

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 194

99TH GENERAL ASSEMBLY

0846H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 188.027, 188.028, 188.036, 188.047, 188.052, 194.375, and 197.230, RSMo, and to enact in lieu thereof eight new sections relating to abortion, with penalty provisions.

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

Section A. Sections 188.027, 188.028, 188.036, 188.047, 188.052, 194.375, and 197.230, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 188.027, 188.028, 188.036, 188.047, 188.052, 188.160, 194.375, and 197.230, to read as follows:

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

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

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

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

a. A description of the proposed abortion method;

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

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.

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

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

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

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

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

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

31 **(h) A description of the disposal process of the aborted fetus;**

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

49 (4) The physician who is to perform or induce the abortion or a qualified professional
50 shall provide the woman with the opportunity to view at least seventy-two hours prior to the

51 abortion an active ultrasound of the unborn child and hear the heartbeat of the unborn child if
52 the heartbeat is audible. The woman shall be provided with a geographically indexed list
53 maintained by the department of health care providers, facilities, and clinics that perform
54 ultrasounds, including those that offer ultrasound services free of charge. Such materials shall
55 provide contact information for each provider, facility, or clinic including telephone numbers
56 and, if available, website addresses. Should the woman decide to obtain an ultrasound from a
57 provider, facility, or clinic other than the abortion facility, the woman shall be offered a
58 reasonable time to obtain the ultrasound examination before the date and time set for performing
59 or inducing an abortion. The person conducting the ultrasound shall ensure that the active
60 ultrasound image is of a quality consistent with standard medical practice in the community,
61 contains the dimensions of the unborn child, and accurately portrays the presence of external
62 members and internal organs, if present or viewable, of the unborn child. The auscultation of
63 fetal heart tone must also be of a quality consistent with standard medical practice in the
64 community. If the woman chooses to view the ultrasound or hear the heartbeat or both at the
65 abortion facility, the viewing or hearing or both shall be provided to her at the abortion facility
66 at least seventy-two hours prior to the abortion being performed or induced;

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

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

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

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

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

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

84 (f) Anesthesia or an analgesic is available in order to minimize or alleviate the pain to
85 the unborn child;

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

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

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

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

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

116 (7) The physician who is to perform or induce the abortion or a qualified professional
117 has presented the woman, in person, [printed] materials provided by the department explaining
118 that the father of the unborn child is liable to assist in the support of the child, even in instances
119 where he has offered to pay for the abortion. Such materials shall include information on the
120 legal duties and support obligations of the father of a child, including, but not limited to, child
121 support payments, and the fact that paternity may be established by the father's name on a birth

122 certificate or statement of paternity, or by court action. Such ~~printed~~ materials shall also state
123 that more information concerning paternity establishment and child support services and
124 enforcement may be obtained by calling the family support division within the Missouri
125 department of social services; and

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

130 2. All information required to be provided to a woman considering abortion by
131 subsection 1 of this section shall be presented to the woman individually, in the physical
132 presence of the woman and in a private room, to protect her privacy, to maintain the
133 confidentiality of her decision, to ensure that the information focuses on her individual
134 circumstances, to ensure she has an adequate opportunity to ask questions, and to ensure that she
135 is not a victim of coerced abortion. Should a woman be unable to read materials provided to her,
136 they shall be read to her. Should a woman need an interpreter to understand the information
137 presented in the written materials, an interpreter shall be provided to her. Should a woman ask
138 questions concerning any of the information or materials, answers shall be provided in a
139 language she can understand.

140 3. No abortion shall be performed or induced unless and until the woman upon whom
141 the abortion is to be performed or induced certifies in writing on a checklist form provided by
142 the department that she has been presented all the information required in subsection 1 of this
143 section **and shall indicate whether the information was provided in writing or via video**, that
144 she has been provided the opportunity to view an active ultrasound image of the unborn child
145 and hear the heartbeat of the unborn child if it is audible, and that she further certifies that she
146 gives her voluntary and informed consent, freely and without coercion, to the abortion procedure.

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

153 5. No physician shall perform or induce an abortion unless and until the physician has
154 obtained from the woman her voluntary and informed consent given freely and without coercion.
155 If the physician has reason to believe that the woman is being coerced into having an abortion,
156 the physician or qualified professional shall inform the woman that services are available for her

157 and shall provide her with private access to a telephone and information about such services,
158 including but not limited to the following:

159 (1) Rape crisis centers, as defined in section 455.003;

160 (2) Shelters for victims of domestic violence, as defined in section 455.200; and

161 (3) Orders of protection, pursuant to chapter 455.

