

Approved _____

Date

3/6/89

MINUTES OF THE Senate COMMITTEE ON Federal & State Affairs

The meeting was called to order by Senator Edward F. Reilly at
Chairperson

11:12 a.m./~~p.m.~~ on February 28, 1989 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Mary Galligan, Legislative Research Department
Emalene Correll, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Marty Robison, Secretary

Conferees appearing before the committee:

Mark Braun, Office of the Attorney General
Doris Arwine, Intern for Committee

Chairman Reilly called the meeting to order.

Mark Braun appeared to request introduction which would amend section K.S.A. 50-631(a) and K.S.A. 17-1767(c). These would allow the deputy attorney general or assistant attorney general to act in behalf of the Attorney General (Attachment 1).

Senator Bond moved the minutes of February 23, 24, and 27 be approved. Senator Yost seconded and the motion carried.

Discussion was held on SB 91, consent to abortions performed on minors.

Doris Arwine, an intern assigned to the Committee, summarized her position paper on this bill (Attachment 2).

Senator Walker presented several amendments to the committee for consideration (Attachment 3). Senator Walker moved that New Section 1 be eliminated. Senator Bond seconded and the motion passed.

Senator Walker moved that lines 66-70 be changed to increase the definition of "parent". Senator Bond seconded. The motion failed.

Line 104, p. 3, would intend to make the judicial bypass work and provide for counseling. Line 114 would attempt to make this anonymous by allowing the girl to appear in the chamber, rather than in court. Senator Walker moved these two amendments and Senator Bond seconded. Senator Walker and Senator Bond agreed to divide the question. On a vote for the section on line 104, the motion passed. On a vote for the section on line 114, the motion passed.

On line 123, p. 4, the word "shall" will be replaced by "may". Senator Walker moved the change and Senator Bond seconded. The motion passed.

Senator Walker moved to strike lines 130-132. Senator Bond seconded and the motion carried.

On line 140, the court would appoint counsel to represent the minor on an appeal. Senator Walker moved the amendment and Senator Bond seconded. The motion passed.

Senator Walker moved an amendment for granting abortions if certain people fail to comply with the time limits. Senator Bond seconded.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal & State Affairs,
room 254-E, Statehouse, at 11:12 a.m./~~p.m.~~ on February 28, 1989

Senator Walker made a substitute motion which would strike "the social worker" from the list. Senator Bond seconded and the motion passed.

Senator Walker moved to strike New Section 6. Senator Bond seconded and the motion passed.

Senator Walker moved to strike lines 187-189 and Senator Bond seconded. The motion carried.

Senator Walker moved to strike Section 12 and Senator Bond seconded.

Senator Yost made a substitute motion that anyone in the care of SRS for 6 months or more can't automatically have an abortion. Senator Strick seconded and the motion passed.

On line 65, Senator Walker moved the age of 16 replace 18 years of age. Senator Bond seconded. The motion failed.

Staff was authorized to make the renumbering and clean-up changes in the bill after these amendments.

Senator Yost moved the bill be reported favorably as amended. Senator Anderson seconded.

Senator Morris made a substitute motion that the bill be referred to an interim study. Senator Bond seconded. The motion failed.

On the original motion, the motion passed.

Senator Yost moved Section 1 be placed in the minutes for legislative intent. Senator Daniels seconded and the motion carried.

New Section 1. (a) It is the intent of the legislature in enacting this parental consent provision to further the important and compelling state interests of: (1) Protecting minors against their own immaturity; (2) fostering the family structure and preserving it as a viable social unit; and (3) protecting the rights of parents to rear children who are members of their household.

(b) The legislature finds as fact that: (1) Immature minors often lack the ability to make fully informed choices that take account of both immediate and long-range consequences; (2) the medical, emotional and psychological consequences of abortion are serious and can be lasting, particularly when the patient is immature; (3) the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related; (4) parents ordinarily possess information essential to a physician's exercise of the physician's best medical judgment concerning the child; and (5) parents who are aware that their minor daughter has had an abortion may better ensure that she receives adequate medical attention after her abortion. The legislature further finds that parental consultation is usually desirable and in the best interests of the minor.

(c) It is the intention of the legislature to reasonably regulate abortion in conformance with the decisions of the United States supreme court of January 22, 1973.

