

HOUSE BILL No. 2508

By Committee on Federal and State Affairs

1-27

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, 65-6701, 65-6705, 65-6709, 65-6723 and 76-3308
4 and repealing the existing sections.
5

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

7 Section 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 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. 65-6701 is hereby amended to read as
22 follows: 65-6701. As used in K.S.A. 65-6701 through 65-6721, and
23 amendments thereto:

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

32 (b) "Bodily function" means physical functions only. The term
33 "bodily function" does not include mental or emotional functions.

34 (c) "Counselor" means a person who is: (1) Licensed to practice
35 medicine and surgery; (2) licensed to practice professional or practical
36 nursing; (3) the following persons licensed to practice behavioral sciences:
37 Licensed psychologists, licensed master's level psychologists, licensed
38 clinical psychotherapists, licensed social workers, licensed specialist
39 clinical social workers, licensed marriage and family therapists, licensed
40 clinical marriage and family therapists, licensed professional counselors,
41 licensed clinical professional counselors; (4) a licensed physician assistant;
42 or (5) a currently ordained member of the clergy or religious authority of
43 any religious denomination or society. Counselor does not include the

1 physician who performs or induces the abortion or a physician or other
2 person who assists in performing or inducing the abortion.

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

4 (e) "Fertilization" means the fusion of a human spermatozoon with a
5 human ovum.

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

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

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

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

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

24 (k) "Qualified person" means an agent of the physician who is a
25 psychologist, licensed social worker, licensed professional counselor,
26 licensed marriage and family therapist, licensed master's level
27 psychologist, licensed clinical psychotherapist, registered nurse or
28 physician.

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

32 (m) "Viable" means that stage of fetal development when it is the
33 physician's judgment according to accepted obstetrical or neonatal
34 standards of care and practice applied by physicians in the same or similar
35 circumstances that there is a reasonable probability that the life of the child
36 can be continued indefinitely outside the mother's womb with natural or
37 artificial life-supportive measures.

38 Sec. 3. K.S.A. 65-6704 is hereby amended to read as follows: 65-
39 6704. (a) Before the performance of an abortion upon a minor, a counselor
40 shall provide pregnancy information and counseling in a manner that can
41 be understood by the minor and allows opportunity for the minor's
42 questions to be addressed. A parent or guardian, or a person 21 or more
43 years of age who is not associated with the abortion provider and who has

1 a personal interest in the minor's well-being, shall accompany the minor
2 and be involved in the minor's decision-making process regarding whether
3 to have an abortion. Such information and counseling shall include:

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

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

9 (3) make available to the minor information on agencies available to
10 assist the minor and agencies from which birth control information is
11 available;

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

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

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

20 (c) After the counselor provides information and counseling to a
21 minor as required by this section, the counselor shall have the minor sign
22 and date a statement setting forth the requirements of subsections (a) and
23 (b) and declaring that the minor has received information and counseling
24 in accordance with those requirements.

25 (d) The counselor shall also sign and date the statement and shall
26 include the counselor's business address and business telephone number.
27 The counselor shall keep a copy for the minor's medical record and shall
28 give the form to the minor or, if the minor requests and if the counselor is
29 not the attending physician, transmit the statement to the minor's attending
30 physician. Such medical record shall be maintained as otherwise provided
31 by law.

32 (e) The provision by a counselor of written materials which contain
33 information and counseling meeting the requirements of subsections (a)
34 and (b) and which is signed by the minor shall be presumed to be evidence
35 of compliance with the requirements of this section.

36 (f) The requirements of subsection (a) shall not apply when, ~~in the~~
37 ~~best medical judgment of the attending physician based on the facts of the~~
38 ~~ease, an emergency exists that threatens the health, safety or well-being of~~
39 ~~the minor as to require an abortion~~ *a medical emergency exists.* A
40 physician who does not comply with the requirements of this section by
41 reason of this exception shall state in the medical record of the abortion the
42 medical indications on which the physician's judgment was based.