162 6. No physician shall perform or induce an abortion unless and until the physician has
163 received and signed a copy of the form prescribed in subsection 3 of this section. The physician
164 shall retain a copy of the form in the patient's medical record.

165 7. In the event of a medical emergency as provided by section 188.039, the physician
166 who performed or induced the abortion shall clearly certify in writing the nature and
167 circumstances of the medical emergency. This certification shall be signed by the physician who
168 performed or induced the abortion, and shall be maintained under section 188.060.

169 8. No person or entity shall require, obtain, or accept payment for an abortion from or
170 on behalf of a patient until at least seventy-two hours have passed since the time that the
171 information required by subsection 1 of this section has been provided to the patient. Nothing
172 in this subsection shall prohibit a person or entity from notifying the patient that payment for the
173 abortion will be required after the seventy-two-hour period has expired if she voluntarily chooses
174 to have the abortion.

175 9. The term "qualified professional" as used in this section shall refer to a physician,
176 physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional
177 counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting
178 under the supervision of the physician performing or inducing the abortion, and acting within the
179 course and scope of his or her authority provided by law. The provisions of this section shall not
180 be construed to in any way expand the authority otherwise provided by law relating to the
181 licensure, registration, or scope of practice of any such qualified professional.

182 10. By November 30, 2010, the department shall produce the written materials and forms
183 described in this section. Any written materials produced shall be printed in a typeface large
184 enough to be clearly legible. All information shall be presented in an objective, unbiased manner
185 designed to convey only accurate scientific and medical information. The department shall
186 furnish the written materials and forms at no cost and in sufficient quantity to any person who
187 performs or induces abortions, or to any hospital or facility that provides abortions. The
188 department shall make all information required by subsection 1 of this section available to the
189 public through its department website. The department shall maintain a toll-free,
190 twenty-four-hour hotline telephone number where a caller can obtain information on a regional
191 basis concerning the agencies and services described in subsection 1 of this section. No
192 identifying information regarding persons who use the website shall be collected or maintained.

193 The department shall monitor the website on a regular basis to prevent tampering and correct any
194 operational deficiencies.

195 11. In order to preserve the compelling interest of the state to ensure that the choice to
196 consent to an abortion is voluntary and informed, and given freely and without coercion, the
197 department shall use the procedures for adoption of emergency rules under section 536.025 in
198 order to promulgate all necessary rules, forms, and other necessary material to implement this
199 section by November 30, 2010.

200 12. If the provisions in subsections 1 and 8 of this section requiring a seventy-two-hour
201 waiting period for an abortion are ever temporarily or permanently restrained or enjoined by
202 judicial order, then the waiting period for an abortion shall be twenty-four hours; provided,
203 however, that if such temporary or permanent restraining order or injunction is stayed or
204 dissolved, or otherwise ceases to have effect, the waiting period for an abortion shall be
205 seventy-two hours.

206 **13. The department of health and senior services shall create a video that contains**
207 **all the information required to be provided to a woman considering an abortion under**
208 **subsection 1 of this section, except paragraph (a), the physician's telephone number under**
209 **paragraph (d), and paragraph (e) of subdivision (1) of subsection 1 of this section.**

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 or guardian in writing prior to the securing of the informed written**
6 **consent of the minor and one parent or guardian. For purposes of this subdivision,**
7 **"custodial parent" means any parent of a minor in a family in which the parents have not**
8 **separated or dissolved their marriage, or any parent of a minor who has been awarded**
9 **joint legal custody or joint physical custody of such minor by a court of competent**
10 **jurisdiction. Notice shall not be required for any parent or guardian:**

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

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

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

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

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

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

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

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

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

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

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

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

55 should be granted majority rights for the purpose of consenting to the abortion or whether the
56 abortion is in the best interests of the minor;

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

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

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

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

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

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

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

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

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

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

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

14 **5. No person shall knowingly donate or make an anatomical gift of the fetal organs**
15 **or tissue resulting from an abortion to any person or entity for medical, scientific,**
16 **experimental, therapeutic, or any other use.**

17 **6. No person shall knowingly offer or receive any valuable consideration for the fetal**
18 **organs or tissue resulting from an abortion, provided that nothing in this subsection shall prohibit**
19 **payment for burial or other final disposition of the fetal remains so long as the final disposition**
20 **does not include any donation or anatomical gift of fetal organs or tissue, or payment for a**
21 **pathological examination, autopsy or postmortem examination of the fetal remains.**

22 ~~[6.]~~ 7. If any provision in this section or the application thereof to any person,
23 circumstance or period of gestation is held invalid, such invalidity shall not affect the provisions
24 or applications which can be given effect without the invalid provision or application, and to this
25 end the provisions of this section are declared severable.