It is the further intention of the legislature to assure and protect the woman's health and the integrity of the woman's decision whether or not to continue to bear a child, to protect the valid and compelling state interest in the infant and unborn child, to assure the integrity of marital and familial relations and the rights and interests of persons who participate in such relations. The legislature finds as fact that these rights and interests are not secure in the economic and social context in which abortions are presently performed in Kansas.

The meeting was adjourned at 12:17.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: 2/28/89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Robert V. Talkington	Box 725, Topeka, Ks 66609	Womens Health Care Services
Belma Ott	Wichita	Planned Parenthood of Ks.
Doris Arwine	1737 High Leavenworth	KU-Intn Soc Work Student
Lisa McBride	Topeka	Observer
Jeffrey Mackay	Wichita, Ks.	Student
FRANCES KASTNER	Topeka Ks	Ks Food Dealers Assn
Jakira Jones	Topeka Ks	Kansas for Life
Kristin Barry	Manhattan, Ks.	Parent
Bob Rowne	Linwood, Ks	Ks. Cash Conf
David Yebue	5708 SW 13 th Topeka	Parent
John P. Milburn	Lawrence	University Daily Kansan
Chip Wheeler	Topeka	Ks Medical Society
Vicki Fund	Topeka	S.W. student
Richard L. Dumbin	Topeka	Social Work Student
Robert A. Mc Nulty	Lawrence Topeka	KPR
Beth Wilbur	Topeka	WWV
Hazel Gibbs	Wichita	WU - (graduate)
Bill Kastens	Topeka	KOJC Council #411
Kim Schrossman	Topeka	WU Social Work Student
Anthony Byrnes	Topeka	WU Social Work student
Ann Lacey	Oread and Park	
Ann Walden	Wichita, Ks	Kansans for Life
DON LINDSEY	OSAWATOMIE	UTU
Granita Carlson	Lawrence	ACLU
JOHN H HOLMGREN	Catholic Health Assn in Topeka	



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

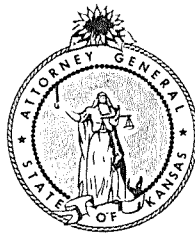
ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

AMENDED SECTION K.S.A. 50-631(a)

50-631. Investigatory powers of the attorney general.
(a) If, by the attorney general's own inquiries or as a result of complaints, the attorney general has reason to believe that a person has engaged in, is engaging in or is about to engage in an act or practice that violates this act, the attorney general, deputy attorney general or assistant attorney general, may administer oaths and affirmations, subpoena witnesses or matter and collect evidence.

SFO SA
2-28-89
Attachment 1



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

AMENDED SECTION K.S.A. 17-1767(c)

(c) In conducting an investigation or prosecution of any charitable organization, professional fund raiser or professional solicitor, the attorney general, deputy attorney general or assistant attorney general, may:

- (1) Take testimony under oath;
- (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violations or false or misleading information; and
- (3) require attendance during such examination of documentary material and take testimony under oath or acknowledgment in respect of any such documentary material.

Federal and State Affairs Committee on Senate Bill 91
"Parental Consent."

Proponents and Opponents Position Paper

by

Doris Arwine

February 20, 1989

SF&SA
2-28-89
Attachment 2

Senator Reilly and members of the Committee:

Senate Bill No. 91 would require pregnant females under the age of 18 to secure written consent from one parent before obtaining an abortion. When the minor cannot approach her parents, the district court can be petitioned for a judicial by-pass. In such cases parental consent would be waived if the court finds that the minor is well informed and mature or if the abortion would be in the best interest of the minor.

Objectives of this legislature are: to protect minors against their own immaturity; foster and preserve the family structure; and protect the rights of parents to rear children who are members of their household.

Proponents Position:

* Legal age limits have been imposed regarding obtaining a driver's license, access to alcoholic beverages, voting and marriage. These limitations have been set forth to protect the minor from immature actions. Logic dictates that a minor should be protected from possible immature decision making by requiring parental consent for an abortion?

* The decision to abort an embryo, or carry to term a fetus, requires rational and logical decision making. This decision has a life-long effect on a young woman. It is too overwhelming of a decision, and too great a burden, for her to bear alone. Young teens need counsel from those who have their best interest at heart -- their parents.

* "Often young teenagers are not knowledgeable about their own medical history and must rely on parents to provide necessary information to the physician." 1*

* The parent almost always knows, and understands their teenager better than an abortion counselor. The parent is the one who will be there after the abortion or birth of a child. Who can better advise the pregnant teen about the future than the one who will be there to help guide them afterwards?

