

Missouri

Proclamation by Governor of Missouri, June 24, 2022 (notifying the Revisor of Statutes that §188.017 [Right to Life of the Unborn Child Act] is effective as of June 24, 2022.)

Rev. Traci Blackmon v. State of Missouri, (Dist. Ct. 8th Cir., E.D. Mo., January 18, 2023) (arguing that §188.017 [Right to Life of the Unborn Child Act] violates the Missouri state constitution.)

Mo. Rev. Stat. §188.015. Definitions

As used in this chapter, the following terms mean:

(1) “Abortion”:

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

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

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

(3) “Conception”, the fertilization of the ovum of a female by a sperm of a male;

(4) “Department”, the department of health and senior services;

(5) “Down Syndrome”, the same meaning as defined in section 191.923;

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

(7) “Medical emergency”, a condition which, based on reasonable medical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman;

(8) “Physician”, any person licensed to practice medicine in this state by the state board of registration for the healing arts;

(9) “Reasonable medical judgment”, a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved;

(10) “Unborn child”, the offspring of human beings from the moment of conception until birth and at every stage of its biological development, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;

(11) “Viability” or “viable”, that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems;

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

Mo. Rev. Stat. § 188.017. Right to Life of the Unborn Child Act— [contingently enacted]

1. This section shall be known and may be cited as the “Right to Life of the Unborn Child Act”.

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

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

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

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

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

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

Mo. Rev. Stat. §188.020. Physician, required to perform

No person shall perform or induce an abortion except a physician.

§ 188.021. RU-486, administration of, requirements

1. When RU-486 (mifepristone) or any drug or chemical is used for the purpose of inducing an abortion, the initial dose of the drug or chemical shall be administered in the same room and in the physical presence of the physician who prescribed, dispensed, or otherwise provided the drug or chemical to the patient. The physician inducing the abortion, or a person acting on such physician's behalf, shall make all reasonable efforts to ensure that the patient returns after the administration or use of RU-486 or any drug or chemical for a follow-up visit unless such termination of the pregnancy has already been confirmed and the patient's medical condition has been assessed by a licensed physician prior to discharge.
2. When the Food and Drug Administration label of any drug or chemical used for the purpose of inducing an abortion includes any clinical study in which more than one percent of those administered the drug or chemical required surgical intervention after its administration, no physician may prescribe or administer such drug or chemical to any patient without first obtaining approval from the department of health and senior services of a complication plan from the physician for administration of the drug or chemical to any patient. The complication plan shall include any information deemed necessary by the department to ensure the safety of any patient suffering complications as a result of the administration of the drug or chemical in question. No complication plan shall be required where the patient is administered the drug in a medical emergency at a hospital and is then treated as an inpatient at a hospital under medical monitoring by the hospital until the abortion is completed.
3. The department may adopt rules, regulations, and standards governing complication plans to ensure that patients undergoing abortions induced by drugs or chemicals have access to safe and reliable care. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this act, shall be invalid and void.

[§ 188.021 R.S.Mo.](#)

§ 188.023. Reports of rape or under age eighteen sexual abuse, required to report, how

Any licensed health care professional who delivers a baby or performs an abortion, who has prima facie evidence that a patient has been the victim of statutory rape in the first degree or statutory rape in the second degree, or if the patient is under the age of eighteen, that he or she has been a victim of sexual abuse, including rape in the first or second degree, or incest, shall be required to report such offenses in the same manner as provided for by section 210.115.

[§ 188.023 R.S.Mo.](#)

Mo. Rev. Stat. §188.025. Hospital required, when

Every abortion performed at sixteen weeks gestational age or later shall be performed in a hospital.

Mo. Rev. Stat. § 188.027 Consent, voluntary and informed, required--procedure, contents--information to be presented in person--information on risks--medical emergency, procedure--payment prohibited, when--written materials required, when--emergency rules authorized--waiting period restrained or enjoined, effect of

