

SESSION OF 2011

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2035

As Amended by Senate Committee of the Whole

Brief*

HB 2035, as amended, would modify current law regarding prohibitions on late-term and partial birth abortions; require parental consent with certain exceptions for abortions involving minors; expand and establish new abortion reporting requirements; and add a civil cause of action in certain abortion cases. Other changes would alter the terminology associated with abortion law, require new rules and regulations regarding partial birth abortions, and grant access by law enforcement to certain abortion reports if violations of the law are suspected.

The term “fetus” in current law would be changed to “unborn child” and a revised definition of “viability” and “partial birth abortion” would be included. A new definition of “human being” also would be included.

The bill would enhance the reporting requirements regarding the medical diagnosis in general for all cases and specifically, for those cases involving late-term abortions near or after viability and for those cases involving partial birth abortions. The criteria for who may obtain a partial birth abortion would be redefined by deleting the reference to mental function of a pregnant woman.

A civil cause of action would be created regarding late-term abortions, partial birth abortions, and parental consent. The Attorney General, district attorney, or county attorney would be authorized to prosecute criminal offenses.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Disciplinary action by the Board of Healing Arts would continue to be an option regarding such violations.

Current law requiring parental notice would be deleted and a new requirement for parental consent would be added regarding minors. Procedures for court-waiver of consent would be established. The informed consent information currently required to be provided would be modified by requiring the additional statement that the abortion will terminate the life of a whole, separate, unique living human being.

Reporting of sexual abuse would be required; the Kansas Department of Health and Environment (KDHE) would be required to include additional information in its reporting; and law enforcement officials would be granted access to KDHE reports.

Background

Conferees appearing in support of the bill included the principal sponsor, Representative Lance Kinzer; the Executive Director of the Kansas Catholic Conference; a representative of Kansans for Life; and an individual.

Opponents included representatives of the Kansas National Organization of Women; Planned Parenthood of Kansas and Mid-Missouri; and Trust Women (written only).

The House Committee on Federal and State Affairs added an amendment to clarify that nothing shall be construed to restrict the disciplinary authority of the Board of Healing Arts.

The Senate Committee on Judiciary amended the bill by changing the effective date from publication in the *Kansas Register* to publication in the statute book. Additionally, it amended the section concerning court waiver of consent for minors to restrict the court's right to require counseling prior

to the proceeding and clarifying that an evaluation be performed by a psychiatrist, licensed psychologist, or licensed clinical social worker.

The Senate Committee of the Whole amended the bill to include the amendment made by the Senate Committee on Judiciary changing the effective date of the bill. It also adopted an amendment that would require a person employed by or volunteering for an organization that provides social services to pregnant teenagers, including counseling, adoption services, and pregnancy education and maintenance, to report suspected abuse or neglect of a child. Further, the Senate Committee of the Whole amended the definition of "abortion" in KSA 65-6701.

The Board of Healing Arts indicated that passage of the bill could increase the number of complaints regarding practitioners not complying with the requirements of the bill, which, in turn, could increase the number of investigations and disciplinary cases that need to be performed. If there is an increase in the number of investigations and disciplinary cases, related operational expenses also would increase.

The Department of Health and Environment indicated that passage of the bill would increase expenditures by \$70,380 from all funding sources, including \$20,380 from the State General Fund and \$50,000 from agency special revenue funds.

The Office of the Attorney General estimated increased expenditures of \$220,000 from the State General Fund because the Attorney General would be authorized to prosecute any criminal offense related to the late-term abortion restrictions in the bill. This would include funding for the salaries of a lawyer, investigator, one part-time secretary, and expert witness fees.