

HOUSE BILL No. 2419

By Representatives DiVita, Cook, Howell, Huy, Lloyd, Mays, McLeland,
Judy Morrison, Neufeld, Palmer, Patterson, J. Peterson, L. Powell,
Toplikar and Vickrey

2-7

AN ACT concerning abortion; concerning requirements prior to the per-
formance thereof; 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) *Except as provided herein*, before a person performs
an abortion upon an unemancipated minor, the person or the person's
agent ~~must~~ *shall* 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 have~~
~~written documentation that such notice has been given unless~~. *Such no-*
tice shall be given in person or by certified return receipt mail. If notice
is given by mail, the abortion shall not be performed until the person
performing the abortion actually receives the return receipt of such mailed
notice. If 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~~, 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.

(b) 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.

(c) 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.

1 (d) Notice shall be waived if the court finds by a preponderance of
2 the evidence that either: ~~(1) The minor is mature and well-informed~~
3 ~~enough to make the abortion decision on her own; or (2) notification of~~
4 a person specified in subsection (a) would not be in the best interest of
5 the minor.

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

9 (1) Granting the minor's application for waiver of notice pursuant to
10 this section, if the court finds that the minor is mature and well-enough
11 informed to make the abortion decision without notice to a person spec-
12 ified in subsection (a); *and that notification would not be in the best*
13 *interest of the minor;*

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

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

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

27 (g) An expedited anonymous appeal shall be available to any minor.
28 The record on appeal shall be completed and the appeal shall be per-
29 fected within five days from the filing of the notice to appeal.

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

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

35 (j) (1) No notice shall be required under this section if:

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

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

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

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

8 (k) Any person who intentionally performs an abortion with knowl-
9 edge that, or with reckless disregard as to whether, the person upon
10 whom the abortion is to be performed is an unemancipated minor, and
11 who intentionally and knowingly fails to conform to any requirement of
12 this section, is guilty of a class A person misdemeanor.

13 (l) Except as necessary for the conduct of a proceeding pursuant to
14 this section, it is a class B person misdemeanor for any individual or entity
15 to willfully or knowingly: (1) Disclose the identity of a minor petitioning
16 the court pursuant to this section or to disclose any court record relating
17 to such proceeding; or (2) permit or encourage disclosure of such minor's
18 identity or such record.

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

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

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