

As Amended by House Committee

Session of 2024

HOUSE BILL No. 2749

By Committee on Health and Human Services

Requested by Representative Bryce on behalf of Kansans for Life

2-7

1 AN ACT concerning abortion; relating to reports on abortions performed
2 in this state; requiring the reporting of the reasons for each abortion
3 performed at a medical care facility or by a healthcare provider;
4 amending K.S.A. 2023 Supp. 65-445 and repealing the existing section.
5

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

7 Section 1. K.S.A. 2023 Supp. 65-445 is hereby amended to read as
8 follows: 65-445. (a) Every medical care facility shall keep written records
9 of all pregnancies that are lawfully terminated within such medical care
10 facility and shall ~~annually~~ submit a written report thereon *biannually* to the
11 secretary of health and environment in the manner and form prescribed by
12 the secretary. Every person licensed to practice medicine and surgery shall
13 keep a record of all pregnancies that are lawfully terminated by such
14 person in a location other than a medical care facility and shall ~~annually~~
15 submit a written report thereon *biannually* to the secretary of health and
16 environment in the manner and form prescribed by the secretary.

17 (b) Each report required by this section shall include the number of
18 pregnancies terminated during the period of time covered by the report, the
19 type of medical facility ~~in which~~ where the pregnancy was terminated,
20 information required to be reported under K.S.A. 65-6703(b) and (c), 65-
21 6705(j), 65-6721(c) and 65-6724, and amendments thereto, if applicable to
22 the pregnancy terminated, information required to be reported under
23 K.S.A. 2023 Supp. 65-6758, and amendments thereto, and such other
24 information as may be required by the secretary of health and
25 environment, ~~but~~ The report shall not include the names of the persons
26 whose pregnancies were so terminated or upon whom an attempted
27 abortion was performed. Each report required by K.S.A. 65-6703(b) and
28 (c), 65-6705(j) and 65-6721(c), and amendments thereto, shall specify the
29 medical diagnosis and condition constituting a substantial and irreversible
30 impairment of a major bodily function or the medical diagnosis and
31 condition that necessitated performance of an abortion to preserve the life
32 of the ~~pregnant woman~~ *patient*. Each report required by K.S.A. 65-6703,
33 and amendments thereto, shall include a sworn statement by the physician
34 performing the abortion and the referring physician that such physicians
35 are not legally or financially affiliated.

Proposed Amendment to HB 2749

Senate Committee on Public Health and Welfare

March 21, 2024

Prepared by: Office of Revisor of Statutes

or when a provider determines, in such provider's good faith medical judgment, that it would be harmful to a patient or threaten the provider-patient relationship,

whether such patient is willing to provide the secretary of health and environment with additional information about the personal circumstances informing the decision to terminate a pregnancy. The patient shall be informed that they are not required to provide such information and have the right to refuse to give any additional information included in this subsection. A patient's agreement at the outset shall not prevent such patient from refusing to answer any individual question set out in this subsection. If the patient consents, the patient shall be asked

a

1 (c) Except in the case of a medical emergency, as defined in K.S.A.
 2 65-6701, and amendments thereto, each pregnant woman patient shall be
 3 asked, prior to the termination of such woman's pregnancy, of
 4 which of the following reasons was the most important factor in such
 5 woman's patient's decision to seek an abortion and, if more than one
 6 reason was relevant, which was the second most important and which was
 7 the third most important:
 8 (1) Having a baby would interfere with the woman's patient's
 9 education, employment or career;
 10 (2) Having a baby would interfere with the woman's employment or
 11 career;
 12 (3) the woman patient cannot afford provide for the child;
 13 (4) the woman does not feel mature enough to raise a child or, if
 14 applicable, an additional child;
 15 (5)(3) the woman patient already has enough, or too many, children;
 16 (6)(4) the woman's patient's husband or partner is abusive to such
 17 woman patient or such woman's patient's children;
 18 (7)(5) the woman's patient's husband or partner wants such woman
 19 patient to have an abortion;
 20 (8) the woman's parent or parents want such woman to have an
 21 abortion;
 22 (9)(6) the woman patient does not have enough support from family
 23 or others to raise a child;
 24 (10) the woman does not want others to know that such woman had
 25 sexual intercourse or became pregnant;
 26 (11) the woman fears that such woman would neglect or abuse an
 27 unwanted child;
 28 (12)(7) the pregnancy is the result of rape;
 29 (13)(8) the pregnancy is the result of incest;
 30 (14)(9) the pregnancy threatens the woman's patient's physical
 31 health;
 32 (15)(10) the pregnancy threatens the woman's patient's mental or
 33 emotional health; or
 34 (16)(11) the child would have a disability
 35 If the woman patient declines to answer, such response shall be
 36 recorded;
 37 (d) Each report required by this section shall include, for the period
 38 of time covered by the report:
 39 (1) The number of times each of the reasons listed in subsection (c)
 40 was described as the most important, the second most important and the
 41 third most important; and
 42 (2) the number of times a pregnant woman patient seeking an
 43 abortion was asked about the reasons listed in subsection (c) and declined

may decline

any question set out in this subsection

1 to answer:

