

SENATE BILL No. 448

By Committee on Federal and State Affairs

3-20

1 AN ACT concerning abortion; relating to medical emergencies; relating to
2 the woman's-right-to-know act; amending K.S.A. 65-6704 and K.S.A.
3 2013 Supp. 65-4a01, 65-4a07, 65-6701, 65-6705, 65-6709, 65-6723
4 and 76-3308 and repealing the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Sec. 1. K.S.A. 2013 Supp. 65-4a01 is hereby amended to read as
8 follows: 65-4a01. As used in K.S.A. 2013 Supp 65-4a01 through 65-4a12,
9 and amendments thereto:

10 (a) "Abortion" means the use or prescription of any instrument,
11 medicine, drug or any other substance or device to terminate the
12 pregnancy of a woman known to be pregnant with an intention other than
13 to increase the probability of a live birth, to preserve the life or health of
14 the child after live birth, or to remove a dead unborn child who died as the
15 result of natural causes in utero, accidental trauma or a criminal assault on
16 the pregnant woman or her unborn child, and which causes the premature
17 termination of the pregnancy.

18 (b) "Ambulatory surgical center" means (b) an ambulatory surgical
19 center as defined in K.S.A. 65-425, and amendments thereto.

20 (c) *"Bodily function" means physical functions only. The term "bodily
21 function" does not include mental or emotional functions.*

22 (e) (d) "Clinic" means any facility, other than a hospital or
23 ambulatory surgical center, in which any second or third trimester, or five
24 or more first trimester abortions are performed in a month.

25 (d) (e) "Department" means the department of health and
26 environment.

27 (e) (f) "Elective abortion" means an abortion for any reason other
28 than to prevent the death of the mother upon whom the abortion is
29 performed; provided, that an abortion may not be deemed one to prevent
30 the death of the mother based on a claim or diagnosis that she will engage
31 in conduct which would result in her death.

32 (f) (g) "Facility" means any clinic, hospital or ambulatory surgical
33 center, in which any second or third trimester elective abortion, or five or
34 more first trimester elective abortions are performed in a month, excluding
35 any abortion performed due to a medical emergency ~~as defined in this act,
36 and amendments thereto.~~

1 ~~(g)~~ (h) "Gestational age" has the same meaning ascribed thereto in
2 K.S.A. 65-6701, and amendments thereto, and shall be determined
3 pursuant to K.S.A. 65-6703, and amendments thereto.

4 ~~(h)~~ (i) "Hospital" means a hospital as defined in subsection (a) or (b)
5 of K.S.A. 65-425, and amendments thereto.

6 ~~(i)~~ (j) "Medical emergency" means a condition that, in a reasonable
7 medical judgment, so complicates the medical condition of the pregnant
8 woman as to necessitate the immediate abortion of her pregnancy ~~without~~
9 ~~first determining gestational age in order~~ to avert her death, or for which a
10 delay necessary to ~~determine gestational age~~ *comply with the applicable*
11 *statutory requirements* will create serious risk of substantial and
12 irreversible physical impairment of a major bodily function. No condition
13 shall be deemed a medical emergency if based on a claim or diagnosis that
14 the woman will engage in conduct which would result in her death or in
15 substantial and irreversible physical impairment of a major bodily
16 function.

17 ~~(j)~~ (k) "Physician" has the same meaning ascribed thereto in K.S.A.
18 65-6701, and amendments thereto.

19 ~~(k)~~ (l) "Secretary" means the secretary of the department of health
20 and environment.

21 Sec. 2. K.S.A. 2013 Supp. 65-4a07 is hereby amended to read as
22 follows: 65-4a07. Except in the case of a medical emergency, ~~as defined in~~
23 ~~this act, and amendments thereto~~, an abortion performed when the
24 gestational age of the unborn child is 22 weeks or more shall be performed
25 in a hospital or ambulatory surgical center licensed pursuant to this act. ~~All~~
26 ~~other abortions shall be performed in a hospital, ambulatory surgical center~~
27 ~~or facility licensed pursuant to this act.~~ All other abortions shall be
28 performed in a facility licensed pursuant to this act, except that a hospital
29 or ambulatory surgical center that does not meet the definition of a facility
30 under this act and that is licensed pursuant to K.S.A. 65-425 et seq., and
31 amendments thereto, may perform abortions.

32 Sec. 3. K.S.A. 2013 Supp. 65-6701 is hereby amended to read as
33 follows: 65-6701. As used in K.S.A. 65-6701 through 65-6721, and
34 amendments thereto:

35 (a) "Abortion" means the use or prescription of any instrument,
36 medicine, drug or any other substance or device to terminate the
37 pregnancy of a woman known to be pregnant with an intention other than
38 to increase the probability of a live birth, to preserve the life or health of
39 the child after live birth, or to remove a dead unborn child who died as the
40 result of natural causes in utero, accidental trauma or a criminal assault on
41 the pregnant woman or her unborn child, and which causes the premature
42 termination of the pregnancy.