1. Except in cases 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, a qualified professional, or

the referring physician 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
 - c.** The immediate and long-term medical risks to the woman, in light of the anesthesia and medication that is to be administered, the unborn child's gestational age, and the woman's medical history and medical condition;
 - (c)** Alternatives to the abortion which shall include making the woman aware that information and materials shall be provided to her detailing such alternatives to the abortion;
 - (d)** A statement that the physician performing or inducing the abortion is available for any questions concerning the abortion, together with the telephone number that the physician may be later reached to answer any questions that the woman may have;
 - (e)** The location of the hospital that offers obstetrical or gynecological care located within thirty miles of the location where the abortion is performed or induced and at which the physician performing or inducing the abortion has clinical privileges and where the woman may receive follow-up care by the physician if complications arise;
 - (f)** The gestational age of the unborn child at the time the abortion is to be performed or induced; and
 - (g)** The anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed or induced;
- (2)** The physician who is to perform or induce the abortion or a qualified professional has presented the woman, in person, printed materials provided by the department, which describe the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from conception to full term, including color photographs or images of the developing unborn child at two-week gestational increments. Such descriptions shall include information about brain and heart functions, the presence of external members and internal organs during the applicable stages of development and information on when the unborn child is viable. The printed materials

shall prominently display the following statement: “The life of each human being begins at conception. Abortion will terminate the life of a separate, unique, living human being.”;

(3) The physician who is to perform or induce the abortion, a qualified professional, or the referring physician has presented the woman, in person, printed materials provided by the department, which describe the various surgical and drug-induced methods of abortion relevant to the stage of pregnancy, as well as the immediate and long-term medical risks commonly associated with each 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 the possible adverse psychological effects associated with an abortion;

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

(5) The printed materials provided by the department shall include information on the possibility of an abortion causing pain in the unborn child. This information shall include, but need not be limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) 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

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

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

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

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

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

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

11. In order to preserve the compelling interest of the state to ensure that the choice to consent to an abortion is voluntary and informed, and given freely and without coercion, the department

shall use the procedures for adoption of emergency rules under section 536.025 in order to promulgate all necessary rules, forms, and other necessary material to implement this section by November 30, 2010.

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

Mo. Rev. Stat. §188.028. Minors, abortion requirements and procedure

1. Except in the case of a medical emergency, no person shall knowingly perform or induce an abortion upon a pregnant woman under the age of eighteen years unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) If the petition is allowed, the informed consent of the minor, pursuant to a court grant of majority rights, or the judicial consent, shall bar an action by the parents or guardian of the minor on the grounds of battery of the minor by those performing or inducing the abortion. The immunity granted shall only extend to the performance or induction of the

abortion in accordance herewith and any necessary accompanying services which are performed in a competent manner. The costs of the action shall be borne by the parties;

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

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

Mo. Rev. Stat. §188.030: Abortion of viable unborn child prohibited, exceptions--physician duties--violations, penalty--severability--right of intervention, when

1. Except in the case of a medical emergency, no abortion of a viable unborn child shall be performed or induced unless the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. For purposes of this section, “**major bodily function**” includes, but is not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

2. Except in the case of a medical emergency:

(1) Prior to performing or inducing an abortion upon a woman, the physician shall determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards. In making such determination, the physician shall make such inquiries of the pregnant woman and perform or cause to be performed such medical examinations, imaging studies, and tests as a reasonably prudent physician, knowledgeable about the medical facts and conditions of both the woman and the unborn child involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age;

(2) If the physician determines that the gestational age of the unborn child is twenty weeks or more, prior to performing or inducing an abortion upon the woman, the physician shall determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by a skillful, careful, and prudent physician. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding

of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the woman;

(3) If the physician determines that the gestational age of the unborn child is twenty weeks or more, and further determines that the unborn child is not viable and performs or induces an abortion upon the woman, the physician shall report such findings and determinations and the reasons for such determinations to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical records of the woman and in the individual abortion report submitted to the department under section 188.052;

(4)

(a) If the physician determines that the unborn child is viable, the physician shall not perform or induce an abortion upon the woman unless the abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the woman.

(b) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician shall first certify in writing the medical threat posed to the life of the pregnant woman, or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Upon completion of the abortion, the physician shall report the reasons and determinations for the abortion of a viable unborn child to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and in the individual abortion report submitted to the department under section 188.052.

(c) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician who is to perform the abortion shall obtain the agreement of a second physician with knowledge of accepted obstetrical and neonatal practices and standards who shall concur that the abortion is necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. This second physician shall also report such reasons and determinations to the health care facility in which the abortion is to be performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and the individual abortion report submitted to the department under section 188.052. The second physician shall not have any legal or financial affiliation or relationship with the physician performing or inducing the abortion, except that such prohibition shall not apply to physicians whose legal or financial affiliation or relationship is a result of being employed by or having staff privileges at the same hospital as the term "hospital" is defined in section 197.020.

