointly developed;

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

232 (18) The services of an advanced practice registered
233 nurse with a collaborative practice agreement to the extent
234 that such services are provided in accordance with chapters
235 334 and 335, and regulations promulgated thereunder;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

323 (25) The MO HealthNet division shall, by January 1,
324 2008, and annually thereafter, report the status of MO
325 HealthNet provider reimbursement rates as compared to one
326 hundred percent of the Medicare reimbursement rates and
327 compared to the average dental reimbursement rates paid by
328 third-party payors licensed by the state. The MO HealthNet
329 division shall, by July 1, 2008, provide to the general
330 assembly a four-year plan to achieve parity with Medicare
331 reimbursement rates and for third-party payor average dental
332 reimbursement rates. Such plan shall be subject to
333 appropriation and the division shall include in its annual
334 budget request to the governor the necessary funding needed
335 to complete the four-year plan developed under this
336 subdivision.

337 2. Additional benefit payments for medical assistance
338 shall be made on behalf of those eligible needy children,
339 pregnant women and blind persons with any payments to be
340 made on the basis of the reasonable cost of the care or

341 reasonable charge for the services as defined and determined
342 by the MO HealthNet division, unless otherwise hereinafter
343 provided, for the following:

344 (1) Dental services;

345 (2) Services of podiatrists as defined in section
346 330.010;

347 (3) Optometric services as described in section
348 336.010;

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

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

373 of care for individuals with disabling impairments.
374 Rehabilitation services must be based on an individualized,
375 goal-oriented, comprehensive and coordinated treatment plan
376 developed, implemented, and monitored through an
377 interdisciplinary assessment designed to restore an
378 individual to optimal level of physical, cognitive, and
379 behavioral function. The MO HealthNet division shall
380 establish by administrative rule the definition and criteria
381 for designation of a comprehensive day rehabilitation
382 service facility, benefit limitations and payment
383 mechanism. Any rule or portion of a rule, as that term is
384 defined in section 536.010, that is created under the
385 authority delegated in this subdivision shall become
386 effective only if it complies with and is subject to all of
387 the provisions of chapter 536 and, if applicable, section
388 536.028. This section and chapter 536 are nonseverable and
389 if any of the powers vested with the general assembly
390 pursuant to chapter 536 to review, to delay the effective
391 date, or to disapprove and annul a rule are subsequently
392 held unconstitutional, then the grant of rulemaking
393 authority and any rule proposed or adopted after August 28,
394 2005, shall be invalid and void.

395 3. The MO HealthNet division may require any
396 participant receiving MO HealthNet benefits to pay part of
397 the charge or cost until July 1, 2008, and an additional
398 payment after July 1, 2008, as defined by rule duly
399 promulgated by the MO HealthNet division, for all covered
400 services except for those services covered under
401 subdivisions (15) and (16) of subsection 1 of this section
402 and sections 208.631 to 208.657 to the extent and in the
403 manner authorized by Title XIX of the federal Social
404 Security Act (42 U.S.C. Section 1396, et seq.) and

405 regulations thereunder. When substitution of a generic drug
406 is permitted by the prescriber according to section 338.056,
407 and a generic drug is substituted for a name-brand drug, the
408 MO HealthNet division may not lower or delete the
409 requirement to make a co-payment pursuant to regulations of
410 Title XIX of the federal Social Security Act. A provider of
411 goods or services described under this section must collect
412 from all participants the additional payment that may be
413 required by the MO HealthNet division under authority
414 granted herein, if the division exercises that authority, to
415 remain eligible as a provider. Any payments made by
416 participants under this section shall be in addition to and
417 not in lieu of payments made by the state for goods or
418 services described herein except the participant portion of
419 the pharmacy professional dispensing fee shall be in
420 addition to and not in lieu of payments to pharmacists. A
421 provider may collect the co-payment at the time a service is
422 provided or at a later date. A provider shall not refuse to
423 provide a service if a participant is unable to pay a
424 required payment. If it is the routine business practice of
425 a provider to terminate future services to an individual
426 with an unclaimed debt, the provider may include uncollected
427 co-payments under this practice. Providers who elect not to
428 undertake the provision of services based on a history of
429 bad debt shall give participants advance notice and a
430 reasonable opportunity for payment. A provider,
431 representative, employee, independent contractor, or agent
432 of a pharmaceutical manufacturer shall not make co-payment
433 for a participant. This subsection shall not apply to other
434 qualified children, pregnant women, or blind persons. If
435 the Centers for Medicare and Medicaid Services does not
436 approve the MO HealthNet state plan amendment submitted by