43 (b) "Bodily function" means physical functions only. The term

1 "bodily function" does not include mental or emotional functions.

2 (c) "Counselor" means a person who is: (1) Licensed to practice
3 medicine and surgery; (2) licensed to practice professional or practical
4 nursing; (3) the following persons licensed to practice behavioral sciences:
5 Licensed psychologists, licensed master's level psychologists, licensed
6 clinical psychotherapists, licensed social workers, licensed specialist
7 clinical social workers, licensed marriage and family therapists, licensed
8 clinical marriage and family therapists, licensed professional counselors,
9 licensed clinical professional counselors; (4) a licensed physician assistant;
10 or (5) a currently ordained member of the clergy or religious authority of
11 any religious denomination or society. Counselor does not include the
12 physician who performs or induces the abortion or a physician or other
13 person who assists in performing or inducing the abortion.

14 (d) "Department" means the department of health and environment.

15 (e) "Fertilization" means the fusion of a human spermatozoon with a
16 human ovum.

17 (f) "Gestational age" means the time that has elapsed since the first
18 day of the woman's last menstrual period.

19 (g) "Medical emergency" means a condition that, in reasonable
20 medical judgment, so complicates the medical condition of the pregnant
21 woman as to necessitate the immediate abortion of her pregnancy ~~without~~
22 ~~first determining gestational age~~ to avert the death of the woman or for
23 which a delay necessary to ~~determine gestational age~~ *comply with the*
24 *applicable statutory requirements* will create serious risk of substantial and
25 irreversible physical impairment of a major bodily function. No condition
26 shall be deemed a medical emergency if based on a claim or diagnosis that
27 the woman will engage in conduct which would result in her death or in
28 substantial and irreversible physical impairment of a major bodily
29 function.

30 (h) "Minor" means a person less than 18 years of age.

31 (i) "Physician" means a person licensed to practice medicine and
32 surgery in this state.

33 (j) "Pregnant" or "pregnancy" means that female reproductive
34 condition of having an unborn child in the mother's body.

35 (k) "Qualified person" means an agent of the physician who is a
36 psychologist, licensed social worker, licensed professional counselor,
37 licensed marriage and family therapist, licensed master's level
38 psychologist, licensed clinical psychotherapist, registered nurse or
39 physician.

40 (l) "Unemancipated minor" means any minor who has never been: (1)
41 Married; or (2) freed, by court order or otherwise, from the care, custody
42 and control of the minor's parents.

43 (m) "Viable" means that stage of fetal development when it is the

1 physician's judgment according to accepted obstetrical or neonatal
2 standards of care and practice applied by physicians in the same or similar
3 circumstances that there is a reasonable probability that the life of the child
4 can be continued indefinitely outside the mother's womb with natural or
5 artificial life-supportive measures.

6 Sec. 4. K.S.A. 65-6704 is hereby amended to read as follows: 65-
7 6704. (a) Before the performance of an abortion upon a minor, a counselor
8 shall provide pregnancy information and counseling in a manner that can
9 be understood by the minor and allows opportunity for the minor's
10 questions to be addressed. A parent or guardian, or a person 21 or more
11 years of age who is not associated with the abortion provider and who has
12 a personal interest in the minor's well-being, shall accompany the minor
13 and be involved in the minor's decision-making process regarding whether
14 to have an abortion. Such information and counseling shall include:

15 (1) The alternatives available to the minor, including abortion,
16 adoption and other alternatives to abortion;

17 (2) an explanation that the minor may change a decision to have an
18 abortion at any time before the abortion is performed or may decide to
19 have an abortion at any time while an abortion may be legally performed;

20 (3) make available to the minor information on agencies available to
21 assist the minor and agencies from which birth control information is
22 available;

23 (4) discussion of the possibility of involving the minor's parent or
24 parents, other adult family members or guardian in the minor's decision-
25 making; and

26 (5) information regarding the provisions of K.S.A. 65-6705 and the
27 minor's rights under such provisions.

28 (b) After the performance of an abortion on a minor, a counselor shall
29 provide counseling to assist the minor in adjusting to any post-abortion
30 problems that the minor may have.

31 (c) After the counselor provides information and counseling to a
32 minor as required by this section, the counselor shall have the minor sign
33 and date a statement setting forth the requirements of subsections (a) and
34 (b) and declaring that the minor has received information and counseling
35 in accordance with those requirements.

36 (d) The counselor shall also sign and date the statement and shall
37 include the counselor's business address and business telephone number.
38 The counselor shall keep a copy for the minor's medical record and shall
39 give the form to the minor or, if the minor requests and if the counselor is
40 not the attending physician, transmit the statement to the minor's attending
41 physician. Such medical record shall be maintained as otherwise provided
42 by law.

