

SESSION OF 2011

**SUPPLEMENTAL NOTE ON HOUSE
SUBSTITUTE FOR SENATE BILL NO. 36**

As Amended by House Committee of the Whole

Brief*

House Sub. for SB 36 would provide for the licensing and regulating of abortion clinics and other medical facilities by the Kansas Department of Health and Environment (KDHE). The Secretary of KDHE would be required to adopt and enforce rules and regulations and to collect an initial fee of \$500 and subsequent annual fees of \$500 from each licensee. The Secretary of KDHE would have to determine the severity of violations and to assess the corresponding fines for those violations. Inspections would be required twice per year.

The bill also would redefine certain statutory terms including "abortion" and "facility" and add new definitions for other terms including "elective abortion" and "medical emergency." Any facility that performs any second or third trimester abortion, or five or more first trimester abortions within a month, would have to be licensed. Except in the case of a medical emergency, all abortions when the gestational age of the unborn child is 22 weeks or more would have to be performed in certain licensed facilities (hospital or ambulatory surgical center). All other abortions would have to be performed in a licensed facility (hospital, ambulatory surgical center, or clinic), except in the case of a medical emergency.

*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>

Background

SB 36, as passed by the Senate, would have updated the exemptions from creditors provided for individual retirement accounts or account plans to include plans added to the federal Internal Revenue Code since the exemptions were originally enacted. The bill would have clarified that inherited retirement accounts also are exempt from creditors. The bill also would have made technical amendments to clarify references to the federal Internal Revenue Code.

The House Committee deleted all provisions in SB 36 and inserted provisions from HB 2337, as originally amended by the House Committee. The House Committee also added a provision that would require an abortion to be performed by a licensed Kansas physician in the state.

The House Committee of the Whole further amended House Sub. for SB 36 to change or add definitions of key terms in the bill. Amendments redefined the terms “abortion” and “facility” and added new definitions for “elective abortion” and “medical emergency” in the bill. An exception to where (licensed facilities) abortions must be performed was included for medical emergencies.

Proponents for the bill (HB 2337) included Representative Lance Kinzer and representatives of Kansans for Life and the Kansas Catholic Conference. Two other individuals also supported the bill. Opponents included Dr. Herbert Hodes and representatives of Trust Women and Planned Parenthood of Kansas and Mid-Missouri.

A revised fiscal note for HB 2337, as introduced, was submitted by the Director of the Budget. The Director disagreed with KDHE’s assessment of the fiscal effect of HB 2337, and estimated a fiscal effect of \$67,165 and 1.00 FTE position. The Director did not assume that 52 hospitals would need to be licensed, and assumed instead that three facilities would need to be licensed. There are currently three clinics in Kansas that perform abortions. Besides the three clinics,

abortion procedures are performed in the extreme instance of saving a woman's life at a small number of ambulatory surgical centers or hospitals. However, it is not likely that any of those facilities would perform five or more abortions per month. For that reason, the number of surveyor FTE positions needed should be reduced from 11.00 to zero. The Public Service Administrator I FTE position could handle survey responsibilities, and other duties required to implement the bill.