437 the department of social services that would allow a
438 provider to deny future services to an individual with
439 uncollected co-payments, the denial of services shall not be
440 allowed. The department of social services shall inform
441 providers regarding the acceptability of denying services as
442 the result of unpaid co-payments.

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

446 5. Reimbursement for obstetrical and pediatric
447 services under subdivision (6) of subsection 1 of this
448 section shall be timely and sufficient to enlist enough
449 health care providers so that care and services are
450 available under the state plan for MO HealthNet benefits at
451 least to the extent that such care and services are
452 available to the general population in the geographic area,
453 as required under subparagraph (a)(30)(A) of 42 U.S.C.
454 Section 1396a and federal regulations promulgated thereunder.

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

460 7. Beginning July 1, 1990, the department of social
461 services shall provide notification and referral of children
462 below age five, and pregnant, breast-feeding, or postpartum
463 women who are determined to be eligible for MO HealthNet
464 benefits under section 208.151 to the special supplemental
465 food programs for women, infants and children administered
466 by the department of health and senior services. Such
467 notification and referral shall conform to the requirements

468 of Section 6406 of P.L. 101-239 and regulations promulgated
469 thereunder.

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

475 9. Reimbursement rates to long-term care providers
476 with respect to a total change in ownership, at arm's
477 length, for any facility previously licensed and certified
478 for participation in the MO HealthNet program shall not
479 increase payments in excess of the increase that would
480 result from the application of Section 1902 (a)(13)(C) of
481 the Social Security Act, 42 U.S.C. Section 1396a (a)(13)(C).

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

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

490 12. If the Missouri Medicaid audit and compliance unit
491 changes any interpretation or application of the
492 requirements for reimbursement for MO HealthNet services
493 from the interpretation or application that has been applied
494 previously by the state in any audit of a MO HealthNet
495 provider, the Missouri Medicaid audit and compliance unit
496 shall notify all affected MO HealthNet providers five
497 business days before such change shall take effect. Failure
498 of the Missouri Medicaid audit and compliance unit to notify
499 a provider of such change shall entitle the provider to

500 continue to receive and retain reimbursement until such
501 notification is provided and shall waive any liability of
502 such provider for recoupment or other loss of any payments
503 previously made prior to the five business days after such
504 notice has been sent. Each provider shall provide the
505 Missouri Medicaid audit and compliance unit a valid email
506 address and shall agree to receive communications
507 electronically. The notification required under this
508 section shall be delivered in writing by the United States
509 Postal Service or electronic mail to each provider.

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

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

208.153. 1. Pursuant to and not inconsistent with the
2 provisions of sections 208.151 and 208.152, the MO HealthNet
3 division shall by rule and regulation define the reasonable
4 costs, manner, extent, quantity, quality, charges and fees
5 of MO HealthNet benefits herein provided. The benefits
6 available under these sections shall not replace those
7 provided under other federal or state law or under other
8 contractual or legal entitlements of the persons receiving
9 them, and all persons shall be required to apply for and
10 utilize all benefits available to them and to pursue all

11 causes of action to which they are entitled. Any person
12 entitled to MO HealthNet benefits may obtain it from any
13 provider of services **which is not excluded or disqualified**
14 **as a provider under any provision of law, including, but not**
15 **limited to, section 208.164**, with which an agreement is in
16 effect under this section and which undertakes to provide
17 the services, as authorized by the MO HealthNet division.
18 At the discretion of the director of the MO HealthNet
19 division and with the approval of the governor, the MO
20 HealthNet division is authorized to provide medical benefits
21 for participants receiving public assistance by expending
22 funds for the payment of federal medical insurance premiums,
23 coinsurance and deductibles pursuant to the provisions of
24 Title XVIII B and XIX, Public Law 89-97, 1965 amendments to
25 the federal Social Security Act (42 U.S.C. 301, et seq.), as
26 amended.