43 Sec. 4. K.S.A. 2013 Supp. 65-6705 is hereby amended to read as

1 follows: 65-6705. (a) Except in the case of a medical emergency ~~or as~~
2 ~~otherwise provided in this section~~, no person shall perform an abortion
3 upon an unemancipated minor, unless the person first obtains the
4 notarized written consent of the minor and both parents or the legal
5 guardian of the minor.

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

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

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

17 (b) After receiving counseling as provided by subsection (a) of
18 K.S.A. 65-6704, and amendments thereto, the minor may object to the
19 written consent requirement set forth in subsection (a). If the minor so
20 objects, the minor may petition, on her own behalf or by an adult of her
21 choice, the district court of any county of this state for a waiver of the
22 written consent requirement. If the minor so desires, the counselor who
23 counseled the minor as required by K.S.A. 65-6704, and amendments
24 thereto, shall notify the court and the court shall ensure that the minor or
25 the adult petitioning on the minor's behalf is given assistance in preparing
26 and filing the petition. The minor may participate in proceedings in the
27 court on the minor's own behalf or through the adult petitioning on the
28 minor's behalf. The court shall provide a court-appointed counsel to
29 represent the minor at no cost to the minor.

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

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

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

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

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

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

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

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

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

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

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

30 (2) A physician acting pursuant to this subsection shall state in the
31 medical record of the abortion the medical indications on which the
32 physician's judgment was based. The medical basis for the determination
33 shall also be reported by the physician as part of the written report made
34 by the physician to the secretary of health and environment under K.S.A.
35 65-445, and amendments thereto.

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

41 (l) Except as necessary for the conduct of a proceeding pursuant to
42 this section, it is a class B person misdemeanor for any individual or entity
43 to willfully or knowingly: (1) Disclose the identity of a minor petitioning

1 the court pursuant to this section or to disclose any court record relating to
2 such proceeding; or (2) permit or encourage disclosure of such minor's
3 identity or such record.

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

22 (n) In determining if a minor is mature and well-enough informed to
23 make the abortion decision without parental consent, the court shall take
24 into account the minor's experience level, perspective and judgment. In
25 assessing the minor's experience level, the court shall consider, along with
26 any other relevant factors, the minor's age, experience working outside the
27 home, living away from home, traveling on her own, handling personal
28 finances and making other significant decisions. In assessing the minor's
29 perspective, the court shall consider, along with any other relevant factors,
30 what steps the minor has taken to explore her options and the extent to
31 which she considered and weighed the potential consequences of each
32 option. In assessing the minor's judgment, the court shall consider, along
33 with any other relevant factors, her conduct since learning of her
34 pregnancy and her intellectual ability to understand her options and to
35 make informed decisions.

36 (o) The judicial record of any court proceedings initiated pursuant to
37 this section shall upon final determination by the court be compiled by the
38 court. One copy of the judicial record shall be given to the minor or an
39 adult chosen by the minor to bring the initial petition under this section. A
40 second copy of the judicial record shall be sent by the court to the abortion
41 provider who performed or will perform the abortion for inclusion in the
42 minor's medical records and shall be maintained by the abortion provider
43 for at least 10 years.

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

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

6 (2) the number of petitions granted;

7 (3) the reasons for granting such petitions;

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

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

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

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

16 (2) Such relief shall include:

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

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

22 (C) statutory damages equal to three times the cost of the abortion;
23 and

24 (D) reasonable attorney fees.

25 (r) In the course of a judicial hearing to waive parental consent, if the
26 court has reason to suspect that a minor has been injured as a result of
27 physical, mental or emotional abuse or neglect or sexual abuse, the court
28 shall report the matter promptly as provided in subsection (c) of K.S.A.
29 2013 Supp. 38-2223, and amendments thereto. In the course of reporting
30 suspected child abuse or neglect to the appropriate state authorities,
31 nothing in this section shall abridge or otherwise modify the anonymity or
32 confidentiality provisions of the judicial waiver proceeding as specified in
33 this section.