* Abortion is not a trivial matter, but a surgical procedure. It should be governed by the same guidelines as any surgical procedure. Parental consent is required by law before a physician can treat a minor, or perform even the least minor surgical process. Therefore, parental consent should be required before a surgical procedure, that of abortion, is performed.

* "Serious and sometimes permanent medical complications of abortion occur in 20 to 30 percent of patients. These complications include: genital tract infections, hemorrhage requiring transfusion, perforation of the uterus or bowel, bleeding, embolism, uterine rupture, varying degrees of infertility, ectopic pregnancy, future miscarriages, and premature and low weight births." 2*

* Minors who have obtained abortions without parental consent, and develop complications, tend to delay seeking post-abortion medical care and consequently jeopardize their health.

* There is growing evidence that abortion leaves emotional and psychological scars. This is termed post abortion syndrome (PAS). "It is similar to the post traumatic distress disorder suffered by many Viet Nam veterans, whereby a traumatic event is not followed by a proper grief process. A University of Minnesota study found that teens who had abortions were four times more likely to be depressed and suicidal than teens who have not had abortions." 3*

* "Young teens making a difficult and unilateral decision to have an abortion, must live with an unsettling secret." 4* This could be detrimental to their tranquility.

* Secrecy and lack of parental consent interferes with the provision of quality medical care during an abortion. "Some young minors have immature cervixes and are at greater risk of cervical injury during an abortion. Some doctors use laminaria, a seaweed extract, to soften and dilate the cervix six hours prior to an abortion." 5* If secrecy surrounds the abortion, this procedure usually isn't used. It doesn't allow enough time to complete the process before the young girl must be home. Otherwise, she will have to fabricate a story to cover her absence.

* "Minnesota passed a law similar to Senate Bill 91 (Parental Consent) in 1980. Abortions for teen-agers dropped 40 percent and pregnancies decreased 32 percent. We can reduce pregnancy without spending a dime." 6*

* "In 1981, the first full year during which the Minnesota law was in effect, the number of teens obtaining abortions after the first trimester dropped almost 17 percent." 7*

* "Senate bill 91 needs an additional section to address child-parent-centered prevention of pregnancy. A parental involvement program was piloted in a South Carolina school. The school system's pregnancy rate dropped by 63 percent in two years." 8*

* The majority of parents genuinely care about their minors and deserve to know when they face trauma. Can we deal out parents who have given much of their lives to raise a child?

* A pregnant minor needs the support of parents during one of the most frightening and challenging times of her life. She should not have to turn to strangers, who often financially profit from the abortion trade, for counsel or consent.

* This bill supports our family system and places parents in a position to offer guidance and support to their pregnant teenager.

Opponents Position:

* This bill implies that a young woman is too immature to make a decision to have an abortion, but mature enough to become a parent.

* The parental consent law is prejudicial. It doesn't restrict abortions for all women, only for those under 18-years-old. This is the group of young women whose lives would be most altered if they were unable to end an unwanted pregnancy.

* A pregnant woman, regardless of age, is entitled to make the personal choice for which she ultimately bears the responsibility. "Although this bill is concerned with parental rights, it focuses on the wrong parents." 9*

* The need to obtain parental consent may decrease abortions causing an increase of births to teens. Increased birth rates by teenagers often lead them to be mothers who are economically and educationally deprived. They end up on welfare rolls. "Statistics show that children of teenage parents also suffer educational disadvantage; they tend to have lower I.Q., achievement scores and are more likely to repeat one grade." 10*

* The parental consent bill will increase the morbidity and mortality rates among pregnant teenagers and increase the number of unwanted children. " Teenagers have two-and-a-half times greater risk of death from continued pregnancy or childbirth than adult women." 11*

* "A Minnesota court found that some minors in whose best interest it is to proceed without notifying their parents are so daunted by the judicial proceedings that they forego the bypass option and either notify their parents or carry to term." 12*

Senate Bill 91 will cause a delay for those who choose abortion, and it may push the minor into the second trimester. Teenagers are less likely to know that they are pregnant early in the first trimester. Consequently they are more likely to postpone medical treatment or election of an abortion till the second trimester. Abortions done in this time frame are more costly and have greater medical risks. It may reduce the number of doctors willing to do abortions on minors.

