

STAPLE
HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any referendum petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County

REFERENDUM PETITION

Page No.

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that Senate Substitute for Senate Committee Substitute for House Bill No. 126, entitled "An Act To repeal sections 135.630, 188.010, 188.015, 188.027, 188.028, 188.043, and 188.052, RSMo, and to enact in lieu thereof seventeen new sections relating to abortion, with penalty provisions, a contingent effective date for a certain section, and an emergency clause for a certain section," passed by the 100th general assembly of the state of Missouri, at the first regular session of the 100th general assembly, shall be referred to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 3rd day of November, 2020, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

M0000001

CIRCULATOR'S AFFIDAVIT

RECEIVED
2012 MAY 28 AM 11:06
[Signature]

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____ Street Address of Affiant _____

Printed Name of Affiant _____ City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____ Address of Notary _____

(Seal)

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 126
100TH GENERAL ASSEMBLY

0461S.18T

2019

AN ACT

To repeal sections 135.630, 188.010, 188.015, 188.027, 188.028, 188.043, and 188.052, RSMo, and to enact in lieu thereof seventeen new sections relating to abortion, with penalty provisions, a contingent effective date for a certain section, and an emergency clause for a certain section.

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

Section A. Sections 135.630, 188.010, 188.015, 188.027, 188.028, 188.043, and 188.052, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 135.630, 188.010, 188.015, 188.017, 188.018, 188.026, 188.027, 188.028, 188.033, 188.038, 188.043, 188.044, 188.052, 188.056, 188.057, 188.058, and 188.375, to read as follows:

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

- (1) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;
- (2) "Director", the director of the department of social services;
- (3) "Pregnancy resource center", a nonresidential facility located in this state:
 - (a) Established and operating primarily to provide assistance to women **and families** with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and material support, and other similar services **or by offering services as described**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

SS SCS HB 126

2

- 9 **under subsection 2 of section 188.325**, to encourage and assist such women **and families** in carrying their pregnancies to term; and
- 11 (b) Where childbirths are not performed; and
- 12 (c) Which does not perform, induce, or refer for abortions and which does not hold itself out as performing, inducing, or referring for abortions; and
- 14 (d) Which provides direct client services at the facility, as opposed to merely providing counseling or referral services by telephone; and
- 16 (e) Which provides its services at no cost to its clients; and
- 17 (f) When providing medical services, such medical services must be performed in accordance with Missouri statute; and
- 19 (g) Which is exempt from income taxation pursuant to the Internal Revenue Code of 201986, as amended;
- 21 (4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, excluding sections 23 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer, any liability 24 incurred by such taxpayer pursuant to the provisions of chapter 143, excluding sections 143.191 25 to 143.265 and related provisions;
- 26 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S 27 corporation doing business in the state of Missouri and subject to the state income tax imposed 28 by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax 29 imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its 30 gross premium receipts in this state, or other financial institution paying taxes to the state of 31 Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, or 32 an express company which pays an annual tax on its gross receipts in this state pursuant to 33 chapter 153, or an individual subject to the state income tax imposed by the provisions of chapter 34 143, or any charitable organization which is exempt from federal income tax and whose Missouri 35 unrelated business taxable income, if any, would be subject to the state income tax imposed 36 under chapter 143.
- 37 2. (1) Beginning on March 29, 2013, any contribution to a pregnancy resource center 38 made on or after January 1, 2013, shall be eligible for tax credits as provided by this section.
- 39 (2) For all tax years beginning on or after January 1, 2007, **and ending on or before** 40 **December 31, 2020**, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state 41 tax liability in an amount equal to fifty percent of the amount such taxpayer contributed to a 42 pregnancy resource center. **For all tax years beginning on or after January 1, 2021, a** 43 **taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in**

44 an amount equal to seventy percent of the amount such taxpayer contributed to a
 45 pregnancy resource center.

46 3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's
 47 state tax liability for the tax year for which the credit is claimed, and such taxpayer shall not be
 48 allowed to claim a tax credit in excess of fifty thousand dollars per tax year. However, any tax
 49 credit that cannot be claimed in the tax year the contribution was made may be carried over only
 50 to the next succeeding tax year. No tax credit issued under this section shall be assigned,
 51 transferred, or sold.

52 4. Except for any excess credit which is carried over pursuant to subsection 3 of this
 53 section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such
 54 taxpayer's contribution or contributions to a pregnancy resource center or centers in such
 55 taxpayer's tax year has a value of at least one hundred dollars.

56 5. The director shall determine, at least annually, which facilities in this state may be
 57 classified as pregnancy resource centers. The director may require of a facility seeking to be
 58 classified as a pregnancy resource center whatever information which is reasonably necessary
 59 to make such a determination. The director shall classify a facility as a pregnancy resource
 60 center if such facility meets the definition set forth in subsection 1 of this section.

61 6. The director shall establish a procedure by which a taxpayer can determine if a facility
 62 has been classified as a pregnancy resource center. Pregnancy resource centers shall be permitted
 63 to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be
 64 claimed by all the taxpayers contributing to pregnancy resource centers in any one fiscal year
 65 shall not exceed two million dollars for all fiscal years ending on or before June 30, 2014, and
 66 two million five hundred thousand dollars for all fiscal years beginning on or after July 1, 2014,
 67 and ending on or before June 30, 2019, and three million five hundred thousand dollars for all
 68 fiscal years beginning on or after July 1, 2019, and ending on or before June 30, 2021. For
 69 all fiscal years beginning on or after July 1, 2021, there shall be no limit imposed on the
 70 cumulative amount of tax credits that may be claimed by all taxpayers contributing to
 71 pregnancy resource centers under the provisions of this section. Tax credits shall be issued
 72 in the order contributions are received. If the amount of tax credits redeemed in a fiscal year is
 73 less than the cumulative amount authorized under this subsection, the difference shall be carried
 74 over to a subsequent fiscal year or years and shall be added to the cumulative amount of tax
 75 credits that may be authorized in that fiscal year or years.

76 7. For all fiscal years ending on or before June 30, 2021, the director shall establish
 77 a procedure by which, from the beginning of the fiscal year until some point in time later in the
 78 fiscal year to be determined by the director, the cumulative amount of tax credits are equally
 79 apportioned among all facilities classified as pregnancy resource centers. If a pregnancy resource

80 center fails to use all, or some percentage to be determined by the director, of its apportioned tax
 81 credits during this predetermined period of time, the director may reapportion these unused tax
 82 credits to those pregnancy resource centers that have used all, or some percentage to be
 83 determined by the director, of their apportioned tax credits during this predetermined period of
 84 time. The director may establish more than one period of time and reapportion more than once
 85 during each fiscal year. To the maximum extent possible, the director shall establish the
 86 procedure described in this subsection in such a manner as to ensure that taxpayers can claim all
 87 the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.
 88 8. Each pregnancy resource center shall provide information to the director concerning
 89 the identity of each taxpayer making a contribution to the pregnancy resource center who is
 90 claiming a tax credit pursuant to this section and the amount of the contribution. The director
 91 shall provide the information to the director of revenue. The director shall be subject to the
 92 confidentiality and penalty provisions of section 32.057 relating to the disclosure of tax
 93 information.

94 9. ~~Under section 23.253 of the Missouri sunset act:~~

95 ~~—(1) The provisions of the program authorized under this section shall automatically~~
 96 ~~sunset on December thirty-first six years after August 28, 2018, unless reauthorized by an act of~~
 97 ~~the general assembly;~~

98 ~~—(2) If such program is reauthorized, the program authorized under this section shall~~
 99 ~~automatically sunset on December thirty-first six years after the effective date of the~~
 100 ~~reauthorization of this section;~~

101 ~~—(3) This section shall terminate on September first of the calendar year immediately~~
 102 ~~following the calendar year in which a program authorized under this section is sunset; and~~

103 ~~—(4) The provisions of this subsection shall not be construed to limit or in any way impair~~
 104 ~~the department's ability to issue tax credits authorized on or before the date the program~~
 105 ~~authorized under this section expires or a taxpayer's ability to redeem such tax credits.] The~~
 106 provisions of section 23.253 shall not apply to this section.