(d) Any physician who performs or induces an abortion upon a woman when it has been determined that the unborn child is viable shall utilize the available method or technique of abortion most likely to preserve the life or health of the unborn child. In cases where the method or technique of abortion most likely to preserve the life or health of the unborn child would present a greater risk to the life or health of the woman than another legally permitted and available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

(e) No physician shall perform or induce an abortion upon a woman when it has been determined that the unborn child is viable unless there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life or health of the viable unborn child; provided that it does not pose an increased risk to the life of the woman or does not pose an increased risk of substantial and irreversible physical impairment of a major bodily function of the woman.

- 3.** Any person who knowingly performs or induces an abortion of an unborn child in violation of the provisions of this section is guilty of a class D felony, and, upon a finding of guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and, notwithstanding the provisions of section 558.002, shall be fined not less than ten thousand nor more than fifty thousand dollars.
- 4.** Any physician who pleads guilty to or is found guilty of performing or inducing an abortion of an unborn child in violation of this section shall be subject to suspension or revocation of his or her license to practice medicine in the state of Missouri by the state board of registration for the healing arts under the provisions of sections 334.100 and 334.103.
- 5.** Any hospital licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.070.
- 6.** Any abortion facility licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.220.
- 7.** A woman upon whom an abortion is performed or induced in violation of this section shall not be prosecuted for a conspiracy to violate the provisions of this section.
- 8.** Nothing in this section shall be construed as creating or recognizing a right to abortion, nor is it the intention of this section to make lawful any abortion that is currently unlawful.
- 9.** It is the intent of the legislature that this section be severable as noted in section 1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this section be declared invalid under the Constitution of the United States or the Constitution of the State of

Missouri, it is the intent of the legislature that the remaining provisions of this section remain in force and effect as far as capable of being carried into execution as intended by the legislature.

10. The general assembly may, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this act in his or her official capacity to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

§ 188.031. Next friend defined for purposes of the procedure for a minor to obtain an abortion

For purposes of section 188.028, the term “next friend” shall not include another minor child, or any entity or person in an individual or representative capacity that has a financial interest or potential gain from the proposed abortion, or any employee of or volunteer for such entity or person.

[§ 188.031 R.S.Mo.](#)

Mo. Rev. Stat. §188.033. Out-of-state abortion facilities, in-state facilities giving information about, requirements

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

Mo. Rev. Stat. §188.035. Death of child aborted alive deemed murder in second degree, when

Whoever, with intent to do so, shall take the life of a child aborted alive, shall be guilty of murder of the second degree.

Mo. Rev. Stat. §188.036. Prohibited abortions, those done with intent to use fetal organs or tissue for transplant, experiments or for consideration, exceptions

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

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

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

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

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

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

§ 188.037. Experimentation with fetus, or child aborted alive, prohibited, exception

No person shall use any fetus or child aborted alive for any type of scientific, research, laboratory or other kind of experimentation either prior to or subsequent to any abortion procedure except as necessary to protect or preserve the life and health of such fetus or child aborted alive.

[§ 188.037 R.S.Mo.](#)

Mo. Rev. Stat. §188.038. Pregnant women, bias or discrimination against--findings of general assembly--limitations on performing an abortion, when

1. The general assembly of this state finds that:

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

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

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

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

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

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

2. No person shall perform or induce an abortion on a woman if the person knows that the woman is seeking the abortion solely because of a prenatal diagnosis, test, or screening

indicating Down Syndrome or the potential of Down Syndrome in an unborn child.

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

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

Mo. Rev. Stat. §188.039. Seventy-two hour waiting period for abortions required--medical emergency exception, definition--informed consent requirements--department to provide model consent forms--waiting period restrained or enjoined, effect of

1. For purposes of this section, “**medical emergency**” means a condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

2. Except in the case of medical emergency, no person shall perform or induce an abortion unless at least seventy-two hours prior thereto the physician who is to perform or induce the abortion, a qualified professional, or the referring physician has conferred with the patient and discussed with her the indicators and contraindicators, and risk factors including any physical, psychological, or situational factors for the proposed procedure and the use of medications, including but not limited to mifepristone, in light of her medical history and medical condition. For an abortion performed or an abortion induced by a drug or drugs, such conference shall take place at least seventy-two hours prior to the writing or communication of the first prescription for such drug or drugs in connection with inducing an abortion. Only one such conference shall be required for each abortion.

