

## Provision-by-Provision Review of the New Amendment 3 (HJR 73, 2025)

### Introduction

Missouri voters are being asked to replace the 2024 abortion amendment with a new constitutional section drafted by the General Assembly (HJR 73). While some describe this as a “pro-life improvement,” the text still **constitutionalizes abortion exceptions**, creates **broad loopholes**, and **outsources enforcement** to future legislatures—with no guarantee that those legislators will act in ways that protect life. The following analysis walks through HJR 73 section by section.

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### §36(a)(1) — State duty regarding “medical ethics”

**What it says:** Declares the state’s duty to protect public health and the integrity/ethics of the medical profession, highlighting abortion and gender transition procedures as areas of moral concern.

**Our response:**

- Reframing abortion as a matter of “medical ethics” risks normalizing it as “health care” rather than the taking of human life.
  - Pairs abortion policy with gender-transition policy from the outset, setting up a multi-subject constitutional section that is easier to sell politically but harder to challenge coherently.
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### §36(a)(2) — Exceptions (rape, incest, fetal anomaly, medical emergency)

**What it says:** Allows abortion for **medical emergency** or **fetal anomaly**; and for **rape or incest** up to **12 weeks** gestational age.

**Our response:**

- **No verification standard:** There is **no requirement** that rape/incest be reported or otherwise verified, making the exception easy to claim and hard to police.
  - **“Fetal anomaly” swallows the rule:** Diagnostic errors are common; many healthy children would be aborted under the anomaly exception.
  - **Vague “medical emergency”:** Phrases like “irreversible impairment” are broad and invite expansive interpretation that can justify most abortions.
  - **Unequal protection:** Some babies receive legal protection; others are expressly excluded.
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### §36(a)(3) — Legislature *may* regulate abortion providers/facilities

**What it says:** The General Assembly **may** regulate providers, facilities, licensing/inspections, exams, gestational dating, and ultrasound performance.

**Our response:**

- The verb is **permissive (“may”) not mandatory (“shall”)**—there is **no built-in enforcement** or penalty regime here.
  - Enforcement therefore **depends entirely on who controls the legislature**. If **radical Democrats regain control**, they would have **broad authority to rewrite or relax regulations** in ways hostile to life, using §36(a)(3) as the vehicle.
  - Even with a friendly majority, **future inaction** (or selective action) could leave loopholes wide open.
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### §36(a)(4) — Ban on disability-based abortions

**What it says:** Prohibits abortion **solely** due to disability—**except** in cases of a “fetal anomaly.”

**Our response:**

- The **exception guts the rule**. Labeling a condition an “anomaly” becomes the pathway to the very disability-based abortions the provision claims to reject.
  - Creates a false impression of strong protection for disabled children while keeping a large escape hatch.
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### §36(a)(5) — Public funding limits

**What it says:** No public funds for abortion **except** in **medical emergency, rape, or incest** (as otherwise allowed by law).

**Our response:**

- Still permits **taxpayer-funded abortions** in the exceptions and further normalizes abortion as “health care.”
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### §36(a)(6) — Informed consent; parental consent; judicial bypass

**What it says:** Requires **voluntary and informed consent**; minors need **parental consent** unless a court allows it; requires “medically accurate” information; allows the legislature to provide for court-ordered minor consent.

**Our (softened) response:**

- Requiring informed consent and involving parents can be **positive** in principle.
- However, the **judicial-bypass carve-out** is **vague** and could **circumvent parental involvement** in practice.
- “**Medically accurate**” is undefined here and could, in effect, be **standardized by abortion-industry guidelines**—undermining true informed consent.

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### §36(a)(7) — Fetal organ/tissue harvesting ban

**What it says:** Prohibits fetal organ harvesting after an abortion.

**Our response:**

- We **support a complete ban** on any harvesting or commodification of fetal remains.
- That said, banning organ harvesting **does not address the core injustice**—this section still **permits abortions** under broad exceptions.

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### §36(a)(8) — Miscarriage and ectopic pregnancy

**What it says:** Affirms that treatment of **miscarriages** and **ectopic pregnancies** (and other emergencies) is not infringed.

**Our response:**

- **Misleading framing:** Treatment for miscarriage/ectopic pregnancy is **already lawful** in Missouri; invoking it here functions more as **messaging** than as needed reform.

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### §36(a)(9) — Ban on gender transition procedures for minors

**What it says:** Bans surgeries and prohibits prescribing puberty blockers or cross-sex hormones for minors (with limited exceptions).

**Context & response:**

- Missouri **already has** the **SAFE Act (SB 49, 2023)** restricting such care for minors; **that medication portion sunsets Aug. 28, 2027** unless the sunset is removed. [Missouri Senate+2AP News+2](#)
- In 2025, legislation (e.g., **SB 249**) moved to **remove the 2027 expiration** and keep the protections in place via statute. [Missouri Senate](#)
- **Better approach:** maintain/strengthen this policy **through statute** that is less vulnerable to constitutional “single-subject” challenges tied to abortion, rather than welding unrelated subjects into one constitutional section.

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### §36(a)(10) — All challenges must be filed in Cole County

**What it says:** All actions challenging state laws on “reproductive health care” must be brought in **Cole County**; the Attorney General must be notified and may intervene.

**Our response:**

- Forces every Missourian into a **single venue**, limiting local access and concentrating power.
- **Recent history:** Lawmakers have **targeted Cole County judges** over controversial rulings (e.g., a 2025 bill seeking to remove **Judge Cotton Walker**), underscoring concerns about funneling all cases to one bench. [Missouri Independent](#)

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### §36(a)(11) — Legislative authority to enact laws

**What it says:** The General Assembly **has authority** to enact laws to carry out this section.

**Our response:**

- Again, **permissive** rather than mandatory. Protection hinges on **future legislative will**.
- As with §36(a)(3): if **radical Democrats** (or any abortion-friendly majority) take control, they can **reshape regulations broadly in a direction hostile to life**.

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### §36(a)(12) — Definitions

**What it says:** Defines “**fetal anomaly**,” “**medical emergency**,” “**reasonable medical judgment**,” and terms relating to gender-transition care. Notably, “medical emergency” includes ectopic pregnancy and miscarriage treatment.

**Our response:**

- **Vague/broad terms** (“substantial and irreversible physical impairment,” “reasonable medical judgment”) invite **expansive interpretations**, making the exceptions easy to exploit.

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### §36(a)(13) — Severability

**What it says:** If any provision is struck down, the remainder stands.

**Our response:**

- Legislators often include explicit severability when they **expect court challenges**. This signals they know portions are **legally vulnerable**, but wish to **preserve the rest** (including the abortion permissions) even if courts strike pieces down.

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## Conclusion

HJR 73 **does not** deliver equal protection for every unborn child. It **permits abortion** across multiple **broad exceptions**, **outsources enforcement** to an unpredictable legislature, **funnels lawsuits** to a single county, and **bundles** unrelated subjects that complicate legal defenses. Even well-intentioned elements (informed consent; bans on organ harvesting; public-funding limits) are overshadowed by **structural loopholes** and **permissive drafting**.

If we “trade” some lives to save others, how many will actually be saved—**if any**—once the exceptions, definitions, venue funnel, and legislative discretion are in play? Missouri can do better. We should reject HJR 73 and work for **true equal protection** that defends **all** unborn children without exception.