188.010. In recognition that Almighty God is the author of life, that all men and
 2 women are "endowed by their Creator with certain unalienable Rights, that among these
 3 are Life", and that article I, section 2 of the Constitution of Missouri provides that all
 4 persons have a natural right to life, it is the intention of the general assembly of the state of
 5 Missouri to [grani];

6 (1) Defend the right to life [to] of all humans, born and unborn[-and-to];

7 (2) Declare that the state and all of its political subdivisions are a "sanctuary of
 8 life" that protects pregnant women and their unborn children; and

9 (3) Regulate abortion to the full extent permitted by the Constitution of the United
10 States, decisions of the United States Supreme Court, and federal statutes.

188.015. As used in this chapter, the following terms mean:

2 (1) "Abortion":

3 (a) The act of using or prescribing any instrument, device, medicine, drug, or any other
4 means or substance with the intent to destroy the life of an embryo or fetus in his or her mother's
5 womb; or

6 (b) The intentional termination of the pregnancy of a mother by using or prescribing any
7 instrument, device, medicine, drug, or other means or substance with an intention other than to
8 increase the probability of a live birth or to remove a dead [~~or dying~~] unborn child;

9 (2) "Abortion facility", a clinic, physician's office, or any other place or facility in which
10 abortions are performed or induced other than a hospital;

11 (3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

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

13 (5) "Down Syndrome", the same meaning as defined in section 191.923;

14 (6) "Gestational age", length of pregnancy as measured from the first day of the woman's
15 last menstrual period;

16 [~~(6)~~] (7) "Medical emergency", a condition which, based on reasonable medical
17 judgment, so complicates the medical condition of a pregnant woman as to necessitate the
18 immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a
19 delay will create a serious risk of substantial and irreversible physical impairment of a major
20 bodily function of the pregnant woman;

21 [~~(7)~~] (8) "Physician", any person licensed to practice medicine in this state by the state
22 board of registration for the healing arts;

23 [~~(8)~~] (9) "Reasonable medical judgment", a medical judgment that would be made by a
24 reasonably prudent physician, knowledgeable about the case and the treatment possibilities with
25 respect to the medical conditions involved;

26 [~~(9)~~] (10) "Unborn child", the offspring of human beings from the moment of conception
27 until birth and at every stage of its biological development, including the human conceptus,
28 zygote, morula, blastocyst, embryo, and fetus;

29 [~~(10)~~] (11) "Viability" or "viable", that stage of fetal development when the life of the
30 unborn child may be continued indefinitely outside the womb by natural or artificial life-
31 supportive systems;

32 (12) "Viable pregnancy" or "viable intrauterine pregnancy", in the first trimester
33 of pregnancy, an intrauterine pregnancy that can potentially result in a liveborn baby.

2 188.017. 1. This section shall be known and may be cited as the "Right to Life of
3 the Unborn Child Act".

4 2. Notwithstanding any other provision of law to the contrary, no abortion shall be
5 performed or induced upon a woman, except in cases of medical emergency. Any person
6 who knowingly performs or induces an abortion of an unborn child in violation of this
7 subsection shall be guilty of a class B felony, as well as subject to suspension or revocation
8 of his or her professional license by his or her professional licensing board. A woman upon
9 whom an abortion is performed or induced in violation of this subsection shall not be
10 prosecuted for a conspiracy to violate the provisions of this subsection.

11 3. It shall be an affirmative defense for any person alleged to have violated the
12 provisions of subsection 2 of this section that the person performed or induced an abortion
13 because of a medical emergency. The defendant shall have the burden of persuasion that
the defense is more probably true than not.

188.018. If any one or more provisions, sections, subsections, sentences, clauses,
2 phrases, or words of this chapter or the application thereof to any person, circumstance,
3 or period of gestational age is found to be unenforceable, unconstitutional, or invalid by
4 a court of competent jurisdiction, the same is hereby declared to be severable and the
5 balance of this chapter shall remain effective notwithstanding such unenforceability,
6 unenconstitutionality, or invalidity. The general assembly hereby declares that it would have
7 passed each provision, section, subsection, sentence, clause, phrase, or word thereof,
8 irrespective of the fact that any one or more provisions, sections, subsections, sentences,
9 clauses, phrases, or words of this chapter, or the application of this chapter to any person,
10 circumstance, or period of gestational age, would be declared unenforceable,
11 unenconstitutional, or invalid.

188.026. 1. This section and sections 188.056, 188.057, and 188.058 shall be known
2 and may be cited as the "Missouri Stands for the Unborn Act".

3 2. In Roe v. Wade, 410 U.S. 113 (1973), certain information about the development
4 of the unborn child, human pregnancy, and the effects of abortion was either not part of
5 the record or was not available at the time. Since 1973, advances in medical and scientific
6 technology have greatly expanded our knowledge of prenatal life and the effects of
7 abortion on women. The general assembly of this state finds:

8 (1) At conception, a new genetically distinct human being is formed;

9 (2) The fact that the life of an individual human being begins at conception has long
10 been recognized in Missouri law: "[T]he child is, in truth, alive from the moment of
11 conception". State v. Emerich, 13 Mo. App. 492, 495 (1883), affirmed, 87 Mo. 110 (1885).
12 Under section 1.205, the general assembly has recognized that the life of each human being

13 begins at conception and that unborn children have protectable interests in life, health, and
14 well-being;

15 (3) The first prohibition of abortion in Missouri was enacted in 1825. Since then,
16 the repeal and reenactment of prohibitions of abortion have made distinctions with respect
17 to penalties for performing or inducing abortion on the basis of "quickening"; however,
18 the unborn child was still protected from conception onward;

19 (4) In ruling that Missouri's prohibition on abortion was constitutional in 1972, the
20 Missouri supreme court accepted as a stipulation of the parties that "[i]nfant Doe,
21 Intervenor Defendant in this case, and all other unborn children have all the qualities and
22 attributes of adult human persons differing only in age or maturity. Medically, human life
23 is a continuum from conception to death." Rodgers v. Danforth, 486 S.W.2d 258, 259
24 (1972);

25 (5) In Webster v. Reproductive Health Services, 492 U.S. 490 (1989), the Supreme
26 Court, while considering the "preamble" that set forth "findings" in section 1.205, stated:
27 "We think the extent to which the preamble's language might be used to interpret other
28 state statutes or regulations is something that only the courts of Missouri can definitively
29 decide. State law has offered protections to unborn children in tort and probate law". Id.
30 at 506. Since Webster, Missouri courts have construed section 1.205 and have consistently
31 found that an unborn child is a person for purposes of Missouri's homicide and assault
32 laws when the unborn child's mother was killed or assaulted by another person. Section
33 1.205 has even been found applicable to the manslaughter of an unborn child who was
34 eight weeks gestational age or earlier. State v. Harrison, 390 S.W.3d 927 (Mo. Ct. App.
35 2013);

36 (6) In medicine, a special emphasis is placed on the heartbeat. The heartbeat is a
37 discernible sign of life at every stage of human existence. During the fifth week of
38 gestational age, an unborn child's heart begins to beat and blood flow begins during the
39 sixth week;

40 (7) Depending on the ultrasound equipment being used, the unborn child's
41 heartbeat can be visually detected as early as six to eight weeks gestational age. By about
42 twelve weeks gestational age, the unborn child's heartbeat can consistently be made
43 audible through the use of a handheld Doppler fetal heart rate device;

44 (8) Confirmation of a pregnancy can be indicated through the detection of the
45 unborn child's heartbeat, while the absence of a heartbeat can be an indicator of the death
46 of the unborn child if the child has reached the point of development when a heartbeat
47 should be detectable;