* This bill could create additional problems. It could encourage minors to seek illegal abortions without consent of parents or judicial system. Also, parents who determined it to be in the best interest of the minor could force daughters to have an abortion.

* "Twenty-five percent of teenagers seeking abortions have important reasons not to tell their parents about their pregnancy or their decision to terminate it." 13*

* Not all minors have caring parents. Some come from abusive, dysfunctional homes. If a minor has suffered incest, she is open to more abuse when she inform her parents about her pregnancy and her desire to terminate it.

* Legal abortions are safer than continued pregnancy and childbirth for minors. Most pregnant teens have little

... no prenatal care in the first three months. "Therefore, teenagers were 15 percent more likely to suffer from toxemia, 92 percent more likely to have anemia and 23 percent more likely to suffer from complications stemming from a premature birth." 14*

* The mental health of women who are faced with an unwanted pregnancy is at greater risk when compelled to go to term than when allowed to choose abortion.

* Parental consent laws sacrifice the privacy rights of minors. "Love and communication between family members cannot be created by criminal statutes forcing confidential matters to be divulged." 15* Often rather than "bringing families together" the news of an unwanted pregnancy can produce the opposite results.

* There is no evidence that this bill will fulfill the objectives of protecting minors from their immaturity, foster family structure or protect the rights of parents to rear children in their households.

Summary:

Data presented from the proponents point of view suggests that abortions create medical risks. On the other

and, the opponents point of view stresses that pregnancy and child birth also have risks for the young teen.

In light of this information, and regardless of the view, either that of proponent or opponent, most people desire to see a decrease in not only abortions, but also teenage pregnancies. Senate Bill 91 addresses an area of vital concern, that of parental consent for a pregnant minor to obtain an abortion. However, this bill isn't directly aimed at the prevention of pregnancy.

All people need to be challenged to initiate and support programs with goals for prevention of pregnancy. The root cause of pregnancy needs to be addressed by legislative programs not just the consequences it causes for all of society.

References

1 Dr. Nancy L. Toth, Family Physician, Graduate of Kansas University Medical School Family Practice Residency at Scott Air Force Base, Board Certified in Family Practice 1979.

2 Ibid.

3 Ibid.

4 Robert W. Conroy, M.D., Director, Will Menninger Center for Applied Behavioral Sciences.

5 Parental Notice Laws - Their Catastrophic Impact on Teenagers' Right To Abortion, ACLU Reproductive Freedom Project, p. 14.

6 Cindy Patton, Lawyer, Kansas for Life, Americans United for Life Legal Defense Fund.

7 Ibid.

8 Michael D. Brown, Registered Nurse, BSN, and children's advocate.

9 Dr. Gordon Risk, Physician, Psychiatrist and president of American Civil Liberties Union of Kansas.

10 Parental Notice Laws - Their Catastrophic Impact on Teenagers' Right To Abortion, ACLU Reproductive Freedom Project, p. 7.

11 Dr. Gordon Risk.

12 Ibid.

13 Susan R. Jacobson, president of Planned Parenthood of Greater Kansas City.

14 Parental Notice Laws - Their Catastrophic Impact on Teenagers' Right To Abortion, ACLU Reproductive Freedom Project, p. 4.

15 Belva Ott, Director of Governmental Affairs and Community Relations - Planned Parenthood of Kansas, Inc.

SENATE BILL No. 91

By Committee on Federal and State Affairs

1-26

SF & SA
2-28-89
Attachment 3

15 AN ACT relating to abortion; concerning abortions performed on
16 minors; imposing certain conditions and requirements thereon;
17 defining and classifying certain crimes; amending K.S.A. 38-123
18 ~~and 38-123~~ and repealing the existing ~~sections.~~ section
19

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

21 ~~New Section 1. (a) It is the intent of the legislature in enacting
22 this parental consent provision to further the important and com-
23 pelling state interests of: (1) Protecting minors against their own
24 immaturity; (2) fostering the family structure and preserving it as a
25 viable social unit; and (3) protecting the rights of parents to rear
26 children who are members of their household.~~

27 ~~(b) The legislature finds as fact that: (1) Immature minors often
28 lack the ability to make fully informed choices that take account of
29 both immediate and long-range consequences; (2) the medical, emo-
30 tional and psychological consequences of abortion are serious and
31 can be lasting, particularly when the patient is immature; (3) the
32 capacity to become pregnant and the capacity for mature judgment
33 concerning the wisdom of an abortion are not necessarily related;
34 (4) parents ordinarily possess information essential to a physician's
35 exercise of the physician's best medical judgment concerning the
36 child; and (5) parents who are aware that their minor daughter has
37 had an abortion may better ensure that she receives adequate medical
38 attention after her abortion. The legislature further finds that parental
39 consultation is usually desirable and in the best interests of the
40 minor.~~ strike

