

## HOUSE BILL No. 2957

By Committee on Federal and State Affairs

3-7

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9 AN ACT concerning abortion; amending K.S.A. 65-6709 and 65-6710  
10 and repealing the existing sections.

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

13 Section 1. K.S.A. 65-6709 is hereby amended to read as follows: 65-  
14 6709. No abortion shall be performed or induced without the voluntary  
15 and informed consent of the woman upon whom the abortion is to be  
16 performed or induced. Except in the case of a medical emergency, con-  
17 sent to an abortion is voluntary and informed only if:

18 (a) At least 24 hours before the abortion the physician who is to per-  
19 form the abortion or the referring physician has informed the woman in  
20 writing of:

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

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

23 (3) a description of risks related to the proposed abortion method,  
24 including risks to the woman's reproductive health and alternatives to the  
25 abortion that a reasonable patient would consider material to the decision  
26 of whether or not to undergo the abortion;

27 (4) the probable gestational age of the fetus at the time the abortion  
28 is to be performed and that Kansas law requires the following: "No person  
29 shall perform or induce an abortion when the fetus is viable unless such  
30 person is a physician and has a documented referral from another phy-  
31 sician not financially associated with the physician performing or inducing  
32 the abortion and both physicians determine that: (1) The abortion is nec-  
33 essary to preserve the life of the pregnant woman; or (2) the fetus is  
34 affected by a severe or life-threatening deformity or abnormality." If the  
35 child is born alive, the attending physician has the legal obligation to take  
36 all reasonable steps necessary to maintain the life and health of the child;

37 (5) *in cases where the gestational age of the fetus is determined to be*  
38 *20 weeks or more, the woman shall be informed that the fetus has the*  
39 *physical structures necessary to experience pain and that there is evidence*  
40 *that a fetus at this stage of development seeks to evade certain stimuli in*  
41 *a manner which in an infant or an adult would be interpreted to be a*  
42 *response to pain. The woman shall be informed that she has a right to*  
43 *request an anesthetic or analgesic to relieve the pain of the fetus. The*

1 *woman also shall be informed of any medical risks associated with the*  
2 *particular anesthetic or analgesic. With the consent of the woman, the*  
3 *physician shall administer the anesthetic or analgesic at the time of the*  
4 *abortion.*

5 ~~(5)~~ (6) the probable anatomical and physiological characteristics of  
6 the fetus at the time the abortion is to be performed;

7 ~~(6)~~ (7) the medical risks associated with carrying a fetus to term; and  
8 ~~(7)~~ (8) any need for anti-Rh immune globulin therapy, if she is Rh  
9 negative, the likely consequences of refusing such therapy and the cost  
10 of the therapy.

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

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

18 (2) the printed materials in K.S.A. 65-6710 and amendments thereto  
19 describe the fetus and list agencies which offer alternatives to abortion  
20 with a special section listing adoption services;

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

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

28 (c) Prior to the abortion procedure, prior to physical preparation for  
29 the abortion and prior to the administration of medication for the abor-  
30 tion, the woman shall meet privately with the physician who is to perform  
31 the abortion and such person's staff to ensure that she has an adequate  
32 opportunity to ask questions of and obtain information from the physician  
33 concerning the abortion.

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

38 (e) The woman certifies in writing on a form provided by the de-  
39 partment, prior to the abortion, that the information required to be pro-  
40 vided under subsections (a), (b) and (d) has been provided and that she  
41 has met with the physician who is to perform the abortion on an individual  
42 basis as provided under subsection (c). All physicians who perform abor-  
43 tions shall report the total number of certifications received monthly to

1 the department. The department shall make the number of certifications  
2 received available on an annual basis.

3 (f) Prior to the performance of the abortion, the physician who is to  
4 perform the abortion or the physician's agent receives a copy of the writ-  
5 ten certification prescribed by subsection (e) of this section.