2 ~~(e) Each report required by this section shall include:~~

3 (1) The patient's age in years on the patient's last birthday;

4 (2) the patient's marital status at the time of the abortion;

5 (3) the state or United States territory of residence of the patient or, if
6 the patient is not a resident of the United States, the patient's country of
7 residence;

8 (4) the patient's race and, if applicable, the hispanic origin of the
9 patient;

10 (5) the highest level of education completed by the patient;

11 (6) whether, in the 30 days prior to the abortion, the patient received
12 services, financial assistance, excluding financial assistance in obtaining
13 an abortion, or other assistance from a nonprofit organization that
14 supports pregnant women;

15 (7) whether the patient reported having experienced domestic
16 violence in the 12 months prior to the abortion;

17 (8) whether the patient is living in a place that the patient considers
18 to be safe, stable and affordable;

19 (9) whether a report of physical, mental or emotional abuse or
20 neglect was made pursuant to K.S.A. 38-2223, and amendments thereto,
21 where the patient was the victim of such physical, mental or emotional
22 abuse or neglect; and

23 (10) the method by which the abortion was performed on the patient.

24 (f) Information obtained by the secretary of health and environment
25 under this section shall be confidential and shall not be disclosed in a
26 manner that would reveal the identity of any person licensed to practice
27 medicine and surgery who submits a report to the secretary under this
28 section or the identity of any medical care facility that submits a report to
29 the secretary under this section, except that such information, including
30 information identifying such persons and facilities may be disclosed to the
31 state board of healing arts upon request of the board for disciplinary action
32 conducted by the board and may be disclosed to the attorney general or
33 any district or county attorney in this state upon a showing that a
34 reasonable cause exists to believe that a violation of this act has occurred.
35 Any information disclosed to the state board of healing arts, the attorney
36 general or any district or county attorney pursuant to this subsection shall
37 be used solely for the purposes of a disciplinary action or criminal
38 proceeding. Except as otherwise provided in this subsection, information
39 obtained by the secretary under this section may be used only for statistical
40 purposes and such information shall not be released in a manner that
41 would identify any county or other area of this state in which the
42 termination of the pregnancy occurred. A violation of this subsection ~~(e)~~
43 (f) is a class A nonperson misdemeanor. The provisions of this subsection

If the patient elects to provide information under subsection (c), the patient may also elect to provide information in this subsection. The patient shall be informed that they are not required to provide such information and have the right to refuse to give any additional information included in this subsection. A patient's agreement at the outset shall not prevent such patient from refusing to answer any individual question set out in this subsection. If the patient consents to provide additional information, the patient shall be asked (and renumbering subsections accordingly)

1 shall expire on July 1, ~~2028~~ 2029, unless the legislature reviews and
2 reenacts such provisions in accordance with K.S.A. 45-229, and
3 amendments thereto, prior to July 1, ~~2028~~ 2029.

4 ~~(d)(g)~~ In addition to such criminal penalty under subsection ~~(e)~~ (f),
5 any person licensed to practice medicine and surgery or medical care
6 facility whose identity is revealed in violation of this section may bring a
7 civil action against the responsible person or persons for any damages to
8 the person licensed to practice medicine and surgery or medical care
9 facility caused by such violation.

10 ~~(e)(h)~~ For the purpose of maintaining confidentiality as provided by
11 subsections ~~(e)~~ (f) and ~~(e)~~ (g), reports required by this section shall identify
12 the person or facility submitting such reports only by confidential code
13 number assigned by the secretary of health and environment to such
14 person or facility and the department of health and environment shall
15 maintain such reports only by such number.

16 ~~(f)(i)~~ The ~~annual~~ *biannual* public report on abortions performed in
17 Kansas issued by the secretary of health and environment shall contain the
18 information required to be reported by this section to the extent such
19 information is not deemed confidential pursuant to this section. *Such*
20 *biannual report shall be issued not later than 30 days after the end of the*
21 *reporting period for the information contained in such report.* The
22 secretary of health and environment shall adopt rules and regulations to
23 implement this section. Such rules and regulations shall prescribe, in
24 detail, the information required to be kept by the physicians and hospitals
25 and the information required in the reports that must be submitted to the
26 secretary.

27 ~~(g)(j)~~ The Kansas department for children and families shall prepare
28 and publish an annual report on the number of reports of child sexual
29 abuse received by the department from abortion providers. Such report
30 shall be categorized by the age of the victim and the month the report was
31 submitted to the department. The name of the victim and any other
32 identifying information shall be kept confidential by the department and
33 shall not be released as part of the public report.

34 *(h)* *The provisions of this section are declared severable. If any*
35 *provision, phrase or clause or the application thereof to any person or*
36 *circumstance shall be held invalid, such invalidity shall not affect the*
37 *remaining provisions, phrases or clauses or the application thereof to any*
38 *person or circumstance.*

39 Sec. 2. K.S.A. 2023 Supp. 65-445 is hereby repealed.

40 Sec. 3. This act shall take effect and be in force from and after its
41 publication in the statute book.