48 (9) Heart rate monitoring during pregnancy and labor is utilized to measure the
49 heart rate and rhythm of the unborn child, at an average rate between one hundred ten
50 and one hundred sixty beats per minute, and helps determine the health of the unborn
51 child;

52 (10) The Supreme Court in Roe discussed "the difficult question of when life
53 begins" and wrote: "[p]hysicians and their scientific colleagues have regarded [quickening]
54 with less interest and have tended to focus either upon conception, upon live birth, or upon
55 the interim point at which the fetus becomes 'viable', that is, potentially able to live outside
56 the mother's womb, albeit with artificial aid". Roe, 410 U.S. at 160. Today, however,
57 physicians' and scientists' interests on life in the womb also focus on other markers of
58 development in the unborn child, including, but not limited to, presence of a heartbeat,
59 brain development, a viable pregnancy or viable intrauterine pregnancy during the first
60 trimester of pregnancy, and the ability to experience pain;

61 (11) In Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52 (1976),
62 the Supreme Court noted that "we recognized in Roe that viability was a matter of medical
63 judgment, skill, and technical ability, and we preserved the flexibility of the term". Id. at
64 64. Due to advances in medical technology and diagnoses, present-day physicians and
65 scientists now describe the viability of an unborn child in an additional manner, by
66 determining whether there is a viable pregnancy or viable intrauterine pregnancy during
67 the first trimester of pregnancy;

68 (12) While the overall risk of miscarriage after clinical recognition of pregnancy
69 is twelve to fifteen percent, the incidence decreases significantly if cardiac activity in the
70 unborn child has been confirmed. The detection of a heartbeat in an unborn child is a
71 reliable indicator of a viable pregnancy and that the unborn child will likely survive to
72 birth, especially if presenting for a prenatal visit at eight weeks gestational age or later.
73 For asymptomatic women attending a first prenatal visit between six and eleven weeks
74 gestational age where a heartbeat was confirmed through an ultrasound, the subsequent
75 risk of miscarriage is one and six-tenths percent. Although the risk is higher at six weeks
76 gestational age at nine and four-tenths percent, it declines rapidly to one and five-tenths
77 percent at eight weeks gestational age, and less than one percent at nine weeks gestational
78 age or later;

79 (13) The presence of a heartbeat in an unborn child represents a more definable
80 point of ascertaining survivability than the ambiguous concept of viability that has been
81 adopted by the Supreme Court, especially since if a heartbeat is detected at eight weeks
82 gestational age or later in a normal pregnancy, there is likely to be a viable pregnancy and
83 there is a high probability that the unborn child will survive to birth;

84 (14) The placenta begins developing during the early first trimester of pregnancy
 85 and performs a respiratory function by making oxygen supply to and carbon dioxide
 86 removal from the unborn child possible later in the first trimester and throughout the
 87 second and third trimesters of pregnancy;

88 (15) By the fifth week of gestation, the development of the brain of the unborn child
 89 is underway. Brain waves have been measured and recorded as early as the eighth week
 90 of gestational age in children who were removed during an ectopic pregnancy or
 91 hysterectomy. Fetal magnetic resonance imaging (MRI) of an unborn child's brain is used
 92 during the second and third trimesters of pregnancy and brain activity has been observed
 93 using MRI;

94 (16) Missouri law identifies the presence of circulation, respiration, and brain
 95 function as indicia of life under section 194.005, as the presence of circulation, respiration,
 96 and brain function indicates that such person is not legally dead, but is legally alive;

97 (17) Unborn children at eight weeks gestational age show spontaneous movements,
 98 such as a twitching of the trunk and developing limbs. It has been reported that unborn
 99 children at this stage show reflex responses to touch. The perioral area is the first part of
 100 the unborn child's body to respond to touch at about eight weeks gestational age and by
 101 fourteen weeks gestational age most of the unborn child's body is responsive to touch;

102 (18) Peripheral cutaneous sensory receptors, the receptors that feel pain, develop
 103 early in the unborn child. They appear in the perioral cutaneous area at around seven to
 104 eight weeks gestational age, in the palmar regions at ten to ten and a half weeks gestational
 105 age, the abdominal wall at fifteen weeks gestational age, and over all of the unborn child's
 106 body at sixteen weeks gestational age;

107 (19) Substance P, a peptide that functions as a neurotransmitter, especially in the
 108 transmission of pain, is present in the dorsal horn of the spinal cord of the unborn child
 109 at eight to ten weeks gestational age. Enkephalins, peptides that play a role in
 110 neurotransmission and pain modulation, are present in the dorsal horn at twelve to
 111 fourteen weeks gestational age;

112 (20) When intrauterine needling is performed on an unborn child at sixteen weeks
 113 gestational age or later, the reaction to this invasive stimulus is blood flow redistribution
 114 to the brain. Increased blood flow to the brain is the same type of stress response seen in
 115 a born child and an adult;

116 (21) By sixteen weeks gestational age, pain transmission from a peripheral receptor
 117 to the cortex is possible in the unborn child;

118 (22) Physicians provide anesthesia during in utero treatment of unborn children
 119 as early as sixteen weeks gestational age for certain procedures, including those to correct

120 fetal urinary tract obstruction. Anesthesia is administered by ultrasound-guided injection
 121 into the arm or leg of the unborn child;

122 (23) A leading textbook on prenatal development of the human brain states, "It
 123 may be concluded that, although nociception (the actual perception of pain) awaits the
 124 appearance of consciousness, nociception (the experience of pain) is present some time
 125 before birth. In the absence of disproof, it is merely prudent to assume that pain can be
 126 experienced even early in prenatal life (Dr. J. Wisser, Zürich): the fetus should be given
 127 the benefit of the doubt". Ronan O'Rahilly & Fabiola Müller. The Embryonic Human
 128 Brain: An Atlas of Developmental Stages (3d ed. 2005);

129 (24) By fourteen or fifteen weeks gestational age or later, the predominant abortion
 130 method in Missouri is dilation and evacuation (D & E). The D & E abortion method
 131 includes the dismemberment, disarticulation, and exsanguination of the unborn child,
 132 causing the unborn child's death;

133 (25) The Supreme Court acknowledged in Gonzales v. Carhart, 550 U.S. 124, 160
 134 (2007), that "the standard D & E is in some respects as brutal, if not more, than the intact
 135 D & E" partial birth abortion method banned by Congress and upheld as facially
 136 constitutional by the Supreme Court, even though the federal ban was applicable both
 137 before and after viability and had no exception for the health of the mother;

138 (26) Missouri's ban on the partial birth abortion method, section 565.300, is in
 139 effect because of Gonzales v. Carhart and the Supreme Court's subsequent decision in
 140 Nixon v. Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc.,
 141 550 U.S. 901 (2007), to vacate and remand to the appellate court the prior invalidation of
 142 section 565.300. Since section 565.300, like Congress' ban on partial birth abortion, is
 143 applicable both before and after viability, there is ample precedent for the general
 144 assembly to constitutionally prohibit the brutal D & E abortion method at fourteen weeks
 145 gestational age or later, even before the unborn child is viable, with a medical emergency
 146 exception;

147 (27) In Roper v. Simmons, 543 U.S. 551 (2005), the Supreme Court determined that
 148 "evolving standards of decency" dictated that a Missouri statute allowing the death
 149 penalty for a conviction of murder in the first degree for a person under eighteen years of
 150 age when the crime was committed was unconstitutional under the Eighth and Fourteenth
 151 Amendments to the United States Constitution because it violated the prohibition against
 152 "cruel and unusual punishments";

153 (28) In Bucklew v. Precythe, 139 S. Ct. 1112, 1123 (2019), the Supreme Court noted
 154 that "[d]isgusting' practices" like disemboweling and quartering "readily qualified as

155 'cruel and unusual', as a reader at the time of the Eighth Amendment's adoption would
 156 have understood those words";