26 **8. Any person who violates the provisions of subsection 3, 4, 5, or 6 of this section**
27 **shall be guilty of a class C felony, and the court may impose a fine in an amount not less**
28 **than twice the amount of any valuable consideration received.**

29 **9. Nothing in this section shall prohibit the utilization of fetal organs or tissue**
30 **resulting from an abortion for medical or scientific purposes to determine the cause or**
31 **causes of any anomaly, illness, death, or genetic condition of the fetus, the paternity of the**
32 **fetus, or for law enforcement purposes.**

 188.047. ~~[A representative sample of]~~ **1. All tissue and remains of a human fetus, as**
2 **defined in section 194.375, removed at the time of abortion shall be ensured as nonhazardous**
3 **in compliance with department of natural resources regulations and** submitted to a board
4 eligible or certified pathologist, who shall file a copy of the tissue report with the state
5 department of health and senior services, and who shall provide a copy of the report to the
6 abortion facility or hospital in which the abortion was performed or induced and the pathologist's
7 report shall be made a part of the patient's permanent record.

8 **2. The tissue report shall include:**

9 **(1) The pathologist's estimation, to a reasonable degree of scientific certainty, of the**
10 **gestational age of the fetal remains;**

11 **(2) Whether all tissue and remains of a human fetus were received that would be**
12 **common for a specimen of such estimated gestational age;**

13 **(3) If the pathologist finds that all tissue and remains of a human fetus were not**
14 **received, what portion of the tissue and remains of a human fetus were not received;**

15 **(4) A gross diagnosis and detailed gross findings of what was received including the**
16 **percent blood clot and the percent tissue;**

17 **(5) The date the tissue and remains of a human fetus were remitted to be disposed**
18 **and the location of such disposal;**

19 **(6) A certification that all submitted tissue and remains of a human fetus have been**
20 **disposed in accordance with state laws and regulations; and**

21 **(7) The name of the entity and physical address of the entity conducting the**
22 **examination of the specimen containing the remains of a human fetus.**

23 **3. Each specimen containing remains of a human fetus shall be given a unique**
24 **identification number to allow the specimen to be tracked from the abortion facility or**
25 **hospital where the abortion was performed or induced to the pathology lab and to its final**
26 **disposition location. The unique identification number shall be conspicuously adhered to**
27 **the exterior of the specimen container.**

28 **4. A report shall be created and submitted to the department for each specimen**
29 **containing remains of a human fetus at each facility that handles the specimen, including**
30 **the abortion facility or hospital where the abortion was performed or induced, the**
31 **pathology lab, and the location of final disposition. Each report shall document, if**
32 **applicable, the date the specimen containing remains of a human fetus was collected,**
33 **transported, received, and disposed. The report by the location of final disposition shall**
34 **verify that all fetal tissue was received and has been properly disposed according to state**
35 **laws and regulations.**

36 **5. The department shall reconcile each notice of abortion with its corresponding**
37 **pathology report. If the department does not receive the notice of abortion and the**
38 **pathology report, the department shall conduct an investigation. If the department finds**
39 **that the abortion facility or hospital where the abortion was performed or induced was not**
40 **in compliance with the provisions of this section, the department shall consider such**
41 **noncompliance a deficiency requiring an unscheduled inspection of the facility to ensure**
42 **the deficiency is remedied. If such deficiency is not remedied, the department shall**
43 **suspend the abortion facility's or hospital's license for no less than one year.**

44 **6. Beginning January 1, 2018, the department shall make an annual report to the**
45 **general assembly. The report shall include, but not be limited to, all reports and**
46 **information received by the department under the provisions of this section, the number**

47 **of any deficiencies of each abortion facility in the calendar year and whether such**
48 **deficiencies were remedied, and the following for each abortion procedure reported to the**
49 **department the previous calendar year:**

50 **(1) The location of the abortion facility;**

51 **(2) The age of the fetus aborted;**

52 **(3) The termination procedure used with a clinical estimation of gestation;**