43 (e) The provision by a counselor of written materials which contain

1 information and counseling meeting the requirements of subsections (a)
2 and (b) and which is signed by the minor shall be presumed to be evidence
3 of compliance with the requirements of this section.

4 (f) The requirements of subsection (a) shall not apply when, ~~in the~~
5 ~~best medical judgment of the attending physician based on the facts of the~~
6 ~~case, an emergency exists that threatens the health, safety or well-being of~~
7 ~~the minor as to require an abortion~~ *a medical emergency exists*. A
8 physician who does not comply with the requirements of this section by
9 reason of this exception shall state in the medical record of the abortion the
10 medical indications on which the physician's judgment was based.

11 Sec. 5. K.S.A. 2013 Supp. 65-6705 is hereby amended to read as
12 follows: 65-6705. (a) Except in the case of a medical emergency ~~or as~~
13 ~~otherwise provided in this section~~, no person shall perform an abortion
14 upon an unemancipated minor, unless the person first obtains the
15 notarized written consent of the minor and both parents or the legal
16 guardian of the minor.

17 (1) If the minor's parents are divorced or otherwise unmarried and
18 living separate and apart, then the written consent of the parent with
19 primary custody, care and control of such minor shall be sufficient.

20 (2) If the minor's parents are married and one parent is not available
21 to the person performing the abortion in a reasonable time and manner,
22 then the written consent of the parent who is available shall be sufficient.

23 (3) If the minor's pregnancy was caused by sexual intercourse with
24 the minor's natural father, adoptive father, stepfather or legal guardian,
25 then the written consent of the minor's mother shall be sufficient. Notice of
26 such circumstances shall be reported to the proper authorities as provided
27 in K.S.A. 2013 Supp. 38-2223, and amendments thereto.

28 (b) After receiving counseling as provided by subsection (a) of
29 K.S.A. 65-6704, and amendments thereto, the minor may object to the
30 written consent requirement set forth in subsection (a). If the minor so
31 objects, the minor may petition, on her own behalf or by an adult of her
32 choice, the district court of any county of this state for a waiver of the
33 written consent requirement. If the minor so desires, the counselor who
34 counseled the minor as required by K.S.A. 65-6704, and amendments
35 thereto, shall notify the court and the court shall ensure that the minor or
36 the adult petitioning on the minor's behalf is given assistance in preparing
37 and filing the petition. The minor may participate in proceedings in the
38 court on the minor's own behalf or through the adult petitioning on the
39 minor's behalf. The court shall provide a court-appointed counsel to
40 represent the minor at no cost to the minor.

41 (c) Court proceedings under this section shall be anonymous and the
42 court shall ensure that the minor's identity is kept confidential. The court
43 shall order that a confidential record of the evidence in the proceeding be

1 maintained. All persons shall be excluded from hearings under this section
2 except the minor, her attorney and such other persons whose presence is
3 specifically requested by the applicant or her attorney.

4 (d) Consent shall be waived if the court finds by clear and
5 convincing evidence that either: (1) The minor is mature and well-
6 informed enough to make the abortion decision on her own; or (2) the
7 consent of the individuals specified in subsection (a) would not be in the
8 best interest of the minor.

9 (e) A court that conducts proceedings under this section shall issue
10 written and specific factual findings and legal conclusions supporting its
11 decision as follows:

12 (1) Granting the minor's application for waiver of consent pursuant to
13 this section, if the court finds that the minor is mature and well-enough
14 informed to make the abortion decision without the consent of the
15 individuals specified in subsection (a);

16 (2) granting the minor's application for waiver of consent if the court
17 finds that the minor is immature but that consent of the individuals
18 specified in subsection (a) would not be in the minor's best interest; or

19 (3) denying the application if the court finds that the minor is
20 immature and that waiver of the consent of the individuals specified in
21 subsection (a) would not be in the minor's best interest.

22 (f) The court shall give proceedings under this section such
23 precedence over other pending matters as necessary to ensure that the
24 court may reach a decision promptly. The court shall issue a written order
25 which shall be issued immediately to the minor, or her attorney or other
26 individual designated by the minor to receive the order. If the court fails to
27 rule within 48 hours, excluding Saturdays and Sundays, of the time of the
28 filing of the minor's application, the application shall be deemed granted.

29 (g) An expedited anonymous appeal shall be available to any minor.
30 The record on appeal shall be completed and the appeal shall be perfected
31 within five days from the filing of the notice to appeal.

32 (h) The supreme court shall promulgate any rules it finds are
33 necessary to ensure that proceedings under this act are handled in an
34 expeditious and anonymous manner.

35 (i) No fees shall be required of any minor who avails herself of the
36 procedures provided by this section.