157 (29) Evolving standards of decency dictate that Missouri should prohibit the brutal
 158 and painful D & E abortion method at fourteen weeks gestational age or later, with a
 159 medical emergency exception, because if a comparable method of killing was used on:

160 (a) A person convicted of murder in the first degree, it would be cruel and unusual
 161 punishment; or

162 (b) An animal, it would be unlawful under state law because it would not be a
 163 humane method, humane euthanasia, or humane killing of certain animals under chapters
 164 273 and 578;

165 (30) In *Roper*, the Supreme Court also found that "[i]t is proper that we
 166 acknowledge the overwhelming weight of international opinion against the juvenile death
 167 penalty.... The opinion of the world community, while not controlling our outcome, does
 168 provide respected and significant confirmation for our own conclusions". *Roper*, 543 U.S.
 169 at 578. In its opinion, the Supreme Court was instructed by "international covenants
 170 prohibiting the juvenile death penalty", such as the International Covenant on Civil and
 171 Political Rights, 999 U.N.T.S. 171. Id. at 577;

172 (31) The opinion of the world community, reflected in the laws of the United
 173 Nation's 193-member states and six other entities, is that in most countries, most abortions
 174 are prohibited after twelve weeks gestational age or later;

175 (32) The opinion of the world community is also shared by most Americans, who
 176 believe that most abortions in the second and third trimesters of pregnancy should be
 177 illegal, based on polling that has remained consistent since 1996;

178 (33) Abortion procedures performed later in pregnancy have a higher medical risk
 179 for women. Compared to an abortion at eight weeks gestational age or earlier, the relative
 180 risk increases exponentially at later gestational ages. The relative risk of death for a
 181 pregnant woman who had an abortion performed or induced upon her at:

182 (a) Eleven to twelve weeks gestational age is between three and four times higher
 183 than an abortion at eight weeks gestational age or earlier;

184 (b) Thirteen to fifteen weeks gestational age is almost fifteen times higher than an
 185 abortion at eight weeks gestational age or earlier;

186 (c) Sixteen to twenty weeks gestational age is almost thirty times higher than an
 187 abortion at eight weeks gestational age or earlier; and

188 (d) Twenty-one weeks gestational age or later is more than seventy-five times
 189 higher than an abortion at eight weeks gestational age or earlier;

190 (34) In addition to the short-term risks of an abortion, studies have found that the
 191 long-term physical and psychological consequences of abortion for women include, but are
 192 not limited to, an increased risk of preterm birth, low birthweight babies, and placenta
 193 previa in subsequent pregnancies, as well as serious behavioral health issues. These risks
 194 increase as abortions are performed or induced at later gestational ages. These
 195 consequences of an abortion have a detrimental effect not only on women, their children,
 196 and their families, but also on an already burdened health care system, taxpayers, and the
 197 workforce;

198 (35) A large percentage of women who have an abortion performed or induced
 199 upon them in Missouri each year are at less than eight weeks gestational age, a large
 200 majority are at less than fourteen weeks gestational age, a larger majority are at less than
 201 eighteen weeks gestational age, and an even larger majority are at less than twenty weeks
 202 gestational age. A prohibition on performing or inducing an abortion at eight weeks
 203 gestational age or later, with a medical emergency exception, does not amount to a
 204 substantial obstacle to a large fraction of women for whom the prohibition is relevant,
 205 which is pregnant women in Missouri who are seeking an abortion while not experiencing
 206 a medical emergency. The burden that a prohibition on performing or inducing an
 207 abortion at eight, fourteen, eighteen, or twenty weeks gestational age or later, with a
 208 medical emergency exception, might impose on abortion access, is outweighed by the
 209 benefits conferred upon the following:

210 (a) Women more advanced in pregnancy who are at greater risk of harm from
 211 abortion;

212 (b) Unborn children at later stages of development;

213 (c) The medical profession, by preserving its integrity and fulfilling its commitment
 214 to do no harm; and

215 (d) Society, by fostering respect for human life, born and unborn, at all stages of
 216 development, and by lessening societal tolerance of violence against innocent human life;

217 (36) In *Webster*, the Supreme Court noted, in upholding a Missouri statute, "that
 218 there may be a 4-week error in estimating gestational age". *Webster*, 492 U.S. at 516.
 219 Thus, an unborn child thought to be eight weeks gestational age might in fact be twelve
 220 weeks gestational age, when an abortion poses a greater risk to the woman and the unborn
 221 child is considerably more developed. An unborn child at fourteen weeks gestational age
 222 might be eighteen weeks gestational age and an unborn child at eighteen weeks gestational
 223 age might be twenty-two weeks gestational age, when an abortion poses a greater risk to
 224 the woman, the unborn child is considerably more developed, the abortion method likely
 225 to be employed is more brutal, and the risk of pain experienced by the unborn child is

226 greater. An unborn child at twenty weeks gestational age might be twenty-four weeks
 227 gestational age, when an abortion poses a greater risk to the woman, the unborn child is
 228 considerably more developed, the abortion method likely to be employed is more brutal,
 229 the risk of pain experienced by the unborn child is greater, and the unborn child may be
 230 viable.

231 3. The state of Missouri is bound by Article VI, Clause 2 of the Constitution of the
 232 United States that "all treaties made, or which shall be made, under the authority of the
 233 United States, shall be the supreme law of the land". One such treaty is the International
 234 Covenant on Civil and Political Rights, entered into force on March 23, 1976, and adopted
 235 by the United States on September 8, 1992. In ratifying the Covenant, the United States
 236 declared that while the provisions of Articles 1 through 27 of the Covenant are not self-
 237 executing, the United States' understanding is that state governments share responsibility
 238 with the federal government in implementing the Covenant.

239 4. Article 6, Paragraph 1, U.N.T.S. at 174, of the International Covenant on Civil
 240 and Political Rights states, "Every human being has the inherent right to life. This right
 241 shall be protected by law. No one shall be arbitrarily deprived of his life". The state of
 242 Missouri takes seriously its obligation to comply with the Covenant and to implement this
 243 paragraph as it relates to the inherent right to life of unborn human beings, protecting the
 244 rights of unborn human beings by law, and ensuring that such unborn human beings are
 245 not arbitrarily deprived of life. The state of Missouri hereby implements Article 6,
 246 Paragraph 1 of the Covenant by the regulation of abortion in this state.

247 5. The state of Missouri has interests that include, but are not limited to:

248 (1) Protecting unborn children throughout pregnancy and preserving and
 249 promoting their lives from conception to birth;

250 (2) Encouraging childbirth over abortion;

251 (3) Ensuring respect for all human life from conception to natural death;

252 (4) Safeguarding an unborn child from the serious harm of pain by an abortion
 253 method that would cause the unborn child to experience pain while she or he is being
 254 killed;

255 (5) Preserving the integrity of the medical profession and regulating and restricting
 256 practices that might cause the medical profession or society as a whole to become
 257 insensitive, even disdainful, to life. This includes regulating and restricting abortion
 258 methods that are not only brutal and painful, but if allowed to continue, will further
 259 coarsen society to the humanity of not only unborn children, but all vulnerable and
 260 innocent human life, making it increasingly difficult to protect such life;

261 (6) Ending the incongruities in state law by permitting some unborn children to be
 262 killed by abortion, while requiring that unborn children be protected in non-abortion
 263 circumstances through, including, but not limited to, homicide, assault, self-defense, and
 264 defense of another statutes; laws guaranteeing prenatal health care, emergency care, and
 265 testing; state-sponsored health insurance for unborn children; the prohibition of restraints
 266 in correctional institutions to protect pregnant offenders and their unborn children; and
 267 protecting the interests of unborn children by the appointment of conservators, guardians,
 268 and representatives;

269 (7) Reducing the risks of harm to pregnant women who obtain abortions later in
 270 pregnancy; and

271 (8) Avoiding burdens on the health care system, taxpayers, and the workforce
 272 because of increased preterm births, low birthweight babies, compromised pregnancies,
 273 extended postpartum recoveries, and behavioral health problems caused by the long-term
 274 effects of abortions performed or induced later in the pregnancy.