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

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

42 impose a premium for such benefit payments as authorized by
43 paragraph (d) (3) of Section 6408 of P.L. 101-239.

44 4. MO HealthNet shall include benefit payments for
45 Medicare Part B cost sharing described in 42 U.S.C. Section
46 1396(d) (p) (3) (A) (ii) for individuals described in subsection
47 2 of this section, but for the fact that their income
48 exceeds the income level established by the state under 42
49 U.S.C. Section 1396(d) (p) (2) but is less than one hundred
50 and ten percent beginning January 1, 1993, and less than one
51 hundred and twenty percent beginning January 1, 1995, of the
52 official poverty line for a family of the size involved.

53 5. For an individual eligible for MO HealthNet under
54 Title XIX of the Social Security Act, MO HealthNet shall
55 include payment of enrollee premiums in a group health plan
56 and all deductibles, coinsurance and other cost-sharing for
57 items and services otherwise covered under the state Title
58 XIX plan under Section 1906 of the federal Social Security
59 Act and regulations established under the authority of
60 Section 1906, as may be amended. Enrollment in a group
61 health plan must be cost effective, as established by the
62 Secretary of Health and Human Services, before enrollment in
63 the group health plan is required. If all members of a
64 family are not eligible for MO HealthNet and enrollment of
65 the Title XIX eligible members in a group health plan is not
66 possible unless all family members are enrolled, all
67 premiums for noneligible members shall be treated as payment
68 for MO HealthNet of eligible family members. Payment for
69 noneligible family members must be cost effective, taking
70 into account payment of all such premiums. Non-Title XIX
71 eligible family members shall pay all deductible,
72 coinsurance and other cost-sharing obligations. Each

73 individual as a condition of eligibility for MO HealthNet
74 benefits shall apply for enrollment in the group health plan.

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

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

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

3 (1) "Abuse", a documented pattern of inducing,
4 furnishing, or otherwise causing a recipient to receive
5 services or merchandise not otherwise required or requested
6 by the recipient, attending physician or appropriate
7 utilization review team; a documented pattern of performing
8 and billing tests, examinations, patient visits, surgeries,
9 drugs or merchandise that exceed limits or frequencies
10 determined by the department for like practitioners for
11 which there is no demonstrable need, or for which the
12 provider has created the need through ineffective services
13 or merchandise previously rendered. The decision to impose
14 any of the sanctions authorized in this section shall be
15 made by the director of the department, following a
16 determination of demonstrable need or accepted medical
17 practice made in consultation with medical or other health
18 care professionals, or qualified peer review teams;

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

20 (3) "Excessive use", the act, by a person eligible for
21 services under a contract or provider agreement between the

22 department of social services or its divisions and a
23 provider, of seeking and/or obtaining medical assistance
24 benefits from a number of like providers and in quantities
25 which exceed the levels that are considered medically
26 necessary by current medical practices and standards for the
27 eligible person's needs;

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

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

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

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

50 (8) "Provider", any person, partnership, corporation,
51 not-for-profit corporation, professional corporation, or
52 other business entity that enters into a contract or
53 provider agreement with the department or its divisions for

54 the purpose of providing services to eligible persons, and
55 obtaining from the department or its divisions reimbursement
56 therefor;

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

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

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

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

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

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

80 4. If a provider or recipient reports to the
81 department or its divisions the name or names of providers
82 or recipients who, based upon their personal knowledge has
83 reasonable cause to believe an act or acts are being
84 committed which are defined as abuse, fraud or excessive use
85 by this section, such report shall be confidential and the

86 reporter's name shall not be divulged to anyone by the
87 department or any of its divisions, except at a judicial
88 proceeding upon a proper protective order being entered by
89 the court.