37 (j) (1) ~~No consent shall be required under this section if in the best~~
38 ~~medical judgment of the attending physician based on the facts of the case,~~
39 ~~an emergency exists that threatens the health, safety or well-being of the~~
40 ~~minor as to require an abortion when a medical emergency exists.~~

41 (2) A physician acting pursuant to this subsection shall state in the
42 medical record of the abortion the medical indications on which the
43 physician's judgment was based. The medical basis for the determination

1 shall also be reported by the physician as part of the written report made
2 by the physician to the secretary of health and environment under K.S.A.
3 65-445, and amendments thereto.

4 (k) Any person who intentionally performs an abortion with
5 knowledge that, or with reckless disregard as to whether, the person upon
6 whom the abortion is to be performed is an unemancipated minor, and who
7 intentionally and knowingly fails to conform to any requirement of this
8 section, is guilty of a class A person misdemeanor.

9 (l) Except as necessary for the conduct of a proceeding pursuant to
10 this section, it is a class B person misdemeanor for any individual or entity
11 to willfully or knowingly: (1) Disclose the identity of a minor petitioning
12 the court pursuant to this section or to disclose any court record relating to
13 such proceeding; or (2) permit or encourage disclosure of such minor's
14 identity or such record.

15 (m) Prior to conducting proceedings under this section, the court may
16 require the minor to participate in an evaluation session with a psychiatrist,
17 licensed psychologist or licensed clinical social worker. Such evaluation
18 session shall be for the purpose of developing trustworthy and reliable
19 expert opinion concerning the minor's sufficiency of knowledge, insight,
20 judgment and maturity with regard to her abortion decision in order to aid
21 the court in its decision and to make the state's resources available to the
22 court for this purpose. Persons conducting such sessions may employ the
23 information and materials referred to in K.S.A. 65-6708 et seq., and
24 amendments thereto, in examining how well the minor is informed about
25 pregnancy, fetal development, abortion risks and consequences and
26 abortion alternatives, and should also endeavor to verify that the minor is
27 seeking an abortion of her own free will and is not acting under
28 intimidation, threats, abuse, undue pressure or extortion by any other
29 persons. The results of such evaluation shall be reported to the court by the
30 most expeditious means, commensurate with security and confidentiality,
31 to assure receipt by the court prior to or at the proceedings initiated
32 pursuant to this section.

33 (n) In determining if a minor is mature and well-enough informed to
34 make the abortion decision without parental consent, the court shall take
35 into account the minor's experience level, perspective and judgment. In
36 assessing the minor's experience level, the court shall consider, along with
37 any other relevant factors, the minor's age, experience working outside the
38 home, living away from home, traveling on her own, handling personal
39 finances and making other significant decisions. In assessing the minor's
40 perspective, the court shall consider, along with any other relevant factors,
41 what steps the minor has taken to explore her options and the extent to
42 which she considered and weighed the potential consequences of each
43 option. In assessing the minor's judgment, the court shall consider, along

1 with any other relevant factors, her conduct since learning of her
2 pregnancy and her intellectual ability to understand her options and to
3 make informed decisions.

4 (o) The judicial record of any court proceedings initiated pursuant to
5 this section shall upon final determination by the court be compiled by the
6 court. One copy of the judicial record shall be given to the minor or an
7 adult chosen by the minor to bring the initial petition under this section. A
8 second copy of the judicial record shall be sent by the court to the abortion
9 provider who performed or will perform the abortion for inclusion in the
10 minor's medical records and shall be maintained by the abortion provider
11 for at least 10 years.

12 (p) The chief judge of each judicial district shall send annual reports
13 to the department of health and environment disclosing in a nonidentifying
14 manner:

15 (1) The number of minors seeking a bypass of the parental consent
16 requirements through court proceedings under this section;

17 (2) the number of petitions granted;

18 (3) the reasons for granting such petitions;

19 (4) any subsequent actions taken to protect the minor from domestic
20 or predator abuse;

21 (5) each minor's state of residence, age and disability status; and

22 (6) the gestational age of the unborn child if the petition is granted.

23 (q) (1) A custodial parent or legal guardian of the minor may pursue
24 civil remedies against individuals, including the physician and abortion
25 clinic staff, who violate the rights of parents, legal guardian or the minor
26 as set forth in this section.

27 (2) Such relief shall include:

28 (A) Money damages for all injuries, psychological and physical,
29 occasioned by the violation of this section;

30 (B) the cost of any subsequent medical treatment such minor might
31 require because of the abortion performed without parental consent or
32 knowledge, or without a court order, in violation of this section;

33 (C) statutory damages equal to three times the cost of the abortion;
34 and

35 (D) reasonable attorney fees.