53 **(4) Whether the department received the tissue report for that abortion, along with**
54 **a certification of the disposal of the remains; and**

55 **(5) The existence and nature, if any, of any inconsistencies or concerns between the**
56 **abortion report submitted under section 188.052 and the tissue report submitted under**
57 **subsection 1 of this section.**

58

59 **The report shall not contain any personal patient information the disclosure of which is**
60 **prohibited by state or federal law.**

61 **7. The mother of the aborted fetus shall be given the option to have the fetus**
62 **returned to her for final disposition after the fetus has been released from the pathology**
63 **lab.**

188.052. 1. An individual abortion report for each abortion performed or induced upon
2 a woman shall be completed by her attending physician. **The report shall include:**

3 **(1) The attending physician's estimation, to a reasonable degree of scientific**
4 **certainty, of the gestational age of the fetal remains;**

5 **(2) Whether all tissue and remains of a human fetus, as defined in section 194.375,**
6 **were removed that would be common for a specimen of such estimated gestational age; and**

7 **(3) If the attending physician finds that all tissue and remains of a human fetus**
8 **were not removed, what portion of the tissue and remains of a human fetus were not**
9 **removed.**

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

12 (1) The date of the abortion;

13 (2) The name and address of the abortion facility or hospital where the abortion was
14 performed;

15 (3) The nature of the abortion complication diagnosed or treated.

16 3. All abortion reports shall be signed by the attending physician, and submitted to the
17 state department of health and senior services within forty-five days from the date of the
18 abortion. All complication reports shall be signed by the physician providing the post-abortion

19 care and submitted to the department of health and senior services within forty-five days from
20 the date of the post-abortion care.

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

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

**188.160. 1. Each hospital, ambulatory surgical center, pathology lab, medical
2 research entity, and disposal facility involved in handling fetal remains from an elective
3 abortion shall establish and implement a written policy adopted by each hospital,
4 ambulatory surgical center, pathology lab, medical research entity, and disposal facility
5 relating to the protections for employees who disclose information under subsection 2 of
6 this section. This policy shall include a time frame for completion of investigations related
7 to complaints, not to exceed thirty days, and a method for notifying the complainant of the
8 disposition of the investigation. This policy shall be submitted to the department to verify
9 implementation. At a minimum, such policy shall include the following provisions:**

10 **(1) No supervisor or individual with authority to hire or fire in a hospital,
11 ambulatory surgical center, pathology lab, medical research entity, or disposal facility shall
12 prohibit employees from disclosing information under subsection 2 of this section;**

13 **(2) No supervisor or individual with authority to hire or fire in a hospital,
14 ambulatory surgical center, pathology lab, medical research entity, or disposal facility shall
15 use or threaten to use his or her supervisory authority to knowingly discriminate against,
16 dismiss, penalize, or in any way retaliate against or harass an employee because the
17 employee in good faith reported or disclosed any information under subsection 2 of this
18 section, or in any way attempt to dissuade, prevent, or interfere with an employee who
19 wishes to report or disclose such information; and**

20 **(3) Establish a program to identify a compliance officer who is a designated person
21 responsible for administering the reporting and investigation process and an alternate
22 person should the primary designee be implicated in the report.**

23 **2. The provisions of this section shall apply to information disclosed or reported in
24 good faith by an employee concerning alleged violations of applicable federal or state laws
25 or administrative rules concerning the handling of fetal remains. All information disclosed,
26 collected, and maintained under this subsection and under the written policy requirements
27 of this section shall be accessible to the department at all times and shall be reviewed by
28 the department at least annually. Complainants shall be notified of the department's access**

29 to such information and of the complainant's right to notify the department of any
30 information concerning alleged violations of applicable federal or state laws or
31 administrative rules concerning abortions or the handling of fetal remains.

32 3. Prior to any disclosure to individuals or agencies other than the department,
33 employees wishing to make a disclosure under the provisions of this section shall first
34 report to the individual or individuals designated by the hospital, ambulatory surgical
35 center, pathology lab, medical research entity, or disposal facility under subsection 1 of this
36 section.

37 4. If the compliance officer, compliance committee, or management official
38 discovers credible evidence of misconduct from any source and, after a reasonable inquiry,
39 has reason to believe that the misconduct may violate criminal, civil, or administrative law,
40 the hospital, ambulatory surgical center, pathology lab, medical research entity, or disposal
41 facility shall report the existence of misconduct to the appropriate governmental authority
42 within a reasonable period, but not more than seven days after determining that there is
43 credible evidence of a violation.