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

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

42 (a) At least 24 hours before the abortion the physician who is to
43 perform the abortion or the referring physician has informed the woman in

1 writing of:

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

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

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

9 (4) the probable gestational age of the unborn child at the time the
10 abortion is to be performed and that Kansas law requires the following:
11 "No person shall perform or induce an abortion when the unborn child is
12 viable unless such person is a physician and has a documented referral
13 from another physician not financially associated with the physician
14 performing or inducing the abortion and both physicians determine that:
15 (1) The abortion is necessary to preserve the life of the pregnant woman;
16 or (2) a continuation of the pregnancy will cause a substantial and
17 irreversible physical impairment of a major bodily function of the pregnant
18 woman." If the child is born alive, the attending physician has the legal
19 obligation to take all reasonable steps necessary to maintain the life and
20 health of the child;

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

23 (6) the contact information for counseling assistance for medically
24 challenging pregnancies, the contact information for perinatal hospice
25 services and a listing of websites for national perinatal assistance,
26 including information regarding which entities provide such services free
27 of charge;

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

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

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

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

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

1 services;

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

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

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

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

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

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

28 (e) The woman certifies in writing on a form provided by the
29 department, prior to the abortion, that the information required to be
30 provided under subsections (a), (b) and (d) has been provided and that she
31 has met with the physician who is to perform the abortion on an individual
32 basis as provided under subsection (c). All physicians who perform
33 abortions shall report the total number of certifications received monthly
34 to the department. The total number of certifications shall be reported by
35 the physician as part of the written report made by the physician to the
36 secretary of health and environment under K.S.A. 65-445, and
37 amendments thereto. The department shall make the number of
38 certifications received available on an annual basis.

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

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

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

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

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

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

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

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

16 If the woman accepts the offer and requests to view the ultrasound
17 image, receive a physical picture of the ultrasound image or both, her
18 request shall be granted by the physician at no additional expense to the
19 woman. The physician's certification shall be time-stamped at the time the
20 opportunity to view the ultrasound image and receive a physical picture of
21 the ultrasound image was offered.

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

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

27 (2) offers the woman the opportunity to listen to the heartbeat of her
28 unborn child;

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

32 (4) obtains the woman's signed acceptance or rejection of the
33 opportunity to listen to the heartbeat of her unborn child.

34 If the woman accepts the offer and requests to listen to the heartbeat of
35 her unborn child, her request shall be granted by the physician at no
36 additional expense to the woman. The physician's certification shall be
37 time-stamped at the time the opportunity to listen to the heartbeat of her
38 unborn child was offered.

39 (j) The physician's certification required by subsections (h) and (i)
40 together with the pregnant woman's signed acceptance or rejection of such
41 offer shall be placed in the woman's medical file in the physician's office
42 and kept for 10 years. However, in the case of a minor, the physician shall
43 keep a copy of the certification and the signed acceptance or rejection in

1 the minor's medical file for five years past the minor's majority, but in no
2 event less than 10 years.

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

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

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

32 (l) Any private office, freestanding surgical outpatient clinic or other
33 facility or clinic in which abortions are performed that has a website shall
34 publish an easily identifiable link on the homepage of such website that
35 directly links to the department of health and environment's website that
36 provides informed consent materials under the woman's-right-to-know act.
37 Such link shall read: "The Kansas Department of Health and Environment
38 maintains a website containing ~~objective, nonjudgmental, scientifically~~
39 ~~accurate~~ information about the development of the unborn child, as well as
40 video of sonogram images of the unborn child at various stages of
41 development. The Kansas Department of Health and Environment's
42 website can be reached by clicking here."

43 (m) For purposes of this section:

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

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

7 Sec. 6. K.S.A. 2013 Supp. 65-6723 is hereby amended to read as
8 follows: 65-6723. As used in K.S.A. 2013 Supp. 65-6722 through 65-
9 6724, 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) "Bodily function" means physical function. The term "bodily
19 function" does not include mental or emotional functions.