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

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

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

114 8. The department or its designated division shall
115 have the authority with respect to any recipient of medical
116 assistance benefits whose use has been restricted under
117 subsection 7 of this section and who obtains or seeks to

118 obtain medical assistance benefits from a provider other
119 than one of the providers for designated services to
120 terminate medical assistance benefits as defined by this
121 chapter, where allowed by the provisions of the federal
122 Social Security Act.

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

133 **10. The department or its designated division shall**
134 **have the authority to suspend, revoke, or cancel any**
135 **contract or provider agreement or refuse to enter into a new**
136 **contract or provider agreement with any provider where it is**
137 **determined that the provider, or any affiliate or associate**
138 **thereof, has committed fraud, abuse, or unethical behavior**
139 **and has been removed or prohibited from being a Medicaid**
140 **provider in another state's Medicaid program; provided, that**
141 **such fraud, abuse, or unethical behavior, if it had occurred**
142 **in this state, would be grounds for suspension, revocation,**
143 **cancellation, or refusal to enter into a contract or**
144 **provider agreement as a MO HealthNet provider.**

145 **11. In order to comply with the provisions of 42**
146 **U.S.C. Section 1320a-7(a) relating to mandatory exclusion of**
147 **certain individuals and entities from participation in any**
148 **federal health care program, and in furtherance of the**
149 **state's authority under federal law, as implemented by 42**

150 CFR 1002.3(b), to exclude an individual or entity from MO
151 HealthNet for any reason or period authorized by state law,
152 the department or its divisions shall suspend, revoke, or
153 cancel any contract or provider agreement or refuse to enter
154 into a new contract or provider agreement with any provider
155 where it is determined that such provider is not qualified
156 to perform the service or services required, as described in
157 42 U.S.C. Section 1396a(a)(23), because such provider, or
158 such provider's agent, servant, or employee acting under
159 such provider's authority:

160 (1) Has a conviction related to the delivery of any
161 item or service under Medicare or under any state health
162 care program, as described in 42 U.S.C. Section 1320a-
163 7(a)(1);

164 (2) Has a conviction related to the neglect or abuse
165 of a patient in connection with the delivery of any health
166 care item or service, as described in 42 U.S.C. Section
167 1320a-7(a)(2);

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

172 (4) Has a felony conviction related to the unlawful
173 manufacture, distribution, prescription, or dispensation of
174 a controlled substance, as described in 42 U.S.C. Section
175 1320a-7(a)(4);

176 (5) Has been found guilty of a pattern of intentional
177 discrimination in the delivery or nondelivery of any health
178 care item or service based on the race, color, or national
179 origin of recipients, as described in 42 U.S.C. Section 175
180 2000d; or is an organization whose original "principles and
181 aims" were to limit the "reckless procreation" of "[t]hose

182 least fit to carry on the race", "[t]o create a race of well
183 born children", and for the "sterilization of the insane and
184 feebleminded", and whose founder and first president
185 supported eugenics as the solution for racial, political,
186 and social problems and advocated for the use of birth
187 control for "the elimination of the unfit" and stopping "the
188 reproduction of the unfit"; or

189 (6) Is an abortion facility, as defined in section
190 188.015, or an affiliate or associate of such abortion
191 facility.