36 (r) In the course of a judicial hearing to waive parental consent, if the
37 court has reason to suspect that a minor has been injured as a result of
38 physical, mental or emotional abuse or neglect or sexual abuse, the court
39 shall report the matter promptly as provided in subsection (c) of K.S.A.
40 2013 Supp. 38-2223, and amendments thereto. In the course of reporting
41 suspected child abuse or neglect to the appropriate state authorities,
42 nothing in this section shall abridge or otherwise modify the anonymity or
43 confidentiality provisions of the judicial waiver proceeding as specified in

1 this section.

2 (s) Nothing in this section shall be construed to create a right to an
3 abortion. Notwithstanding any provision of this section, a person shall not
4 perform an abortion that is prohibited by law.

5 Sec. 6. K.S.A. 2013 Supp. 65-6709 is hereby amended to read as
6 follows: 65-6709. No abortion shall be performed or induced without the
7 voluntary and informed consent of the woman upon whom the abortion is
8 to be performed or induced. Except in the case of a medical emergency,
9 consent to an abortion is voluntary and informed only if:

10 (a) At least 24 hours before the abortion the physician who is to
11 perform the abortion or the referring physician has informed the woman in
12 writing of:

13 (1) The name of the physician who will perform the abortion;

14 (2) a description of the proposed abortion method;

15 (3) a description of risks related to the proposed abortion method,
16 including risk of premature birth in future pregnancies, risk of breast
17 cancer and risks to the woman's reproductive health and alternatives to the
18 abortion that a reasonable patient would consider material to the decision
19 of whether or not to undergo the abortion;

20 (4) the probable gestational age of the unborn child at the time the
21 abortion is to be performed and that Kansas law requires the following:
22 "No person shall perform or induce an abortion when the unborn child is
23 viable unless such person is a physician and has a documented referral
24 from another physician not financially associated with the physician
25 performing or inducing the abortion and both physicians determine that:
26 (1) The abortion is necessary to preserve the life of the pregnant woman;
27 or (2) a continuation of the pregnancy will cause a substantial and
28 irreversible physical impairment of a major bodily function of the pregnant
29 woman." If the child is born alive, the attending physician has the legal
30 obligation to take all reasonable steps necessary to maintain the life and
31 health of the child;

32 (5) the probable anatomical and physiological characteristics of the
33 unborn child at the time the abortion is to be performed;

34 (6) the contact information for counseling assistance for medically
35 challenging pregnancies, the contact information for perinatal hospice
36 services and a listing of websites for national perinatal assistance,
37 including information regarding which entities provide such services free
38 of charge;

39 (7) the medical risks associated with carrying an unborn child to
40 term; and

41 (8) any need for anti-Rh immune globulin therapy, if she is Rh
42 negative, the likely consequences of refusing such therapy and the cost of
43 the therapy.

1 (b) At least 24 hours before the abortion, the physician who is to
2 perform the abortion, the referring physician or a qualified person has
3 informed the woman in writing that:

4 (1) Medical assistance benefits may be available for prenatal care,
5 childbirth and neonatal care, and that more detailed information on the
6 availability of such assistance is contained in the printed materials given to
7 her and described in K.S.A. 65-6710, and amendments thereto;

8 (2) the informational materials in K.S.A. 65-6710, and amendments
9 thereto, are available in printed form and online, and describe the unborn
10 child, list agencies which offer alternatives to abortion with a special
11 section listing adoption services and list providers of free ultrasound
12 services;

13 (3) the father of the unborn child is liable to assist in the support of
14 her child, even in instances where he has offered to pay for the abortion
15 except that in the case of rape this information may be omitted;

16 (4) the woman is free to withhold or withdraw her consent to the
17 abortion at any time prior to invasion of the uterus without affecting her
18 right to future care or treatment and without the loss of any state or
19 federally-funded benefits to which she might otherwise be entitled;

20 (5) the abortion will terminate the life of a whole, separate, unique,
21 living human being; and

22 (6) by no later than 20 weeks from fertilization, the unborn child has
23 the physical structures necessary to experience pain. There is evidence that
24 by 20 weeks from fertilization unborn children seek to evade certain
25 stimuli in a manner that in an infant or an adult would be interpreted to be
26 a response to pain. Anesthesia is routinely administered to unborn children
27 who are 20 weeks from fertilization or older who undergo prenatal surgery.

28 (c) At least 30 minutes prior to the abortion procedure, prior to
29 physical preparation for the abortion and prior to the administration of
30 medication for the abortion, the woman shall meet privately with the
31 physician who is to perform the abortion and such person's staff to ensure
32 that she has an adequate opportunity to ask questions of and obtain
33 information from the physician concerning the abortion.

34 (d) At least 24 hours before the abortion, the woman is given a copy
35 of the informational materials described in K.S.A. 65-6710, and
36 amendments thereto. If the woman asks questions concerning any of the
37 information or materials, answers shall be provided to her in her own
38 language.