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

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

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

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

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

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

40 Sec. 7. K.S.A. 2013 Supp. 76-3308 is hereby amended to read as
41 follows: 76-3308. (a) The authority shall have all the powers necessary to
42 carry out the purposes and provisions of this act, including, without
43 limitation, the following powers to:

- 1 (1) Have the duties, privileges, immunities, rights, liabilities and
2 disabilities of a body corporate and a political instrumentality of the state;
- 3 (2) have perpetual existence and succession;
- 4 (3) adopt, have and use a seal and to alter the same at its pleasure;
- 5 (4) sue and be sued in its own name;
- 6 (5) make and execute contracts, guarantees or any other instruments
7 and agreements necessary or convenient for the exercise of its powers and
8 functions including, without limitation, to make and execute contracts with
9 hospitals or other health care businesses to operate and manage any or all
10 of the hospital facilities or operations and to incur liabilities and secure the
11 obligations of any entity or individual;
- 12 (6) borrow money and to issue bonds evidencing the same and pledge
13 all or any part of the authority's assets therefor;
- 14 (7) purchase, lease, trade, exchange or otherwise acquire, maintain,
15 hold, improve, mortgage, sell, lease and dispose of personal property,
16 whether tangible or intangible, and any interest therein; and to purchase,
17 lease, trade, exchange or otherwise acquire real property or any interest
18 therein, and to maintain, hold, improve, mortgage, lease and otherwise
19 transfer such real property, so long as such transactions do not conflict
20 with the mission of the authority as specified in this act;
- 21 (8) incur or assume indebtedness to, and enter into contracts with the
22 Kansas development finance authority, which is authorized to borrow
23 money and provide financing for the authority;
- 24 (9) develop policies and procedures generally applicable to the
25 procurement of goods, services and construction, based upon sound
26 business practices;
- 27 (10) contract for and to accept any gifts, grants and loans of funds,
28 property, or any other aid in any form from the federal government, the
29 state, any state agency, or any other source, or any combination thereof,
30 and to comply with the provisions of the terms and conditions thereof;
- 31 (11) acquire space, equipment, services, supplies and insurance
32 necessary to carry out the purposes of this act;
- 33 (12) deposit any moneys of the authority in any banking institution
34 within or without the state or in any depository authorized to receive such
35 deposits, one or more persons to act as custodians of the moneys of the
36 authority, to give surety bonds in such amounts in form and for such
37 purposes as the board requires;
- 38 (13) procure such insurance, participate in such insurance plans or
39 provide such self insurance or both as it deems necessary or convenient to
40 carry out the purposes and provisions of this act; the purchase of
41 insurance, participation in an insurance plan or creation of a self-insurance
42 fund by the authority shall not be deemed as a waiver or relinquishment of
43 any sovereign immunity to which the authority or its officers, directors,

1 employees or agents are otherwise entitled;

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

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

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

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

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

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

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

30 (f) Effective with the transfer date, all moneys of the authority shall
31 be deposited in one or more banks or trust companies in one or more
32 special accounts. All banks and trust companies are authorized to give
33 security for such deposits if required by the authority. The moneys in such
34 accounts shall be paid out on a warrant or other orders of the treasurer of
35 the authority or any such other person or persons as the authority may
36 authorize to execute such warrants or orders.

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

41 (h) The authority is authorized to negotiate contracts with one or
42 more qualified parties to provide collection services. The selection of a
43 collection services provider shall be based on responses to a request for

1 proposals from qualified professional firms and shall be administered in
2 accordance with policies adopted by the board.

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

20 Sec. 8. K.S.A. 65-6704 and K.S.A. 2013 Supp. 65-4a01, 65-6701, 65-
21 6705, 65-6709, 65-6723 and 76-3308 are hereby repealed.

22 Sec. 9. This act shall take effect and be in force from and after its
23 publication in the statute book.