

HOUSE BILL No. 2527

By Committee on Federal and State Affairs

2-20

AN ACT concerning abortion; relating to the notification of certain persons prior to the performance of an abortion on a minor; amending K.S.A. 2000 Supp. 65-6705 and repealing the existing section.

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

Section 1. K.S.A. 2000 Supp. 65-6705 is hereby amended to read as follows: 65-6705. (a) *Subject to the provisions of subsection (l)*, before a person performs an abortion upon an unemancipated minor, the person or the person's agent ~~must~~:

(1) give actual notice of the intent to perform such abortion to one of the minor's parents or the minor's legal guardian ~~or must~~; or

(2) *shall* have written documentation that such notice has been given unless, after receiving counseling as provided by subsection (a) of K.S.A. 65-6704, *and amendments thereto*, the minor objects to such notice being given. ~~If the minor so objects~~

(b) *Subject to the provisions of subsection (l), if the minor objects to the notice required by subsection (a)*, the minor may petition, on her own behalf or by an adult of her choice, the district court of any county of this state for a waiver of the notice requirement of this subsection. If the minor so desires, the counselor who counseled the minor as required by K.S.A. 65-6704, *and amendments thereto*, shall notify the court and the court shall ensure that the minor or the adult petitioning on the minor's behalf is given assistance in preparing and filing the application.

~~(c)~~ (c) The minor may participate in proceedings in the court on the minor's own behalf or through the adult petitioning on the minor's behalf. The court shall provide a court-appointed counsel to represent the minor at no cost to the minor.

~~(d)~~ (d) Court proceedings under this section shall be anonymous and the court shall ensure that the minor's identity is kept confidential. The court shall order that a confidential record of the evidence in the proceeding be maintained. All persons shall be excluded from hearings under this section except the minor, her attorney and such other persons whose presence is specifically requested by the applicant or her attorney.

~~(e)~~ (e) Notice shall be waived if the court finds by a preponderance of the evidence that either:

1 (1) The minor is mature and well-informed enough to make the abor-
2 tion decision on her own; or

3 (2) notification of a person specified in subsection (a) would not be
4 in the best interest of the minor.

5 ~~(e)~~ (f) A court that conducts proceedings under this section shall issue
6 written and specific factual findings and legal conclusions supporting its
7 decision as follows:

8 (1) Granting the minor's application for waiver of notice pursuant to
9 this section, if the court finds that the minor is mature and well-enough
10 informed to make the abortion decision without notice to a person spec-
11 ified in subsection (a);

12 (2) granting the minor's application for waiver if the court finds that
13 the minor is immature but that notification of a person specified in sub-
14 section (a) would not be in the minor's best interest; or

15 (3) denying the application if the court finds that the minor is im-
16 mature and that waiver of notification of a person specified in subsection
17 (a) would not be in the minor's best interest.

18 ~~(f)~~ (g) The court shall give proceedings under this section such prec-
19 edence over other pending matters as necessary to ensure that the court
20 may reach a decision promptly. The court shall issue a written order which
21 shall be issued immediately to the minor, or her attorney or other indi-
22 vidual designated by the minor to receive the order. If the court fails to
23 rule within 48 hours, excluding Saturdays and Sundays, of the time of the
24 filing of the minor's application, the application shall be deemed granted.

25 ~~(g)~~ (h) An expedited anonymous appeal shall be available to any mi-
26 nor. The record on appeal shall be completed and the appeal shall be
27 perfected within five days from the filing of the notice to appeal.

28 ~~(h)~~ (i) The supreme court shall promulgate any rules it finds are nec-
29 essary to ensure that proceedings under this act are handled in an expe-
30 ditious and anonymous manner.

31 ~~(i)~~ (j) No fees shall be required of any minor who avails herself of the
32 procedures provided by this section.

33 ~~(j)~~ (k) (1) No notice shall be required under this section if:

34 (A) The pregnant minor declares that the father of the fetus is one
35 of the persons to whom notice may be given under this section;

36 (B) in the best medical judgment of the attending physician based on
37 the facts of the case, an emergency exists that threatens the health, safety
38 or well-being of the minor as to require an abortion; or

39 (C) the person or persons who are entitled to notice have signed a
40 written, notarized waiver of notice which is placed in the minor's medical
41 record.

42 (2) A physician who does not comply with the provisions of this sec-
43 tion by reason of the exception of subsection ~~(j)(1)(A)~~ must (k)(1)(A) shall

1 inform the minor that the physician is required by law to report the sexual
2 abuse to the department of social and rehabilitation services. A physician
3 who does not comply with the requirements of this section by reason of
4 the exception of subsection ~~(j)(1)(B)~~ (k)(1)(B) shall state in the medical
5 record of the abortion the medical indications on which the physician's
6 judgment was based.

7 *(l) Except as provided by subsection (k)(1)(B), if a minor who is a*
8 *resident of a state bordering this state comes to this state for the purpose*
9 *and with the intention of obtaining an abortion and there is in effect in*
10 *that other state a law requiring parental consent or parental notification*
11 *before an abortion may be performed on the minor, then the minor may*
12 *not obtain an abortion in this state until there is compliance with that*
13 *parental consent or parental notification law.*

14 ~~(k)~~ (m) Any person who intentionally performs an abortion with
15 knowledge that, or with reckless disregard as to whether, the person upon
16 whom the abortion is to be performed is an unemancipated minor, and
17 who intentionally and knowingly fails to conform to any requirement of
18 this section, is guilty of a class A person misdemeanor.

19 *A minor who is a resident of a state bordering this state, who comes to*
20 *this state for the purpose and with the intention of obtaining an abortion*
21 *without parental consent in order to avoid complying with a parental*
22 *consent or parental notification law of that other state, and who obtains*
23 *an abortion in this state is guilty of a class A misdemeanor.*

24 ~~(k)~~ (n) Except as necessary for the conduct of a proceeding pursuant
25 to this section, it is a class B person misdemeanor for any individual or
26 entity ~~to~~ willfully or knowingly to:

27 (1) Disclose the identity of a minor petitioning the court pursuant to
28 this section or to disclose any court record relating to such proceeding;
29 or

30 (2) permit or encourage disclosure of such minor's identity or such
31 record.

32 Sec. 2. K.S.A. 2000 Supp. 65-6705 is hereby repealed.

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

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