3. The patient shall be evaluated by the physician who is to perform or induce the abortion, a qualified professional, or the referring physician during the conference for indicators and contraindicators, risk factors including any physical, psychological, or situational factors which would predispose the patient to or increase the risk of experiencing one or more adverse physical, emotional, or other health reactions to the proposed procedure or drug or drugs in either the short or long term as compared with women who do not possess such risk factors.

4. At the end of the conference, and if the woman chooses to proceed with the abortion, the physician who is to perform or induce the abortion, a qualified professional, or the referring physician shall sign and shall cause the patient to sign a written statement that the woman gave her informed consent freely and without coercion after the physician or qualified professional had discussed with her the indicators and contraindicators, and risk factors, including any physical, psychological, or situational factors. All such executed statements shall be maintained as part of the patient's medical file, subject to the confidentiality laws and rules of this state.

5. The director of the department of health and senior services shall disseminate a model form that physicians or qualified professionals may use as the written statement required by this section, but any lack or unavailability of such a model form shall not affect the duties of the physician or qualified professional set forth in subsections 2 to 4 of this section.

6. As used in this section, the term “**qualified professional**” shall refer to a physician, physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting under the supervision of the physician performing or inducing the abortion, and acting within the course

and scope of his or her authority provided by law. The provisions of this section shall not be construed to in any way expand the authority otherwise provided by law relating to the licensure, registration, or scope of practice of any such qualified professional.

7. If the provisions in subsection 2 of this section requiring a seventy-two-hour waiting period for an abortion are ever temporarily or permanently restrained or enjoined by judicial order, then the waiting period for an abortion shall be twenty-four hours; provided, however, that if such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, the waiting period for an abortion shall be seventy-two hours.

Mo. Rev. Stat. §188.052. Physician's report on abortion and post-abortion care, when--department to publish statistics

1. An individual abortion report for each abortion performed or induced upon a woman shall be completed by the physician who performed or induced the abortion. Abortion reports shall include, but not be limited to, a certification that the physician does not have any knowledge that the woman sought the abortion solely because of a prenatal diagnosis, test, or screening indicating Down Syndrome or the potential of Down Syndrome in the unborn child and a certification that the physician does not have any knowledge that the woman sought the abortion solely because of the sex or race of the unborn child.

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

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

3. All abortion reports shall be signed by the attending physician who performed or induced the abortion and submitted to the department within forty-five days from the date of the abortion. All complication reports shall be signed by the physician providing the post-abortion care and submitted to the department within forty-five days from the date of the post-abortion care.

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

5. The department shall be responsible for collecting all abortion reports and complication reports and collating and evaluating all data gathered therefrom and shall annually publish a statistical report based on such data from abortions performed or induced in the previous calendar year.

Mo. Rev. Stat. § 188.056. Abortion prohibited after eight weeks gestational age, exception for medical emergency--violation, penalty--severability clause

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

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

3. Prosecution under this section shall bar prosecution under section¹ 188.057, 188.058, or 188.375 if prosecution under such sections would violate the provisions of Amendment V to the Constitution of the United States or article I, section 19 of the Constitution of Missouri.

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

Mo. Rev. Stat. § 188.057. Abortion prohibited after fourteen weeks gestational age, exception for medical emergency--violation, penalty--severability clause

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

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

3. Prosecution under this section shall bar prosecution under section¹ 188.056, 188.058, or 188.375 if prosecution under such sections would violate the provisions of Amendment V to the Constitution of the United States or article I, section 19 of the Constitution of Missouri.

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

Mo. Rev. Stat. § 188.058. Abortion prohibited after eighteen weeks gestational age, exception for medical emergency--violation, penalty--severability clause

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

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

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

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

Mo. Rev. Stat. § 188.065. Revocation of license, when

Any practitioner of medicine, surgery, or nursing, or other health personnel who shall willfully and knowingly do or assist any action made unlawful by sections 188.010 to 188.085 shall be subject to having his license, application for license, or authority to practice his profession as a physician, surgeon, or nurse in the state of Missouri rejected or revoked by the appropriate state licensing board.