39 (e) The woman certifies in writing on a form provided by the
40 department, prior to the abortion, that the information required to be
41 provided under subsections (a), (b) and (d) has been provided and that she
42 has met with the physician who is to perform the abortion on an individual
43 basis as provided under subsection (c). All physicians who perform

1 abortions shall report the total number of certifications received monthly
2 to the department. The total number of certifications shall be reported by
3 the physician as part of the written report made by the physician to the
4 secretary of health and environment under K.S.A. 65-445, and
5 amendments thereto. The department shall make the number of
6 certifications received available on an annual basis.

7 (f) Prior to the performance of the abortion, the physician who is to
8 perform the abortion or the physician's agent receives a copy of the written
9 certification prescribed by subsection (e) of this section.

10 (g) The woman is not required to pay any amount for the abortion
11 procedure until the 24-hour waiting period has expired.

12 (h) A physician who will use ultrasound equipment preparatory to or
13 in the performance of the abortion, at least 30 minutes prior to the
14 performance of the abortion:

15 (1) Informs the woman that she has the right to view the ultrasound
16 image of her unborn child, at no additional expense to her;

17 (2) informs the woman that she has the right to receive a physical
18 picture of the ultrasound image, at no additional expense to her;

19 (3) offers the woman the opportunity to view the ultrasound image
20 and receive a physical picture of the ultrasound image;

21 (4) certifies in writing that the woman was offered the opportunity to
22 view the ultrasound image and receive a physical picture of the ultrasound
23 image at least 30 minutes prior to the performance of the abortion; and

24 (5) obtains the woman's signed acceptance or rejection of the
25 opportunity to view the ultrasound image and receive a physical picture of
26 the ultrasound image.

27 If the woman accepts the offer and requests to view the ultrasound
28 image, receive a physical picture of the ultrasound image or both, her
29 request shall be granted by the physician at no additional expense to the
30 woman. The physician's certification shall be time-stamped at the time the
31 opportunity to view the ultrasound image and receive a physical picture of
32 the ultrasound image was offered.

33 (i) A physician who will use heart monitor equipment preparatory to
34 or in the performance of the abortion, at least 30 minutes prior to the
35 performance of the abortion:

36 (1) Informs the woman that she has the right to listen to the heartbeat
37 of her unborn child, at no additional expense to her;

38 (2) offers the woman the opportunity to listen to the heartbeat of her
39 unborn child;

40 (3) certifies in writing that the woman was offered the opportunity to
41 listen to the heartbeat of her unborn child at least 30 minutes prior to the
42 performance of the abortion; and

43 (4) obtains the woman's signed acceptance or rejection of the

1 opportunity to listen to the heartbeat of her unborn child.

2 If the woman accepts the offer and requests to listen to the heartbeat of
3 her unborn child, her request shall be granted by the physician at no
4 additional expense to the woman. The physician's certification shall be
5 time-stamped at the time the opportunity to listen to the heartbeat of her
6 unborn child was offered.

7 (j) The physician's certification required by subsections (h) and (i)
8 together with the pregnant woman's signed acceptance or rejection of such
9 offer shall be placed in the woman's medical file in the physician's office
10 and kept for 10 years. However, in the case of a minor, the physician shall
11 keep a copy of the certification and the signed acceptance or rejection in
12 the minor's medical file for five years past the minor's majority, but in no
13 event less than 10 years.

14 (k) Any private office, freestanding surgical outpatient clinic or other
15 facility or clinic in which abortions are performed shall conspicuously post
16 a sign in a location so as to be clearly visible to patients. The sign required
17 pursuant to this subsection shall be printed with lettering that is legible and
18 shall be at least three quarters of an inch boldfaced type. The sign shall
19 include the address for the pregnancy resources website published and
20 maintained by the department of health and environment, and the
21 following text:

22 Notice: It is against the law for anyone, regardless of their relationship
23 to you, to force you to have an abortion. By law, we cannot perform an
24 abortion on you unless we have your freely given and voluntary consent. It
25 is against the law to perform an abortion on you against your will. You
26 have the right to contact any local or state law enforcement agency to
27 receive protection from any actual or threatened physical abuse or
28 violence. You have the right to change your mind at any time prior to the
29 actual abortion and request that the abortion procedure cease. It is
30 unlawful for anyone to make you have an abortion against your will, even
31 if you are a minor. The father of your child must provide support for the
32 child, even if he has offered to pay for an abortion. If you decide not to
33 have an abortion, you may qualify for financial help for pregnancy,
34 childbirth and newborn care. If you qualify, medicaid will pay or help pay
35 the cost of doctor, clinic, hospital and other related medical expenses,
36 including childbirth delivery services and care for your newborn baby.
37 Many agencies are willing to provide assistance so that you may carry
38 your child to term, and to assist you after your child's birth.

