

SECOND REGULAR SESSION

# HOUSE BILL NO. 2069

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANKLIN.

5587H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 188, RSMo, by adding thereto one new section relating to employee protections for certain disclosures.

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

Section A. Chapter 188, RSMo, is amended by adding thereto one new section, to be known as section 188.160, to read as follows:

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

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

**(2) No supervisor or individual with authority to hire or fire in a hospital, ambulatory surgical center, pathology lab, or disposal facility shall use or threaten to use his or her supervisory authority to knowingly discriminate against, dismiss, penalize, or in any way retaliate against or harass an employee because the employee in good faith reported or disclosed any information under subsection 2 of this section, or in any way**

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.

18 attempt to dissuade, prevent, or interfere with an employee who wishes to report or  
19 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:

25 (1) Alleged facility mismanagement or fraudulent activity; or

26 (2) Alleged violations of applicable federal or state laws or administrative rules  
27 concerning abortions or the handling of fetal remains.

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29 All information disclosed, collected, and maintained under this subsection and under the  
30 written policy requirements of this section shall be accessible to the department at all times  
31 and shall be reviewed by the department at least annually. Complainants shall be notified  
32 of the department's access to such information and of the complainant's right to notify the  
33 department of any information concerning alleged violations of applicable federal or state  
34 laws or administrative rules concerning abortions or the handling of fetal remains.

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

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

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

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

54           **7. Each hospital, ambulatory surgical center, pathology lab, and disposal facility**  
55 **shall, within forty-eight hours of the receipt of a report, notify the employee that his or her**  
56 **report has been received and is being reviewed.**

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