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

8 Sec. 2. K.S.A. 65-6710 is hereby amended to read as follows: 65-  
9 6710. (a) The department shall cause to be published and distributed  
10 widely, within 30 days after the effective date of this act, and shall update  
11 on an annual basis, the following easily comprehensible printed materials:

12 (1) Geographically indexed materials designed to inform the woman  
13 of public and private agencies and services available to assist a woman  
14 through pregnancy, upon childbirth and while her child is dependent,  
15 including but not limited to, adoption agencies. The materials shall in-  
16 clude a comprehensive list of the agencies, a description of the services  
17 they offer and the telephone numbers and addresses of the agencies; and  
18 inform the woman about available medical assistance benefits for prenatal  
19 care, childbirth and neonatal care and about the support obligations of  
20 the father of a child who is born alive. The department shall ensure that  
21 the materials described in this section are comprehensive and do not  
22 directly or indirectly promote, exclude or discourage the use of any agency  
23 or service described in this section. The materials shall also contain a toll-  
24 free 24-hour a day telephone number which may be called to obtain,  
25 orally, such a list and description of agencies in the locality of the caller  
26 and of the services they offer. The materials shall state that it is unlawful  
27 for any individual to coerce a woman to undergo an abortion, that any  
28 physician who performs an abortion upon a woman without her informed  
29 consent may be liable to her for damages. Kansas law permits adoptive  
30 parents to pay costs of prenatal care, childbirth and neonatal care. The  
31 materials shall include the following statement:

32 "Many public and private agencies exist to provide counseling and  
33 information on available services. You are strongly urged to seek  
34 their assistance to obtain guidance during your pregnancy. In ad-  
35 dition, you are encouraged to seek information on abortion services,  
36 alternatives to abortion, including adoption, and resources available  
37 to post-partum mothers. The law requires that your physician or  
38 the physician's agent provide the enclosed information."

39 (2) Materials that inform the pregnant woman of the probable ana-  
40 tomical and physiological characteristics of the fetus at two-week gesta-  
41 tional increments from fertilization to full term, including pictures or  
42 drawings representing the development of a fetus at two-week gestational  
43 increments, and any relevant information on the possibility of the fetus'

1 survival. Any such pictures or drawings shall contain the dimensions of  
2 the fetus and shall be realistic. The materials shall be objective, nonjudg-  
3 mental and designed to convey only accurate scientific information about  
4 the fetus at the various gestational ages. The material shall also contain  
5 objective information describing the methods of abortion procedures  
6 commonly employed, the medical risks commonly associated with each  
7 such procedure and the medical risks associated with carrying a fetus to  
8 term.

9 *(3) Materials that inform the woman that a fetus with a gestational*  
10 *age of 20 weeks or more seeks to evade certain stimuli in a manner which*  
11 *in an infant or an adult would be interpreted to be a response to pain.*  
12 *Anesthesia is routinely administered to a fetus with a gestational age of*  
13 *20 weeks or more who undergoes prenatal surgery. An anesthetic or an-*  
14 *algesic would eliminate or alleviate organic pain caused by the particular*  
15 *method of abortion employed. The materials shall inform the woman of*  
16 *any medical risks associated with the administration of an anesthetic or*  
17 *analgesic for the fetus. The woman also shall be informed that the phy-*  
18 *sician performing the abortion is required to administer the anesthetic or*  
19 *analgesic for the fetus if the woman request such.*

20 ~~(3)~~ (4) A certification form to be used by physicians or their agents  
21 under subsection (e) of K.S.A. 65-6709 and amendments thereto, which  
22 will list all the items of information which are to be given to women by  
23 physicians or their agents under the woman's-right-to-know act.

24 (b) The materials required under this section shall be printed in a  
25 typeface large enough to be clearly legible. The materials shall be made  
26 available in both English and Spanish language versions.

27 (c) The materials required under this section shall be available at no  
28 cost from the department upon request and in appropriate number to  
29 any person, facility or hospital.

30 Sec. 3. K.S.A. 65-6709 and 65-6710 are hereby repealed.

31 Sec. 4. This act shall take effect and be in force from and after its  
32 publication in the statute book.