188.027. 1. Except in [the-case] cases of medical emergency, no abortion shall be
 2 performed or induced on a woman without her voluntary and informed consent, given freely and
 3 without coercion. Consent to an abortion is voluntary and informed and given freely and without
 4 coercion if, and only if, at least seventy-two hours prior to the abortion:

5 (1) The physician who is to perform or induce the abortion, a qualified professional, or
 6 the referring physician has informed the woman orally, reduced to writing, and in person, of the
 7 following:

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

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

11 a. A description of the proposed abortion method;

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

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

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

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

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

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

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

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

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

50 (4) The physician who is to perform or induce the abortion or a qualified professional
 51 shall provide the woman with the opportunity to view at least seventy-two hours prior to the
 52 abortion an active ultrasound of the unborn child and hear the heartbeat of the unborn child if
 53 the heartbeat is audible. The woman shall be provided with a geographically indexed list
 54 maintained by the department of health care providers, facilities, and clinics that perform
 55 ultrasounds, including those that offer ultrasound services free of charge. Such materials shall
 56 provide contact information for each provider, facility, or clinic including telephone numbers

57 and, if available, website addresses. Should the woman decide to obtain an ultrasound from a
 58 provider, facility, or clinic other than the abortion facility, the woman shall be offered a
 59 reasonable time to obtain the ultrasound examination before the date and time set for performing
 60 or inducing an abortion. The person conducting the ultrasound shall ensure that the active
 61 ultrasound image is of a quality consistent with standard medical practice in the community,
 62 contains the dimensions of the unborn child, and accurately portrays the presence of external
 63 members and internal organs, if present or viewable, of the unborn child. The auscultation of
 64 fetal heart tone must also be of a quality consistent with standard medical practice in the
 65 community. If the woman chooses to view the ultrasound or hear the heartbeat or both at the
 66 abortion facility, the viewing or hearing or both shall be provided to her at the abortion facility
 67 at least seventy-two hours prior to the abortion being performed or induced;

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

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

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

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

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

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

85 ~~——(f) Anesthesia or an analgesic is available in order to minimize or alleviate the pain to~~
 86 ~~the unborn child]~~ The printed materials provided by the department shall include

87 information on the possibility of an abortion causing pain in the unborn child. This
 88 information shall include, but need not be limited to, the following:

89 (a) Unborn children as early as eight weeks gestational age start to show
 90 spontaneous movements and unborn children at this stage in pregnancy show reflex
 91 responses to touch;

92 (b) In the unborn child, the area around his or her mouth and lips is the first part
 93 of the unborn child's body to respond to touch and by fourteen weeks gestational age most
 94 of the unborn child's body is responsive to touch;

95 (c) Pain receptors on the unborn child's skin develop around his or her mouth at
 96 around seven to eight weeks gestational age, around the palms of his or her hands at ten
 97 to ten and a half weeks, on the abdominal wall at fifteen weeks, and over all of his or her
 98 body at sixteen weeks gestational age;

99 (d) Beginning at sixteen weeks gestational age and later, it is possible for pain to be
 100 transmitted from receptors to the cortex of the unborn child's brain, where thinking and
 101 perceiving occur;

102 (e) When a physician performs a life-saving surgery, he or she provides anesthesia
 103 to unborn children as young as sixteen weeks gestational age in order to alleviate the
 104 unborn child's pain; and

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

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

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

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

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

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

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

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

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

161 3. No abortion shall be performed or induced unless and until the woman upon whom
 162 the abortion is to be performed or induced certifies in writing on a checklist form provided by
 163 the department that she has been presented all the information required in subsection 1 of this

164 section, that she has been provided the opportunity to view an active ultrasound image of the
 165 unborn child and hear the heartbeat of the unborn child if it is audible, and that she further
 166 certifies that she gives her voluntary and informed consent, freely and without coercion, to the
 167 abortion procedure.

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

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

- 180 (1) Rape crisis centers, as defined in section 455.003;
- 181 (2) Shelters for victims of domestic violence, as defined in section 455.200; and
- 182 (3) Orders of protection, pursuant to chapter 455.

183 ~~[6-]~~ 5. The physician who is to perform or induce the abortion shall, at least seventy-two
 184 hours prior to such procedure, inform the woman orally and in person of

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

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

192 ~~[7-]~~ 6. No physician shall perform or induce an abortion unless and until the physician
 193 has received and signed a copy of the form prescribed in subsection 3 of this section. The
 194 physician shall retain a copy of the form in the patient's medical record.

195 ~~[8-]~~ 7. In the event of a medical emergency ~~[as provided by section 188.039]~~, the
 196 physician who performed or induced the abortion shall clearly certify in writing the nature and
 197 circumstances of the medical emergency. This certification shall be signed by the physician who
 198 performed or induced the abortion, and shall be maintained under section 188.060.

199 ~~[9-]~~ 8. No person or entity shall require, obtain, or accept payment for an abortion from
 200 or on behalf of a patient until at least seventy-two hours have passed since the time that the
 201 information required by subsection 1 of this section has been provided to the patient. Nothing
 202 in this subsection shall prohibit a person or entity from notifying the patient that payment for the
 203 abortion will be required after the seventy-two-hour period has expired if she voluntarily chooses
 204 to have the abortion.

205 ~~[10-]~~ 9. The term "qualified professional" as used in this section shall refer to a
 206 physician, physician assistant, registered nurse, licensed practical nurse, psychologist, licensed
 207 professional counselor, or licensed social worker, licensed or registered under chapter 334, 335,
 208 or 337, acting under the supervision of the physician performing or inducing the abortion, and
 209 acting within the course and scope of his or her authority provided by law. The provisions of this
 210 section shall not be construed to in any way expand the authority otherwise provided by law
 211 relating to the licensure, registration, or scope of practice of any such qualified professional.

212 ~~[11-]~~ 10. By November 30, 2010, the department shall produce the written materials and
 213 forms described in this section. Any written materials produced shall be printed in a typeface
 214 large enough to be clearly legible. All information shall be presented in an objective, unbiased
 215 manner designed to convey only accurate scientific and medical information. The department
 216 shall furnish the written materials and forms at no cost and in sufficient quantity to any person
 217 who performs or induces abortions, or to any hospital or facility that provides abortions. The
 218 department shall make all information required by subsection 1 of this section available to the
 219 public through its department website. The department shall maintain a toll-free,
 220 twenty-four-hour hotline telephone number where a caller can obtain information on a regional
 221 basis concerning the agencies and services described in subsection 1 of this section. No
 222 identifying information regarding persons who use the website shall be collected or maintained.
 223 The department shall monitor the website on a regular basis to prevent tampering and correct any
 224 operational deficiencies.

225 ~~[12-]~~ 11. In order to preserve the compelling interest of the state to ensure that the choice
 226 to consent to an abortion is voluntary and informed, and given freely and without coercion, the
 227 department shall use the procedures for adoption of emergency rules under section 536.025 in
 228 order to promulgate all necessary rules, forms, and other necessary material to implement this
 229 section by November 30, 2010.

230 ~~[13-]~~ 12. If the provisions in subsections 1 and ~~[9]~~ 8 of this section requiring a
 231 seventy-two-hour waiting period for an abortion are ever temporarily or permanently restrained
 232 or enjoined by judicial order, then the waiting period for an abortion shall be twenty-four hours;
 233 provided, however, that if such temporary or permanent restraining order or injunction is stayed

234 or dissolved, or otherwise ceases to have effect, the waiting period for an abortion shall be
235 seventy-two hours.

