

Playing Politics with Missourians' Reproductive Health: Medically Unnecessary Abortion Restrictions & Rolling Back Nondiscrimination Protections

[Senate Substitute for Senate Bill 5](#) - [Sen. Koenig](#) (R-15, St. Louis)

Anti-abortion politicians are pushing yet another extreme measure that has nothing to do with patient safety and everything to do with restricting access to safe, legal abortion in Missouri.

Senate Bill 5 singles out Missouri abortion providers and health centers to impose additional medically unnecessary restrictions to safe, legal abortion. This measure also politicizes enforcement of abortion laws and prohibits cities from protecting citizens from discrimination based on one's own reproductive health decisions.

Patient health and safety are Planned Parenthood's top priority and are central to its mission.

Every day, Planned Parenthood works to make sure patients receive the high-quality health care they need in a safe, respectful environment. That includes providing abortion.

- Abortion is one of the safest medical procedures performed in the United States. Data, including from the Centers for Disease Control (CDC), show that abortion has a greater than 99 percent safety record.^[1]
- Planned Parenthood adheres to medical standards and guidelines that are informed by the most trusted medical knowledge, as well as professional and scientific organizations, including the CDC, the Food and Drug Administration, the US Preventive Services Task Force, and the American College of Obstetricians and Gynecologists (ACOG).

Senate Bill 5 imposes medically unnecessary restrictions that have one goal: making it more difficult for a woman to access safe, legal abortion. Gov. Greitens and legislators supporting SB 5 have made false statements about the significant level of abortion regulation currently in place in Missouri.

- Recently, a federal district court issued a preliminary injunction blocking two of Missouri's abortion restrictions.^[2] The court enjoined the admitting privilege requirements for abortion providers as well as the physical facility requirements based on the U.S. Supreme Court's

decision in *Whole Woman's Health v. Hellerstedt*.^[3] Even with this injunction in place, Missouri continues to provide stringent regulation of abortion providers.

- Abortion providers are currently required to be licensed as ambulatory surgical centers (ASCs) and can be inspected at any time. While the ASC requirement was recently challenged as unconstitutional, the district court's injunction only applies to the facility requirements, leaving the licensing scheme and inspection requirements in place.
- All abortion providers in Missouri are physicians who are licensed by the Missouri Board of Registration for the Healing Arts and must adhere to strict rules governing the practice of medicine. If there are ever questions about a provider's licensure, the Board may investigate complaints. For concerns regarding services or facilities, the Department of Health & Senior Services (DHSS) may investigate complaints and conduct inspections.
- Under current law and under the existing preliminary injunction, Missouri health centers that perform abortions must also continue to follow extensive regulations for ASCs governing infection control, staffing and training, reporting requirements, and detailed criteria for a quality assurance program. Additional regulations determine how the facility and the facility's board are organized, the development of personnel policies, and numerous additional details about the operation of the facility. These regulations are in addition to the requirements for licensure with DHSS and the state's privilege to inspect the facility at any time.

The targeted regulation of abortion providers (TRAP) provisions in SB 5 do not meet the U.S.

Supreme Court's new standard. It is important for legislators and the public to know that last summer's landmark U.S. Supreme Court decision in *Whole Woman's Health v. Hellerstedt* established a much clearer legal standard that abortion restrictions must meet: the benefit of a given abortion restriction must outweigh the burden it imposes.

Senate Bill 5 politicizes the enforcement of Missouri's abortion laws.

- Senate Bill 5 changes the procedure for enforcement of Missouri abortion laws by granting the attorney general original jurisdiction. Currently, the prosecutor in each county is responsible for enforcing most state laws.
- This bill singles out abortion providers and health centers for politicized regulation and lets a Jefferson City politician supersede local prosecutors' judgment.
- Senate Bill 5 opens Missouri's courts up to entirely subjective and politically-motivated lawsuits. It could be used by the state to target and intimidate lawful abortion providers from providing safe, legal care to their patients.

Senate Bill 5 imposes medically unnecessary data collection and reporting restrictions.

- Senate Bill 5 singles out abortion facilities for stricter inspection and data collection requirements. Even though current law already allows DHSS to inspect abortion facilities at any time, SB 5 requires that such unannounced inspections must occur at least annually for abortion facilities, and requires inspection reports of abortion facilities to be made public.

- Missouri law already requires a sample of fetal tissue from each abortion to be sent to pathologists, which is an atypical state requirement. Senate Bill 5 imposes additional medically unnecessary requirements, including: fetal tissue must be sent to the pathologist within five business days of an abortion, and requires more extensive examinations and reporting requirements with shorter timeframes for pathologists. These requirements have no basis in patient health or safety.
- Senate Bill 5's pathologist requirements could increase time and costs for those doctors. These are medically unnecessary and seem intended solely to discourage pathologists from working with abortion providers.
- These new requirements only make abortion providers more reliant upon the willingness of pathologists to work with them. Imposing more requirements on pathologists could mean that they may choose not to do this work or that their services become prohibitively expensive, putting the Missourians' access to abortion at risk altogether.
- Senate Bill 5 sets up an even more complex bureaucratic system in an effort to harass those who provide abortions or work with abortion providers. By imposing more reporting requirements, this bill adds yet another way in which the state can investigate an abortion provider and ultimately shut them down over an administrative mistake.
- Requiring an annual report to the General Assembly on abortions performed in the state is medically unnecessary; it is just another way to harass and shame women and abortion providers.

Senate Bill 5 is an overly broad attempt to prohibit cities from protecting their citizens against discrimination based on their reproductive health decisions.

- The bill preempts a new St. Louis City law that bans employment and housing discrimination against individuals based on their personal reproductive health decisions. The local law prohibits, for instance, an employer from firing a woman because she gets pregnant, uses birth control, or has an abortion. Senate Bill 5 rolls back these important protections and prohibits all other cities from enacting them.
- Instead of rolling back protections for those who live and work in the City of St. Louis, lawmakers should pass them for all Missourians. Employers should not be allowed to fire or otherwise discriminate against women for their personal decisions about their own health care.
- This bill prohibits cities from regulating so-called "pregnancy resource centers" (PRCs), which are on record providing false and misleading information to women, men and young people about pregnancy and sex. Currently, PRCs are not required to provide factual or medically accurate information.
- Senate Bill 5 would block cities from enforcing laws that protect client confidentiality or guard against false and misleading advertising.

[1] More information: Surgical abortion is not an invasive procedure, as it does not require an incision into the woman's skin or bodily membranes and is performed by gently passing sterile instruments through the vagina, a natural orifice of the body. The contents of the uterus are gently removed through the same openings. Because the vagina is normally colonized with bacteria and by nature is not sterile, regulations designed to preserve a sterile operating field do not apply to the procedure, nor do they make the procedure any safer.

[2] Comprehensive Health of Planned Parenthood Great Plains v. Williams, No. 2:16-CV-04313-HFS, 2017 WL 1407656 (W.D. Mo. Apr. 19, 2017).

[3] 136 S.Ct. 2292 (2016).