

SENATE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE JOINT RESOLUTION NO. 73
JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing section 36 of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to reproductive health care.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the
2 state of Missouri, on Tuesday next following the first Monday
3 in November, 2026, or at a special election to be called by
4 the governor for that purpose, there is hereby submitted to
5 the qualified voters of this state, for adoption or
6 rejection, the following amendment to article I of the
7 Constitution of the state of Missouri:

Section A. Section 36, article I, Constitution of
2 Missouri, is repealed and one new section adopted in lieu
3 thereof, to be known as section 36(a), to read as follows:

Section 36(a). 1. That the state's duty to protect
2 public health and welfare includes protecting the integrity
3 and ethics of the medical profession. The state's interest
4 in regulating the practice of medicine is even greater in
5 areas of medical and scientific uncertainty or in areas that
6 raise grave moral and ethical concerns, including abortion
7 and gender transition procedures.

8 2. An abortion may be performed or induced upon a
9 woman in cases of medical emergency, fetal anomaly, rape, or
10 incest. In the case of abortions performed or induced in

11 cases of rape or incest, the abortion may be performed or
12 induced no later than twelve weeks gestational age of the
13 unborn child.

14 3. The general assembly may enact laws that regulate
15 the provision of abortions, abortion facilities, and
16 abortion providers to ensure the health and safety of the
17 pregnant mother. These laws shall include, but not be
18 limited to, laws requiring physicians providing abortion
19 care to have admitting privileges at a nearby hospital; laws
20 requiring facilities where abortions are performed or
21 induced to be licensed and inspected for clean and safe
22 conditions and adequate instruments to treat any emergencies
23 arising from an abortion procedure; laws requiring
24 physicians to perform a sufficient examination of the woman
25 to determine the unborn child's gestational age and any
26 preexisting medical conditions that may influence the
27 procedure; and laws requiring ultrasounds to be performed
28 only by physicians or licensed medical technicians.

29 4. No abortion shall be performed or induced upon a
30 woman based on a prenatal diagnosis, test, or screening
31 indicating a disability in an unborn child, except in cases
32 of a fetal anomaly.

33 5. No public funds shall be expended for the purpose
34 of performing, inducing, or otherwise assisting any
35 abortion, except in cases of medical emergency, rape, or
36 incest, as otherwise authorized by law.

37 6. Except in cases of a medical emergency in which
38 consent cannot be obtained, no abortion shall be performed
39 or induced upon a woman without her voluntary and informed
40 consent, given freely and without coercion. In the case of
41 a minor under the age of eighteen years who is not
42 emancipated, no person shall knowingly perform or induce an
43 abortion, except in cases of a medical emergency in which

44 consent cannot be obtained, unless the attending physician
45 has obtained: (1) the written consent of the minor and a
46 parent or legal guardian; and (2) documentation of the
47 consent is retained in the minor's medical record. Licensed
48 medical physicians shall be required to provide women with
49 medically accurate information. The general assembly may
50 enact laws to provide for the right of a minor to consent to
51 an abortion as granted by a court order.

52 7. Fetal organ harvesting after an abortion is not
53 permitted under any circumstances.

54 8. A woman's ability to access health care in cases of
55 miscarriages, ectopic pregnancies, and other medical
56 emergencies shall not be infringed by the state.

57 9. No gender transition surgeries shall be knowingly
58 performed on children under eighteen years of age, and no
59 cross-sex hormones or puberty-blocking drugs shall be
60 knowingly prescribed or administered for the purpose of
61 gender transition to children under eighteen years of age.
62 The provisions of this section shall not apply to the use of
63 such surgeries, drugs, or hormones to treat children born
64 with a medically verifiable disorder of sex development or
65 to treat any infection, injury, disease, or disorder
66 unrelated to the purpose of a gender transition.

67 10. Any action challenging the validity of any state
68 law relating to reproductive health care shall be brought in
69 the Circuit Court of Cole County, Missouri. If a pleading,
70 written motion, or other paper drawing into question the
71 constitutionality of a state statute does not include the
72 state, one of its agencies, or one of its officers or
73 employees in an official capacity, the party bringing the
74 action shall file a notice of constitutional question and
75 serve it on the attorney general and the attorney general
76 shall have the right to intervene in the litigation.