39 The provisions of this subsection shall not apply to any private office,
40 freestanding surgical outpatient clinic or other facility or clinic which
41 performs abortions only when necessary to prevent the death of the
42 pregnant woman.

43 (l) Any private office, freestanding surgical outpatient clinic or other

1 facility or clinic in which abortions are performed that has a website shall
2 publish an easily identifiable link on the homepage of such website that
3 directly links to the department of health and environment's website that
4 provides informed consent materials under the woman's-right-to-know act.
5 Such link shall read: "The Kansas Department of Health and Environment
6 maintains a website containing ~~objective, nonjudgmental, scientifically~~
7 ~~accurate~~ information about the development of the unborn child, as well as
8 video of sonogram images of the unborn child at various stages of
9 development. The Kansas Department of Health and Environment's
10 website can be reached by clicking here."

11 (m) For purposes of this section:

12 (1) The term "human being" means an individual living member of
13 the species of homo sapiens, including the unborn human being during the
14 entire embryonic and fetal ages from fertilization to full gestation.

15 (2) The term "medically challenging pregnancy" means a pregnancy
16 where the unborn child is diagnosed as having: (A) A severe anomaly; or
17 (B) an illness, disease or defect which is invariably fatal.

18 Sec. 7. K.S.A. 2013 Supp. 65-6723 is hereby amended to read as
19 follows: 65-6723. As used in K.S.A. 2013 Supp. 65-6722 through 65-
20 6724, and amendments thereto:

21 (a) "Abortion" means the use or prescription of any instrument,
22 medicine, drug or any other substance or device to terminate the
23 pregnancy of a woman known to be pregnant with an intention other than
24 to increase the probability of a live birth, to preserve the life or health of
25 the child after live birth, or to remove a dead unborn child who died as the
26 result of natural causes in utero, accidental trauma or a criminal assault on
27 the pregnant woman or her unborn child, and which causes the premature
28 termination of the pregnancy.

29 (b) "Bodily function" means physical function. The term "bodily
30 function" does not include mental or emotional functions.

31 (c) "Department" means the department of health and environment.

32 (d) "Gestational age" means the time that has elapsed since the first
33 day of the woman's last menstrual period.

34 (e) "Medical emergency" means a condition that, in reasonable
35 medical judgment, so complicates the medical condition of the pregnant
36 woman as to necessitate the immediate abortion of her pregnancy ~~without~~
37 ~~first determining gestational age~~ to avert her death or for which a delay
38 necessary to ~~determine gestational age~~ *comply with the applicable*
39 *statutory requirements* will create serious risk of substantial and
40 irreversible physical impairment of a major bodily function. No condition
41 shall be deemed a medical emergency if based on a claim or diagnosis that
42 the woman will engage in conduct which would result in her death or in
43 substantial and irreversible physical impairment of a major bodily

1 function.

2 (f) "Pain-capable unborn child" means an unborn child having
3 reached the gestational age of 22 weeks or more.

4 (g) "Physician" means a person licensed to practice medicine and
5 surgery in this state.

6 (h) "Pregnant" or "pregnancy" means that female reproductive
7 condition of having an unborn child in the mother's body.

8 Sec. 8. K.S.A. 2013 Supp. 76-3308 is hereby amended to read as
9 follows: 76-3308. (a) The authority shall have all the powers necessary to
10 carry out the purposes and provisions of this act, including, without
11 limitation, the following powers to:

12 (1) Have the duties, privileges, immunities, rights, liabilities and
13 disabilities of a body corporate and a political instrumentality of the state;

14 (2) have perpetual existence and succession;

15 (3) adopt, have and use a seal and to alter the same at its pleasure;

16 (4) sue and be sued in its own name;

17 (5) make and execute contracts, guarantees or any other instruments
18 and agreements necessary or convenient for the exercise of its powers and
19 functions including, without limitation, to make and execute contracts with
20 hospitals or other health care businesses to operate and manage any or all
21 of the hospital facilities or operations and to incur liabilities and secure the
22 obligations of any entity or individual;

23 (6) borrow money and to issue bonds evidencing the same and pledge
24 all or any part of the authority's assets therefor;

25 (7) purchase, lease, trade, exchange or otherwise acquire, maintain,
26 hold, improve, mortgage, sell, lease and dispose of personal property,
27 whether tangible or intangible, and any interest therein; and to purchase,
28 lease, trade, exchange or otherwise acquire real property or any interest
29 therein, and to maintain, hold, improve, mortgage, lease and otherwise
30 transfer such real property, so long as such transactions do not conflict
31 with the mission of the authority as specified in this act;

32 (8) incur or assume indebtedness to, and enter into contracts with the
33 Kansas development finance authority, which is authorized to borrow
34 money and provide financing for the authority;

35 (9) develop policies and procedures generally applicable to the
36 procurement of goods, services and construction, based upon sound
37 business practices;