188.028. 1. Except in the case of a medical emergency, no person shall knowingly

2 perform or induce an abortion upon a pregnant woman under the age of eighteen years unless:

3 (1) The attending physician has secured the informed written consent of the minor and
4 one parent or guardian, and the consenting parent or guardian of the minor has notified any
5 other custodial parent in writing prior to the securing of the informed written consent of
6 the minor and one parent or guardian. For purposes of this subdivision, "custodial
7 parent" shall only mean a parent of a minor who has been awarded joint legal custody or
8 joint physical custody of such minor by a court of competent jurisdiction. Notice shall not
9 be required for any parent;

10 (a) Who has been found guilty of any offense in violation of chapter 565, relating
11 to offenses against the person; chapter 566, relating to sexual offenses; chapter 567,
12 relating to prostitution; chapter 568, relating to offenses against the family; or chapter 573,
13 related to pornography and related offenses, if a child was a victim;

14 (b) Who has been found guilty of any offense in any other state or foreign country,
15 or under federal, tribal, or military jurisdiction if a child was a victim, which would be a
16 violation of chapters 565, 566, 567, 568, or 573 if committed in this state;

17 (c) Who is listed on the sexual offender registry under sections 589.400 to 589.425;

18 (d) Against whom an order of protection has been issued, including a foreign order
19 of protection given full faith and credit in this state under section 455.067;

20 (e) Whose custodial, parental, or guardianship rights have been terminated by a
21 court of competent jurisdiction; or

22 (f) Whose whereabouts are unknown after reasonable inquiry, who is a fugitive
23 from justice, who is habitually in an intoxicated or drugged condition, or who has been
24 declared mentally incompetent or incapacitated by a court of competent jurisdiction; [or]

25 (2) The minor is emancipated and the attending physician has received the informed
26 written consent of the minor; [or]

27 (3) The minor has been granted the right to self-consent to the abortion by court order
28 pursuant to subsection 2 of this section, and the attending physician has received the informed
29 written consent of the minor; or

30 (4) The minor has been granted consent to the abortion by court order, and the court has
31 given its informed written consent in accordance with subsection 2 of this section, and the minor
32 is having the abortion willingly, in compliance with subsection 3 of this section.

33 2. The right of a minor to self-consent to an abortion under subdivision (3) of subsection
34 1 of this section or court consent under subdivision (4) of subsection 1 of this section may be
35 granted by a court pursuant to the following procedures:

36 (1) The minor or next friend shall make an application to the juvenile court which shall
37 assist the minor or next friend in preparing the petition and notices required pursuant to this
38 section. The minor or the next friend of the minor shall thereafter file a petition setting forth the
39 initials of the minor; the age of the minor; the names and addresses of each parent, guardian, or,
40 if the minor's parents are deceased and no guardian has been appointed, any other person
41 standing in loco parentis of the minor; that the minor has been fully informed of the risks and
42 consequences of the abortion; that the minor is of sound mind and has sufficient intellectual
43 capacity to consent to the abortion; that, if the court does not grant the minor majority rights for
44 the purpose of consent to the abortion, the court should find that the abortion is in the best
45 interest of the minor and give judicial consent to the abortion; that the court should appoint a
46 guardian ad litem of the child; and if the minor does not have private counsel, that the court
47 should appoint counsel. The petition shall be signed by the minor or the next friend;

48 (2) A hearing on the merits of the petition, to be held on the record, shall be held as soon
49 as possible within five days of the filing of the petition. If any party is unable to afford counsel,
50 the court shall appoint counsel at least twenty-four hours before the time of the hearing. At the
51 hearing, the court shall hear evidence relating to the emotional development, maturity, intellect
52 and understanding of the minor; the nature, possible consequences, and alternatives to the
53 abortion; and any other evidence that the court may find useful in determining whether the minor
54 should be granted majority rights for the purpose of consenting to the abortion or whether the
55 abortion is in the best interests of the minor;

56 (3) In the decree, the court shall for good cause:

57 (a) Grant the petition for majority rights for the purpose of consenting to the abortion;
58 [or]

59 (b) Find the abortion to be in the best interests of the minor and give judicial consent to
60 the abortion, setting forth the grounds for so finding; or

61 (c) Deny the petition, setting forth the grounds on which the petition is denied;

62 (4) If the petition is allowed, the informed consent of the minor, pursuant to a court grant
63 of majority rights, or the judicial consent, shall bar an action by the parents or guardian of the
64 minor on the grounds of battery of the minor by those performing or inducing the abortion. The
65 immunity granted shall only extend to the performance or induction of the abortion in
66 accordance herewith and any necessary accompanying services which are performed in a
67 competent manner. The costs of the action shall be borne by the parties;

68 (5) An appeal from an order issued under the provisions of this section may be taken to
 69 the court of appeals of this state by the minor or by a parent or guardian of the minor. The notice
 70 of intent to appeal shall be given within twenty-four hours from the date of issuance of the order.
 71 The record on appeal shall be completed and the appeal shall be perfected within five days from
 72 the filing of notice to appeal. Because time may be of the essence regarding the performance or
 73 induction of the abortion, the supreme court of this state shall, by court rule, provide for
 74 expedited appellate review of cases appealed under this section.

75 3. If a minor desires an abortion, then she shall be orally informed of and, if possible,
 76 sign the written consent required [~~by section 188.039~~] under this chapter in the same manner
 77 as an adult person. No abortion shall be performed or induced on any minor against her will,
 78 except that an abortion may be performed or induced against the will of a minor pursuant to a
 79 court order described in subdivision (4) of subsection 1 of this section that the abortion is
 80 necessary to preserve the life of the minor.

188.033. Whenever an abortion facility or a family planning agency located in this
 2 state, or any of its agents or employees acting within the scope of his or her authority or
 3 employment, provides to a woman considering an abortion the name, address, telephone
 4 number, or website of an abortion provider that is located outside of the state, such
 5 abortion facility or family planning agency or its agents or employees shall also provide to
 6 such woman the printed materials produced by the department under section 188.027. If
 7 the name, address, telephone number, or website of such abortion provider is not provided
 8 to such woman in person, such printed materials shall be offered to her, and if she chooses,
 9 sent to such woman at no cost to her the same day or as soon as possible either
 10 electronically or by U.S. mail overnight delivery service or by other overnight or same-day
 11 delivery service to an address of such woman's choosing. The department shall furnish
 12 such printed materials at no cost and in sufficient quantities to abortion facilities and
 13 family planning agencies located within the state.

188.038. 1. The general assembly of this state finds that:

2 (1) Removing vestiges of any past bias or discrimination against pregnant women,
 3 their partners, and their family members, including their unborn children, is an important
 4 task for those in the legal, medical, social services, and human services professions;

5 (2) Ending any current bias or discrimination against pregnant women, their
 6 partners, and their family members, including their unborn children, is a legitimate
 7 purpose of government in order to guarantee that those who "are endowed by their
 8 Creator with certain unalienable Rights" can enjoy "Life, Liberty and the pursuit of
 9 Happiness";

10 (3) The historical relationship of bias or discrimination by some family planning
 11 programs and policies towards poor and minority populations, including, but not limited
 12 to, the nonconsensual sterilization of mentally ill, poor, minority, and immigrant women
 13 and other coercive family planning programs and policies, must be rejected;

14 (4) Among Missouri residents, the rate of black or African-American women who
 15 undergo abortions is significantly higher, about three and a half times higher, than the rate
 16 of white women who undergo abortions. Among Missouri residents, the rate of black or
 17 African-American women who undergo repeat abortions is significantly higher, about one
 18 and a half times higher, than the rate of white women who undergo repeat abortions;

19 (5) Performing or inducing an abortion because of the sex of the unborn child is
 20 repugnant to the values of equality of females and males and the same opportunities for
 21 girls and boys, and furthers a false mindset of female inferiority;

22 (6) Government has a legitimate interest in preventing the abortion of unborn
 23 children with Down Syndrome because it is a form of bias or disability discrimination and
 24 victimizes the disabled unborn child at his or her most vulnerable stage. Eliminating
 25 unborn children with Down Syndrome raises grave concerns for the lives of those who do
 26 live with disabilities. It sends a message of dwindling support for their unique challenges,
 27 fosters a false sense that disability is something that could have been avoidable, and is
 28 likely to increase the stigma associated with disability.