Mo. Rev. Stat. § 188.075. Violation of sections 188.010 to 188.085 a class A misdemeanor--affirmative defense--jurisdiction of attorney general

1. Any person who contrary to the provisions of sections 188.010 to 188.085 knowingly performs, induces, or aids in the performance or inducing of any abortion or knowingly fails to perform any action required by sections 188.010 to 188.085 shall be guilty of a class A misdemeanor, unless a different penalty is provided for in state law, and, upon conviction, shall be punished as provided by law.

2. It shall be an affirmative defense for any person alleged to have violated any provision of this chapter that the person performed an action or did not perform an action because of a medical emergency. This affirmative defense shall be available in criminal, civil, and administrative actions or proceedings. The defendant shall have the burden of persuasion that the defense is more probably true than not.

3. The attorney general shall have concurrent original jurisdiction throughout the state, along with each prosecuting attorney and circuit attorney within their respective jurisdictions, to commence actions for a violation of any provision of this chapter, for a violation of any state law on the use of public funds for an abortion, or for a violation of any state law which regulates an abortion facility or a person who performs or induces an abortion. The attorney general, or prosecuting attorney or circuit attorney within their respective jurisdictions, may seek injunctive or other relief against any person who, or entity which, is in violation of any provision of this chapter, misuses public funds for an abortion, or violates any state law which regulates an abortion facility or a person who performs or induces an abortion.

Mo. Rev. Stat. §188.080. Abortion performed by other than a physician with clinical privileges at a hospital, a felony

Any person who is not a physician who performs or induces or attempts to perform or induce an abortion on another is guilty of a class B felony, and, upon conviction, shall be punished as provided by law. Any physician performing or inducing an abortion who does not have clinical privileges at a hospital which offers obstetrical or gynecological care located within thirty miles of the location at which the abortion is performed or induced shall be guilty of a class A misdemeanor, and, upon conviction shall be punished as provided by law.

Mo. Rev. Stat. §188.250 Causing, aiding, or assisting a minor to obtain an abortion prohibited, civil penalty--impermissible defenses--court injunction authorized, when

- 1.** No person shall intentionally cause, aid, or assist a minor to obtain an abortion without the consent or consents required by section 188.028.
- 2.** A person who violates subsection 1 of this section shall be civilly liable to the minor and to the person or persons required to give the consent or consents under section 188.028. A court may award damages to the person or persons adversely affected by a violation of subsection 1 of this section, including compensation for emotional injury without the need for personal presence at the act or event, and the court may further award attorneys' fees, litigation costs, and punitive damages. Any adult who engages in or consents to another person engaging in a sex act with a minor in violation of the provisions of chapter 566, 567, 568, or 573 which results in the minor's pregnancy shall not be awarded damages under this section.
- 3.** It shall not be a defense to a claim brought under this section that the abortion was performed or induced pursuant to consent to the abortion given in a manner that is otherwise lawful in the state or place where the abortion was performed or induced.
- 4.** An unemancipated minor does not have capacity to consent to any action in violation of this section or section 188.028.
- 5.** A court may enjoin conduct that would be in violation of this section upon petition by the attorney general, a prosecuting or circuit attorney, or any person adversely affected or who reasonably may be adversely affected by such conduct, upon a showing that such conduct:
 - (1)** Is reasonably anticipated to occur in the future; or
 - (2)** Has occurred in the past, whether with the same minor or others, and that it is not unreasonable to expect that such conduct will be repeated.

Mo. Rev. Stat. § 188.375. Citation of act--definition--limitation on abortion, when-- violation, penalty--method or technique to be utilized--severability clause