208.659. The MO HealthNet division shall revise the
2 eligibility requirements for the uninsured women's health
3 program, as established in 13 CSR Section 70- 4.090, to
4 include women who are at least eighteen years of age and
5 with a net family income of at or below one hundred eighty-
6 five percent of the federal poverty level. In order to be
7 eligible for such program, the applicant shall not have
8 assets in excess of two hundred and fifty thousand dollars,
9 nor shall the applicant have access to employer-sponsored
10 health insurance. Such change in eligibility requirements
11 shall not result in any change in services provided under
12 the program. **No funds shall be expended to any abortion
13 facility, as defined in section 188.015, or to any affiliate
14 or associate of such abortion facility.**

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

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

24 3. Coverage for an unborn child enrolled in the show-
25 me healthy babies program shall include all prenatal care
26 and pregnancy-related services that benefit the health of
27 the unborn child and that promote healthy labor, delivery,
28 and birth. Coverage need not include services that are
29 solely for the benefit of the pregnant mother, that are
30 unrelated to maintaining or promoting a healthy pregnancy,
31 and that provide no benefit to the unborn child. However,
32 the department may include pregnancy-related assistance as
33 defined in 42 U.S.C. Section 139711.

34 4. There shall be no waiting period before an unborn
35 child may be enrolled in the show-me healthy babies
36 program. In accordance with the definition of child in 42
37 CFR 457.10, coverage shall include the period from
38 conception to birth. The department shall develop a

39 presumptive eligibility procedure for enrolling an unborn
40 child. There shall be verification of the pregnancy.

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

45 6. **(1)** Pregnancy-related and postpartum coverage for
46 the mother shall begin on the day the pregnancy ends and
47 extend through the last day of the month that includes the
48 sixtieth day after the pregnancy ends, unless otherwise
49 prohibited by law or unless otherwise limited by the general
50 assembly through appropriations. The department may include
51 pregnancy-related assistance as defined in 42 U.S.C. Section
52 139711.

53 **(2) Beginning April 1, 2022, or the effective date of**
54 **this act, whichever is later, mothers eligible to receive**
55 **coverage under this section shall receive medical assistance**
56 **benefits during the pregnancy and during the twelve-month**
57 **period that begins on the last day of the woman's pregnancy**
58 **and ends on the last day of the month in which such twelve-**
59 **month period ends, consistent with the provisions of 42**
60 **U.S.C. Section 1397gg(e) (1) (J). The department shall seek**
61 **any necessary state plan amendments or waivers to implement**
62 **the provisions of this subdivision within sixty days of the**
63 **effective date of this act. The provisions of this**
64 **subdivision shall remain in effect for any period of time**
65 **during which the federal authority under 42 U.S.C. Section**
66 **1397gg(e) (1) (J), as amended, or any successor statutes or**
67 **implementing regulations, is in effect.**

68 7. The department shall provide coverage for an unborn
69 child enrolled in the show-me healthy babies program in the
70 same manner in which the department provides coverage for

71 the children's health insurance program (CHIP) in the county
72 of the primary residence of the mother.

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

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

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

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

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

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

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

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

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

131 12. Nothing in this section shall be construed as
132 obligating the state to continue the show-me healthy babies
133 program if the allotment or payments from the federal

134 government end or are not sufficient for the program to
135 operate, or if the general assembly does not appropriate
136 funds for the program.

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

217.940. 1. This act establishes the "Correctional
2 Center Nursery Program". The department of corrections
3 shall, subject to appropriations, establish a correctional
4 center nursery in one or more of the correctional centers
5 for women operated by the department, no later than July 1,
6 2025. The purpose of the correctional center nursery
7 program is for bonding and unification between the mother
8 and child. The program shall allow eligible inmates and
9 children born from them while in the custody of the
10 department to reside together in the institution for up to
11 eighteen months post-delivery. In establishing this
12 program, neither the inmate's participation in the program
13 nor any provision of sections 217.940 to 217.947 shall
14 affect, modify, or interfere with the inmate's custodial
15 rights to the child nor does it establish legal custody of
16 the child with the department.

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

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

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

22 (3) "Public assistance", all forms of assistance,
23 including monetary assistance from any public source paid
24 either to the mother or child or any other person on behalf
25 of the child;

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

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

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

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

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

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

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

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

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

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

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

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

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

24 3. Program capacity shall be determined by the
25 department.