11. The general assembly shall have the authority to enact laws to carry out the provisions of this section.

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

(1) "Cross-sex hormones", testosterone, estrogen, or other androgens given to an individual in amounts that are greater or more potent than would normally occur naturally in a healthy individual of the same age and sex;

(2) "Fetal anomaly", a structural or functional abnormality in the unborn child's gestational development that would make life outside the womb impossible;

(3) "Fetal organ harvesting", collection of fetal tissue, organs, or fluids, including any biological material, for the purpose of selling or collecting for scientific purposes, but shall not include the utilization of fetal tissue, organs, or fluids to determine the cause or causes of any anomaly, illness, death, or genetic condition of the unborn child, the paternity of the unborn child, or for law enforcement purposes;

(4) "Gender transition surgery", a surgical procedure performed for the purpose of assisting an individual with identifying with and living as a gender different from his or her biological sex;

(5) "Medical emergency", a condition that, based on reasonable medical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate termination 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. A medical emergency shall include, but not be limited to, an ectopic pregnancy at any point following the diagnosis of such and treatment for a miscarriage;

109 (6) "Puberty-blocking drugs", gonadotropin-releasing
110 hormone analogues or other synthetic drugs used to stop
111 luteinizing hormone secretion and follicle stimulating
112 hormone secretion, synthetic antiandrogen drugs to block the
113 androgen receptor, or any other drug used to delay or
114 suppress pubertal development in children for the purpose of
115 assisting an individual with a gender transition;

116 (7) "Reasonable medical judgment", a medical judgment
117 that would be made by a reasonably prudent physician,
118 knowledgeable about the case and the treatment possibilities
119 with respect to the medical conditions involved.

120 13. All provisions of this section are severable. If
121 any provision of this section is found by a court of
122 competent jurisdiction to be unconstitutional or
123 unconstitutionally enacted, the remaining provisions of this
124 section shall be and remain valid.

2 [Section 36. 1. This Section shall be
3 known as "The Right to Reproductive Freedom
4 Initiative".

5 2. The Government shall not deny or
6 infringe upon a person's fundamental right to
7 reproductive freedom, which is the right to make
8 and carry out decisions about all matters
9 relating to reproductive health care, including
10 but not limited to prenatal care, childbirth,
11 postpartum care, birth control, abortion care,
12 miscarriage care, and respectful birthing
conditions.

13 3. The right to reproductive freedom shall
14 not be denied, interfered with, delayed, or
15 otherwise restricted unless the Government
16 demonstrates that such action is justified by a
17 compelling governmental interest achieved by the
18 least restrictive means. Any denial,
19 interference, delay, or restriction of the right
20 to reproductive freedom shall be presumed
21 invalid. For purposes of this Section, a
22 governmental interest is compelling only if it
23 is for the limited purpose and has the limited
24 effect of improving or maintaining the health of

a person seeking care, is consistent with widely accepted clinical standards of practice and evidence-based medicine, and does not infringe on that person's autonomous decision-making.

4. Notwithstanding subsection 3 of this Section, the general assembly may enact laws that regulate the provision of abortion after Fetal Viability provided that under no circumstance shall the Government deny, interfere with, delay, or otherwise restrict an abortion that in the good faith judgment of a treating health care professional is needed to protect the life or physical or mental health of the pregnant person.

5. No person shall be penalized, prosecuted, or otherwise subjected to adverse action based on their actual, potential, perceived, or alleged pregnancy outcomes, including but not limited to miscarriage, stillbirth, or abortion. Nor shall any person assisting a person in exercising their right to reproductive freedom with that person's consent be penalized, prosecuted, or otherwise subjected to adverse action for doing so.

6. The Government shall not discriminate against persons providing or obtaining reproductive health care or assisting another person in doing so.

7. If any provision of this Section or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

8. For purposes of this Section, the following terms mean:

(1) "Fetal Viability", the point in pregnancy when, in the good faith judgment of a treating health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

(2) "Government",

a. the state of Missouri; or

70 b. any municipality, city, town, village,
71 township, district, authority, public
72 subdivision or public corporation having the
73 power to tax or regulate, or any portion of two
74 or more such entities within the state of
75 Missouri.]

Section B. Pursuant to chapter 116, and other
2 applicable constitutional provisions and laws of this state
3 allowing the general assembly to adopt ballot language for
4 the submission of this joint resolution to the voters of
5 this state, the official summary statement of this
6 resolution shall be as follows:

7 "Shall the Missouri Constitution be amended to:

- 8 • Guarantee access to care for medical
9 emergencies, ectopic pregnancies, and
10 miscarriages;
- 11 • Ensure women's safety during abortions;
- 12 • Ensure parental consent for minors;
- 13 • Allow abortions for medical emergencies,
14 fetal anomalies, rape, and incest;
- 15 • Require physicians to provide medically
16 accurate information; and
- 17 • Protect children from gender transition?".