29 2. No person shall perform or induce an abortion on a woman if the person knows
 30 that the woman is seeking the abortion solely because of a prenatal diagnosis, test, or
 31 screening indicating Down Syndrome or the potential of Down Syndrome in an unborn
 32 child.

33 3. No person shall perform or induce an abortion on a woman if the person knows
 34 that the woman is seeking the abortion solely because of the sex or race of the unborn child.

35 4. Any physician or other person who performs or induces or attempts to perform
 36 or induce an abortion prohibited by this section shall be subject to all applicable civil
 37 penalties under this chapter including, but not limited to, sections 188.065 and 188.085.

188.043. 1. No person shall perform or induce [a-surgical-or-medical] an abortion on
 2 another unless such person has [proof-of] medical malpractice insurance with coverage amounts
 3 of at least [five-hundred-thousand-dollars] one million dollars per occurrence and three
 4 million dollars in the annual aggregate.

5 2. For the purpose of this section, "medical malpractice insurance" means insurance
 6 coverage against the legal liability of the insured and against loss, damage, or expense incident
 7 to a claim arising out of the death or injury of any person as a result of the negligence or
 8 malpractice in rendering professional service by any health care provider.

9 3. No abortion facility or hospital shall employ or engage the services of a person to
 10 perform ~~[one or more abortions]~~ or induce an abortion on another if the person does not have
 11 ~~[proof of]~~ medical malpractice insurance pursuant to this section, except that the abortion facility
 12 or hospital may provide medical malpractice insurance for the services of persons employed or
 13 engaged by such facility or hospital which is no less than the coverage amounts set forth in
 14 this section.

15 4. Notwithstanding the provisions of section 334.100, failure of a person to maintain the
 16 medical malpractice insurance required by this section shall be an additional ground for
 17 sanctioning of a person's license, certificate, or permit.

188.044. 1. When a drug or chemical, or combination thereof, used by a person to
 2 induce an abortion carries a warning from its manufacturer or distributor, a peer-
 3 reviewed medical journal article, or a Food and Drug Administration label that its use may
 4 cause birth defects, disability, or other injury in a child who survives the abortion, then in
 5 addition to the requirements of section 188.043, such person shall also carry tail insurance
 6 with coverage amounts of at least one million dollars per occurrence and three million
 7 dollars in the annual aggregate for personal injury to or death of a child who survives such
 8 abortion. Such policy shall be maintained in force or be in effect for a period of twenty-one
 9 years after the person used the drug or chemical, or combination thereof, to induce the
 10 abortion.

11 2. For the purpose of this section, "tail insurance" means insurance which covers
 12 the legal liability of the insured once a medical malpractice insurance policy is cancelled,
 13 not renewed, or terminated, and covers claims made after such cancellation or termination
 14 for acts occurring during the period the prior medical malpractice insurance was in effect.

15 3. No abortion facility or hospital shall employ or engage the services of a person
 16 to induce an abortion on another using any drug or chemical, or combination thereof,
 17 which may cause birth defects, disability, or other injury in a child who survives the
 18 abortion, if the person does not have tail insurance pursuant to this section, except that the
 19 abortion facility or hospital may provide tail insurance for the services of persons
 20 employed or engaged by such facility or hospital which is no less than the coverage
 21 amounts and duration set forth in this section.

22 4. Notwithstanding the provisions of section 334.100 to the contrary, failure of a
 23 person to maintain the tail insurance required by this section shall be an additional ground
 24 for sanctioning of a person's license, certificate, or permit.

25 188.052. 1. An individual abortion report for each abortion performed or induced upon
 2 a woman shall be completed by ~~[her attending]~~ the physician who performed or induced the
 3 abortion. Abortion reports shall include, but not be limited to, a certification that the

4 physician does not have any knowledge that the woman sought the abortion solely because
 5 of a prenatal diagnosis, test, or screening indicating Down Syndrome or the potential of
 6 Down Syndrome in the unborn child and a certification that the physician does not have
 7 any knowledge that the woman sought the abortion solely because of the sex or race of the
 8 unborn child.

9 2. An individual complication report for any post-abortion care performed upon a woman
 10 shall be completed by the physician providing such post-abortion care. This report shall include:

- 11 (1) The date of the abortion;
- 12 (2) The name and address of the abortion facility or hospital where the abortion was
- 13 performed or induced;
- 14 (3) The nature of the abortion complication diagnosed or treated.

15 3. All abortion reports shall be signed by the attending physician~~[-]~~ who performed or
 16 induced the abortion and submitted to the [state] department ~~[of health and senior services]~~
 17 within forty-five days from the date of the abortion. All complication reports shall be signed by
 18 the physician providing the post-abortion care and submitted to the department ~~[of health and~~
 19 ~~senior services]~~ within forty-five days from the date of the post-abortion care.

20 4. A copy of the abortion report shall be made a part of the medical record of the patient
 21 of the ~~abortion~~ facility or hospital in which the abortion was performed or induced.

22 5. The [state] department ~~[of health and senior services]~~ shall be responsible for
 23 collecting all abortion reports and complication reports and collating and evaluating all data
 24 gathered therefrom and shall annually publish a statistical report based on such data from
 25 abortions performed or induced in the previous calendar year.

188.056. 1. Notwithstanding any other provision of law to the contrary, no abortion
 2 shall be performed or induced upon a woman at eight weeks gestational age or later, except
 3 in cases of medical emergency. Any person who knowingly performs or induces an
 4 abortion of an unborn child in violation of this subsection shall be guilty of a class B felony,
 5 as well as subject to suspension or revocation of his or her professional license by his or her
 6 professional licensing board. A woman upon whom an abortion is performed or induced
 7 in violation of this subsection shall not be prosecuted for a conspiracy to violate the
 8 provisions of this section.

9 2. It shall be an affirmative defense for any person alleged to have violated the
 10 provisions of subsection 1 of this section that the person performed or induced an abortion
 11 because of a medical emergency. The defendant shall have the burden of persuasion that
 12 the defense is more probably true than not.

13 3. Prosecution under this section shall bar prosecution under sections 188.057,
 14 188.058, or 188.375 if prosecution under such sections would violate the provisions of

15 Amendment V to the Constitution of the United States or article I, section 19 of the
 16 Constitution of Missouri.

17 4. If any one or more provisions, subsections, sentences, clauses, phrases, or words
 18 of this section or the application thereof to any person, circumstance, or period of
 19 gestational age is found to be unenforceable, unconstitutional, or invalid by a court of
 20 competent jurisdiction, the same is hereby declared to be severable and the balance of the
 21 section shall remain effective notwithstanding such unenforceability, unconstitutionality,
 22 or invalidity. The general assembly hereby declares that it would have passed this section,
 23 and each provision, subsection, sentence, clause, phrase, or word thereof, irrespective of
 24 the fact that any one or more provisions, subsections, sentences, clauses, phrases, or words
 25 of the section, or the application of the section to any person, circumstance, or period of
 26 gestational age, would be declared unenforceable, unconstitutional, or invalid.

188.057. 1. Notwithstanding any other provision of law to the contrary, no abortion
 2 shall be performed or induced upon a woman at fourteen weeks gestational age or later,
 3 except in cases of medical emergency. Any person who knowingly performs or induces an
 4 abortion of an unborn child in violation of this subsection shall be guilty of a class B felony,
 5 as well as subject to suspension or revocation of his or her professional license by his or her
 6 professional licensing board. A woman upon whom an abortion is performed or induced
 7 in violation of this subsection shall not be prosecuted for a conspiracy to violate the
 8 provisions of this section.

9 2. It shall be an affirmative defense for any person alleged to have violated the
 10 provisions of subsection 1 of this section that the person performed or induced an abortion
 11 because of a medical emergency. The defendant shall have the burden of persuasion that
 12 the defense is more probably true than not.