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

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

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

8 (2) If eligible, have the child participate in the
9 state children's health insurance program under sections
10 208.631 to 208.658;

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

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

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

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

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

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

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

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

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

19 (6) The inmate is released from imprisonment.

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

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

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

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

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

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

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

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

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

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

5 department of health and senior services, department of
6 social services, children's division, juvenile officer of
7 any jurisdiction or the office of childhood unless the
8 department voluntarily agrees to services, regulation,
9 licensing, or oversight from any of the aforementioned
10 entities.

217.947. The operation of a correctional center
2 nursery program established under sections 217.940 to
3 217.947 and the presence of children of inmates
4 participating in the correctional center nursery program
5 shall not be considered a dangerous condition that would
6 result in a waiver of sovereign immunity under section
7 537.600. The sovereign immunity provisions under section
8 537.600 and any other statute regarding the sovereign
9 immunity of the state or public entities in existence as of
10 August 28, 2022, shall remain in effect and shall be applied
11 in the same manner as such provisions were applied prior to
12 the establishment of the correctional center nursery program
13 under sections 217.940 to 217.947.

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

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

3. The board of pharmacy shall not issue or renew a
13 nonresident pharmacy license if the applicant or licensee

14 **knowingly delivers directly to a patient within this state**
15 **via common carrier, mail, carrier services, or any other**
16 **delivery service any medicine, drug, or any other substance**
17 **to be used for the purpose of inducing an abortion, as**
18 **defined in section 188.015.**

338.337. 1. It shall be unlawful for any out-of-state
2 wholesale drug distributor, out-of-state pharmacy acting as
3 a distributor, drug outsourcers, or third-party logistics
4 provider to do business in this state without first
5 obtaining a license to do so from the board of pharmacy and
6 paying the required fee, except as otherwise provided by
7 section 338.335 and this section. Application for an out-of-
8 state wholesale drug distributor's, drug outsourcer's, or
9 out-of-state third-party logistics provider's license under
10 this section shall be made on a form furnished by the
11 board. The issuance of a license under sections 338.330 to
12 338.370 shall not change or affect tax liability imposed by
13 the Missouri department of revenue on any entity. Any out-
14 of-state wholesale drug distributor that is a drug
15 manufacturer and which produces and distributes from a
16 facility which has been inspected and approved by the Food
17 and Drug Administration, maintains current approval by the
18 federal Food and Drug Administration, and has provided a
19 copy of the most recent Food and Drug Administration
20 Establishment Inspection Report to the board, and which is
21 licensed by the state in which the distribution facility is
22 located, or, if located within a foreign jurisdiction, is
23 authorized and in good standing to operate as a drug
24 manufacturer within such jurisdiction, need not be licensed
25 as provided in this section but such out-of-state
26 distributor shall register its business name and address

27 with the board of pharmacy and pay a filing fee in an amount
28 established by the board.

29 **2. It shall be unlawful for a licensed or registered**
30 **out-of-state wholesale drug distributor, out-of-state**
31 **pharmacy acting as a distributor, drug outsourcer, or third-**
32 **party logistics provider to knowingly deliver directly to a**
33 **patient within this state via common carrier, mail, carrier**
34 **service, or any other delivery service any medicine, drug,**
35 **or any other substance to be used for the purpose of**
36 **inducing an abortion, as defined in section 188.015.**

Section B. Because of the importance of ensuring
2 healthy pregnancies and healthy women and children in
3 Missouri in the face of growing maternal mortality, the
4 repeal and reenactment of sections 208.151 and 208.662 of
5 this act is deemed necessary for the immediate preservation
6 of the public health, welfare, peace, and safety, and is
7 hereby declared to be an emergency act within the meaning of
8 the constitution, and the repeal and reenactment of sections
9 208.151 and 208.662 of this act shall be in full force and
10 effect upon its passage and approval.

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