1. This section shall be known and may be cited as the “Late-Term Pain-Capable Unborn Child Protection Act”.
2. As used in this section, the phrase “**late-term pain-capable unborn child**” shall mean an unborn child at twenty weeks gestational age or later.
3. Notwithstanding any other provision of law to the contrary, no abortion shall be performed or induced upon a woman carrying a late-term pain-capable unborn child, except in cases of medical emergency. Any person who knowingly performs or induces an abortion of a late-term pain-capable unborn child in violation of this subsection shall be guilty of a class B felony, as well as subject to suspension or revocation of his or her professional license by his or her professional licensing board. A woman upon whom an abortion is performed or induced in violation of this subsection shall not be prosecuted for a conspiracy to violate the provisions of this subsection.
4. It shall be an affirmative defense for any person alleged to have violated the provisions of subsection 3 of this section that the person performed or induced an abortion because of a medical emergency. The defendant shall have the burden of persuasion that the defense is more probably true than not.
5. Prosecution under subsection 3 of this section shall bar prosecution under section 188.056, 188.057, or 188.058 if prosecution under such sections would violate the provisions of Amendment V to the Constitution of the United States or article I, section 19 of the Constitution of Missouri.
6. When in cases of medical emergency a physician performs or induces an abortion upon a woman in her third trimester carrying a late-term pain-capable unborn child, the physician shall utilize the available method or technique of abortion most likely to preserve the life or health of the unborn child. In cases where the method or technique of abortion most likely to preserve the life or health of the unborn child would present a greater risk to the life or health of the woman than another legally permitted and available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs or induces an abortion upon a woman during her third trimester carrying a late-term pain-capable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.
7. When in cases of medical emergency a physician performs or induces an abortion upon a woman during her third trimester carrying a late-term pain-capable unborn child, there shall be in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion.
8. Any physician who knowingly violates any of the provisions of subsection 6 or 7 of this section shall be guilty of a class D felony, as well as subject to suspension or revocation of his or her professional license by his or her professional licensing board. A woman upon whom an abortion is performed or induced in violation of subsection 6 or 7 of this section shall not be prosecuted for a conspiracy to violate the provisions of those subsections.
9. If any one or more provisions, subsections, sentences, clauses, phrases, or words of this section or the application thereof to any person, circumstance, or period of gestational age is found to be unenforceable, unconstitutional, or invalid by a court of competent jurisdiction, the same is hereby declared to be severable and the balance of the section shall remain effective notwithstanding such unenforceability, unconstitutionality, or invalidity. The general assembly hereby declares that it would have passed this section, and each provision, subsection, sentence,

clause, phrase, or word thereof, irrespective of the fact that any one or more provisions, subsections, sentences, clauses, phrases, or words of the section, or the application of the section to any person, circumstance, or period of gestational age, would be declared unenforceable, unconstitutional, or invalid.

Mo. Rev. Stat. § 565.300 Infant's protection act--definitions--crime of infanticide--penalty--exception--application of law

1. This section shall be known and may be cited as the "Infant's Protection Act".
2. As used in this section, and only in this section, the following terms shall mean:
 - (1) **"Born"**, complete separation of an intact child from the mother regardless of whether the umbilical cord is cut or the placenta detached;
 - (2) **"Living infant"**, a human child, born or partially born, who is alive, as determined in accordance with the usual and customary standards of medical practice and is not dead as determined pursuant to section 194.005, relating to the determination of the occurrence of death, and has not attained the age of thirty days post birth;
 - (3) **"Partially born"**, partial separation of a child from the mother with the child's head intact with the torso. If vaginally delivered, a child is partially separated from the mother when the head in a cephalic presentation, or any part of the torso above the navel in a breech presentation, is outside the mother's external cervical os. If delivered abdominally, a child is partially separated from the mother when the child's head in a cephalic presentation, or any part of the torso above the navel in a breech presentation, is outside the mother's external abdominal wall.
3. A person commits the offense of infanticide if he or she causes the death of a living infant with the purpose to cause said death by an overt act performed when the infant is partially born or born.
4. The offense of infanticide is a class A felony.
5. A physician using procedures consistent with the usual and customary standards of medical practice to save the life of the mother during pregnancy or birth or to save the life of any unborn or partially born child of the same pregnancy shall not be criminally responsible under this section. In no event shall the mother be criminally responsible pursuant to this section for the acts of the physician if the physician is not held criminally responsible pursuant to this section.
6. This section shall not apply to any person who performs or attempts to perform a legal abortion if the act that causes the death is performed prior to the child being partially born, even though the death of the child occurs as a result of the abortion after the child is partially born.
7. Only that person who performs the overt act required under subsection 3 of this section shall be culpable under this section, unless a person, with the purpose of committing infanticide, does any act which is a substantial step towards the commission of the offense which results in the death of the living infant. A **"substantial step"** is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.
8. Nothing in this section shall be interpreted to exclude the defenses otherwise available to any person under the law including defenses provided pursuant to chapters 562 and 563.