13 3. Prosecution under this section shall bar prosecution under sections 188.056,
 14 188.058, or 188.375 if prosecution under such sections would violate the provisions of
 15 Amendment V to the Constitution of the United States or article I, section 19 of the
 16 Constitution of Missouri.

17 4. If any one or more provisions, subsections, sentences, clauses, phrases, or words
 18 of this section or the application thereof to any person, circumstance, or period of
 19 gestational age is found to be unenforceable, unconstitutional, or invalid by a court of
 20 competent jurisdiction, the same is hereby declared to be severable and the balance of the
 21 section shall remain effective notwithstanding such unenforceability, unconstitutionality,
 22 or invalidity. The general assembly hereby declares that it would have passed this section,
 23 and each provision, subsection, sentence, clause, phrase, or word thereof, irrespective of
 24 the fact that any one or more provisions, subsections, sentences, clauses, phrases, or words

25 of the section, or the application of the section to any person, circumstance, or period of
 26 gestational age, would be declared unenforceable, unconstitutional, or invalid.

188.058. 1. Notwithstanding any other provision of law to the contrary, no abortion
 2 shall be performed or induced upon a woman at eighteen weeks gestational age or later,
 3 except in cases of medical emergency. Any person who knowingly performs or induces an
 4 abortion of an unborn child in violation of this subsection shall be guilty of a class B felony,
 5 as well as subject to suspension or revocation of his or her professional license by his or her
 6 professional licensing board. A woman upon whom an abortion is performed or induced
 7 in violation of this section shall not be prosecuted for a conspiracy to violate the provisions
 8 of this section.

9 2. It shall be an affirmative defense for any person alleged to have violated the
 10 provisions of subsection 1 of this section that the person performed or induced an abortion
 11 because of a medical emergency. The defendant shall have the burden of persuasion that
 12 the defense is more probably true than not.

13 3. Prosecution under this section shall bar prosecution under sections 188.056,
 14 188.057, or 188.375 if prosecution under such sections would violate the provisions of
 15 Amendment V to the Constitution of the United States or article I, section 19 of the
 16 Constitution of Missouri.

17 4. If any one or more provisions, subsections, sentences, clauses, phrases, or words
 18 of this section or the application thereof to any person, circumstance, or period of
 19 gestational age is found to be unenforceable, unconstitutional, or invalid by a court of
 20 competent jurisdiction, the same is hereby declared to be severable and the balance of the
 21 section shall remain effective notwithstanding such unenforceability, unconstitutionality,
 22 or invalidity. The general assembly hereby declares that it would have passed this section,
 23 and each provision, subsection, sentence, clause, phrase, or word thereof, irrespective of
 24 the fact that any one or more provisions, subsections, sentences, clauses, phrases, or words
 25 of the section, or the application of the section to any person, circumstance, or period of
 26 gestational age, would be declared unenforceable, unconstitutional, or invalid.

188.375. 1. This section shall be known and may be cited as the "Late-Term Pain-
 2 Capable Unborn Child Protection Act".

3 2. As used in this section, the phrase "late-term pain-capable unborn child" shall
 4 mean an unborn child at twenty weeks gestational age or later.

5 3. Notwithstanding any other provision of law to the contrary, no abortion shall be
 6 performed or induced upon a woman carrying a late-term pain-capable unborn child,
 7 except in cases of medical emergency. Any person who knowingly performs or induces an
 8 abortion of a late-term pain-capable unborn child in violation of this subsection shall be

9 guilty of a class B felony, as well as subject to suspension or revocation of his or her
 10 professional license by his or her professional licensing board. A woman upon whom an
 11 abortion is performed or induced in violation of this subsection shall not be prosecuted for
 12 a conspiracy to violate the provisions of this subsection.

13 4. It shall be an affirmative defense for any person alleged to have violated the
 14 provisions of subsection 3 of this section that the person performed or induced an abortion
 15 because of a medical emergency. The defendant shall have the burden of persuasion that
 16 the defense is more probably true than not.

17 5. Prosecution under subsection 3 of this section shall bar prosecution under
 18 sections 188.056, 188.057, or 188.058 if prosecution under such sections would violate the
 19 provisions of Amendment V to the Constitution of the United States or article I, section 19
 20 of the Constitution of Missouri.

21 6. When in cases of medical emergency a physician performs or induces an abortion
 22 upon a woman in her third trimester carrying a late-term pain-capable unborn child, the
 23 physician shall utilize the available method or technique of abortion most likely to preserve
 24 the life or health of the unborn child. In cases where the method or technique of abortion
 25 most likely to preserve the life or health of the unborn child would present a greater risk
 26 to the life or health of the woman than another legally permitted and available method or
 27 technique, the physician may utilize such other method or technique. In all cases where
 28 the physician performs or induces an abortion upon a woman during her third trimester
 29 carrying a late-term pain-capable unborn child, the physician shall certify in writing the
 30 available method or techniques considered and the reasons for choosing the method or
 31 technique employed.

32 7. When in cases of medical emergency a physician performs or induces an abortion
 33 upon a woman during her third trimester carrying a late-term pain-capable unborn child,
 34 there shall be in attendance a physician other than the physician performing or inducing
 35 the abortion who shall take control of and provide immediate medical care for a child born
 36 as a result of the abortion.

37 8. Any physician who knowingly violates any of the provisions of subsections 6 or
 38 7 of this section shall be guilty of a class D felony, as well as subject to suspension or
 39 revocation of his or her professional license by his or her professional licensing board. A
 40 woman upon whom an abortion is performed or induced in violation of subsections 6 or
 41 7 of this section shall not be prosecuted for a conspiracy to violate the provisions of those
 42 subsections.

43 9. If any one or more provisions, subsections, sentences, clauses, phrases, or words
 44 of this section or the application thereof to any person, circumstance, or period of

45 gestational age is found to be unenforceable, unconstitutional, or invalid by a court of
 46 competent jurisdiction, the same is hereby declared to be severable and the balance of the
 47 section shall remain effective notwithstanding such unenforceability, unconstitutionality,
 48 or invalidity. The general assembly hereby declares that it would have passed this section,
 49 and each provision, subsection, sentence, clause, phrase, or word thereof, irrespective of
 50 the fact that any one or more provisions, subsections, sentences, clauses, phrases, or words
 51 of the section, or the application of the section to any person, circumstance, or period of
 52 gestational age, would be declared unenforceable, unconstitutional, or invalid.

Section B. The enactment of section 188.017 of this act shall only become effective upon
 2 notification to the revisor of statutes by an opinion by the attorney general of Missouri, a
 3 proclamation by the governor of Missouri, or the adoption of a concurrent resolution by the
 4 Missouri general assembly that:

5 (1) The United States Supreme Court has overruled, in whole or in part, *Roe v. Wade*,
 6 410 U.S. 113 (1973), restoring or granting to the state of Missouri the authority to regulate
 7 abortion to the extent set forth in section 188.017, and that as a result, it is reasonably probable
 8 that section 188.017 of this act would be upheld by the court as constitutional;

9 (2) An amendment to the Constitution of the United States has been adopted that has the
 10 effect of restoring or granting to the state of Missouri the authority to regulate abortion to the
 11 extent set forth in section 188.017; or

12 (3) The United States Congress has enacted a law that has the effect of restoring or
 13 granting to the state of Missouri the authority to regulate abortion to the extent set forth in
 14 section 188.017.

Section C. Because of the need to protect the health and safety of women and their
 2 children, both unborn and born, the repeal and reenactment of section 188.028 of this act is
 3 deemed necessary for the immediate preservation of the public health, welfare, peace and safety,
 4 and is hereby declared to be an emergency act within the meaning of the constitution, and the
 5 repeal and reenactment of section 188.028 of this act shall be in full force and effect upon its
 6 passage and approval.