44 5. Reports made to the department shall be subject to the provisions of section
45 197.477; provided that, the restrictions of section 197.477 shall not be construed to limit
46 the employee's ability to subpoena from the original source the information reported to the
47 department under this section.

48 6. Each written policy shall allow employees making a report who wish to remain
49 anonymous to do so and shall include safeguards to protect the confidentiality of the
50 employee making the report, the confidentiality of patients, and the integrity of data,
51 information, and medical records.

52 7. Each hospital, ambulatory surgical center, pathology lab, medical research
53 entity, and disposal facility shall, within forty-eight hours of the receipt of a report, notify
54 the employee that his or her report has been received and is being reviewed unless the
55 employee wishes to remain anonymous.

56 8. Beginning December 1, 2017, each hospital, ambulatory surgical center,
57 pathology lab, medical research entity, and disposal facility involved in handling fetal
58 remains from an elective abortion shall post a notice at their place of employment in a
59 sufficient number of places on the premises to assure that such notice will reasonably be
60 seen by all employees. A hospital, ambulatory surgical center, pathology lab, medical
61 research entity, or disposal facility involved in handling fetal remains from an elective
62 abortion for whom services are performed by individuals who may not reasonably be
63 expected to see a posted notice shall notify each such employee in writing of the contents
64 of such notice. The notice shall include all information provided in this section.

194.375. 1. Sections 194.375 to 194.390 shall be known and may be cited as the
2 "Disposition of Fetal Remains Act".

3 2. As used in sections 194.375 to 194.390, the following terms mean:

4 (1) "Final disposition", the burial, cremation, or other disposition of the remains of a
5 human fetus following a spontaneous fetal demise occurring after a gestation period of less than
6 twenty completed weeks;

7 (2) "Remains of a human fetus", the ~~[fetal] remains [or fetal products of conception of~~
8 ~~a mother after a miscarriage, regardless of the gestational age or whether the remains have been~~
9 ~~obtained by spontaneous or accidental means]~~ **of the dead offspring of a human being that has**
10 **reached a stage of development so that there are cartilaginous structures or fetal or skeletal**
11 **parts after an abortion or miscarriage, whether the remains have been obtained by**
12 **induced, spontaneous, or accidental means.**

197.230. 1. The department of health and senior services shall make, or cause to be
2 made, such inspections and investigations as it deems necessary. The department may delegate
3 its powers and duties to investigate and inspect ambulatory surgical centers to an official of a
4 political subdivision having a population of at least four hundred fifty thousand if such political
5 subdivision is deemed qualified by the department to inspect and investigate ambulatory surgical
6 centers. The official so designated shall submit a written report of his **or her** findings to the
7 department and the department may accept the recommendations of such official if it determines
8 that the facility inspected meets minimum standards established pursuant to sections 197.200 to
9 197.240.

10 2. **In the case of any ambulatory surgical center operated for the purpose of**
11 **performing or inducing an abortion, the department shall make or cause to be made an**
12 **unannounced on-site inspection and investigation at least annually. Such on-site inspection**
13 **and investigation shall include, but not be limited to, the following areas:**

14 (1) **Compliance with all statutory and regulatory requirements for an ambulatory**
15 **surgical center, including requirements that the facility maintain adequate staffing and**
16 **equipment to respond to medical emergencies;**

17 (2) **Compliance with the requirement in section 188.047 that all fetal organs or**
18 **tissue removed at the time of abortion be submitted to a board certified or eligible**
19 **pathologist and that the resultant tissue report be made a part of the patient's permanent**
20 **record;**

21 (3) **Review of patient records to ensure that no consent forms or other**
22 **documentation authorizes any utilization of fetal organs or tissue in violation of sections**
23 **188.036 and 194.275;**

24 **(4) Compliance with sections 188.205, 188.210, and 188.215 prohibiting the use of**
25 **public funds, facilities, and employees to perform or to assist a prohibited abortion or to**
26 **encourage or to counsel a woman to have a prohibited abortion; and**

27 **(5) Compliance with the requirement in section 197.215 that continuous physician**
28 **services or registered professional nursing services be provided whenever a patient is in**
29 **the facility.**

30 **3. Inspection, investigation, and quality assurance reports shall be made available**
31 **to the public. Any portion of a report may be redacted when made publicly available if**
32 **such portion would disclose information that is not subject to disclosure under the law.**

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