38 (10) contract for and to accept any gifts, grants and loans of funds,
39 property, or any other aid in any form from the federal government, the
40 state, any state agency, or any other source, or any combination thereof,
41 and to comply with the provisions of the terms and conditions thereof;

42 (11) acquire space, equipment, services, supplies and insurance
43 necessary to carry out the purposes of this act;

1 (12) deposit any moneys of the authority in any banking institution
2 within or without the state or in any depository authorized to receive such
3 deposits, one or more persons to act as custodians of the moneys of the
4 authority, to give surety bonds in such amounts in form and for such
5 purposes as the board requires;

6 (13) procure such insurance, participate in such insurance plans or
7 provide such self insurance or both as it deems necessary or convenient to
8 carry out the purposes and provisions of this act; the purchase of
9 insurance, participation in an insurance plan or creation of a self-insurance
10 fund by the authority shall not be deemed as a waiver or relinquishment of
11 any sovereign immunity to which the authority or its officers, directors,
12 employees or agents are otherwise entitled;

13 (14) appoint, supervise and set the salary and compensation of a
14 president of the authority who shall be appointed by and serve at the
15 pleasure of the board;

16 (15) fix, revise, charge and collect rates, rentals, fees and other
17 charges for the services or facilities furnished by or on behalf of the
18 authority, and to establish policies and procedures regarding any such
19 service rendered for the use, occupancy or operation of any such facility;
20 such charges and policies and procedures not to be subject to supervision
21 or regulation by any commission, board, bureau or agency of the state; and

22 (16) do any and all things necessary or convenient to carry out the
23 authority's purposes and exercise the powers given in this act.

24 (b) The authority may create, own in whole or in part, or otherwise
25 acquire or dispose of any entity organized for a purpose related to or in
26 support of the mission of the authority.

27 (c) The authority may participate in joint ventures with individuals,
28 corporations, governmental bodies or agencies, partnerships, associations,
29 insurers or other entities to facilitate any activities or programs consistent
30 with the public purpose and intent of this act.

31 (d) The authority may create a nonprofit entity or entities for the
32 purpose of soliciting, accepting and administering grants, outright gifts and
33 bequests, endowment gifts and bequests and gifts and bequests in trust
34 which entity or entities shall not engage in trust business.

35 (e) In carrying out any activities authorized by this act, the authority
36 may provide appropriate assistance, including the making of loans and
37 providing time of employees, to corporations, partnerships, associations,
38 joint ventures or other entities, whether or not such corporations,
39 partnerships, associations, joint ventures or other entities are owned or
40 controlled in whole or in part, directly or indirectly, by the authority.

41 (f) Effective with the transfer date, all moneys of the authority shall
42 be deposited in one or more banks or trust companies in one or more
43 special accounts. All banks and trust companies are authorized to give

1 security for such deposits if required by the authority. The moneys in such
2 accounts shall be paid out on a warrant or other orders of the treasurer of
3 the authority or any such other person or persons as the authority may
4 authorize to execute such warrants or orders.

5 (g) Notwithstanding any provision of law to the contrary, the
6 authority, effective with the transfer date, may invest the authority's
7 operating funds in any obligations or securities as authorized by the board.
8 The board shall adopt written investment guidelines.

9 (h) The authority is authorized to negotiate contracts with one or
10 more qualified parties to provide collection services. The selection of a
11 collection services provider shall be based on responses to a request for
12 proposals from qualified professional firms and shall be administered in
13 accordance with policies adopted by the board.

14 (i) Notwithstanding any provision of law to the contrary, no abortion
15 shall be performed, except in the event of a medical emergency, in any
16 medical facility, hospital or clinic owned, leased or operated by the
17 authority. The provisions of this subsection are not applicable to any
18 member of the physician faculty of the university of Kansas school of
19 medicine when such abortion is performed outside the scope of such
20 member's employment on property not owned, leased or operated by the
21 authority. As used in this subsection, "medical emergency" means a
22 condition that, in reasonable medical judgment, so complicates the medical
23 condition of the pregnant woman as to necessitate the immediate abortion
24 of her pregnancy to avert the death of the woman *or for which a delay*
25 *necessary to comply with the applicable statutory requirements will create*
26 *serious risk of substantial and irreversible physical impairment of a major*
27 *bodily function. No condition shall be deemed a medical emergency if*
28 *based on a claim or diagnosis that the woman will engage in conduct*
29 *which would result in her death or in substantial and irreversible physical*
30 *impairment of a major bodily function.*

31 Sec. 9. K.S.A. 65-6704 and K.S.A. 2013 Supp. 65-4a01, 65-4a07, 65-
32 6701, 65-6705, 65-6709, 65-6723 and 76-3308 are hereby repealed.

33 Sec. 10. This act shall take effect and be in force from and after its
34 publication in the Kansas register.