41 ~~(c) It is the intention of the legislature to reasonably regulate
42 abortion in conformance with the decisions of the United States
43 supreme court of January 22, 1973.~~

44 ~~It is the further intention of the legislature to assure and protect~~

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~~the woman's health and the integrity of the woman's decision whether or not to continue to bear a child, to protect the valid and compelling state interest in the infant and unborn child, to assure the integrity of marital and familial relations and the rights and interests of persons who participate in such relations. The legislature finds as fact that these rights and interests are not secure in the economic and social context in which abortions are presently performed in Kansas.~~

Section 1

New Sec. 2. For purposes of this act:

(a) "Abortion" means the use of any instrument, medicine, drug or any other substance or device with intent to terminate the pregnancy of a woman from the time of fertilization until giving birth, and with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead fetus.

(b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents or legal guardians.

(c) "Informed consent" means the giving of information, facts and data, either orally, in written or in pictorial form, as to what would be done by the physician and the consequences of the abortion.

16

(d) "Minor" means any person under the age of 18 years.

~~(e) "Parent" or "parents" means only an individual or individuals and includes a natural guardian, an individual conservator and every individual who is by law liable to maintain, care for or support the minor. It shall not mean a corporate body, body politic or the department of social and rehabilitation services.~~

"Responsible party" means a parent; grandparent; sibling, aunt or uncle who is 21 or more years of age; guardian; individual conservator; or individual who is by law liable to maintain, care for or support the minor

(f) "Physician" means a person licensed to practice medicine and surgery pursuant to K.S.A. 65-2873 and 65-2873a, and amendments thereto.

2

New Sec. 3. No physician shall perform an abortion upon a minor unless:

(a) The minor is emancipated and the physician or the physician's agents have first secured written acknowledgment of informed consent from the emancipated minor; or

(b) the physician or the physician's agent, or another physician (hereinafter called the referring physician) or the referring physician's agents, first obtains the written acknowledgment of informed consent

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_____ a responsible party

82 from _____, except that:

_____ no responsible party

83 (1) If _____ is available within a reasonable time
84 or manner to the physician performing the abortion or the physician's
85 agent, or the referring physician or the referring physician's agent,
86 after reasonable attempts to contact _____, if the persons from

_____ a responsible party

87 whom consent must be obtained pursuant to this section refuse to
88 consent to the performance of an abortion or if the minor elects not
89 to seek the consent of those whose consent is required, the unemancipated
90 minor may petition any district court for a waiver of the
91 consent requirement of this section pursuant to the procedures of
92 section _____, except that, if the unemancipated minor is in the care,
93 custody and control of a corporate body or the department of social
94 and rehabilitation services, such that the corporation or the department
95 stand *in loco parentis* to the minor, the minor shall follow the
96 procedures of section _____ and _____

97 (2) if the district court grants the petition, the unemancipated
98 minor shall sign a written acknowledgment or informed consent with
99 the physician performing the abortion setting forth the date of the
100 court order waiving consent and the case number.

101 New Sec. _____ (a) The Kansas code for care of children shall not
102 apply to proceedings under this act except as specifically made applicable
103 by this act. All proceedings under sections 1 through 7 shall
104 be civil in nature. _____ (d)

105 ~~(b)~~ The district court shall ensure that the unemancipated minor
106 is given assistance in preparing and filing the petition and shall
107 ensure that the minor's identity is kept anonymous. Subsections (a)(1)
108 and (2) of K.S.A. 38-1506 and amendments thereto shall apply to
109 this act. The petition shall include only the initials of the minor,
110 her age and the reasons why the minor seeks the abortion and why
111 the minor seeks a waiver of consent. _____ (e)

112 ~~(c)~~ The unemancipated minor shall participate in proceedings in
113 the court on her own behalf. _____ not be
114 _____ required to
115 _____ right to court-appointed counsel and shall provide her with
116 such counsel upon her request. _____ (f)

117 ~~(d)~~ All court proceedings under this section shall be anonymous
118 and shall be given such precedence over other pending matters as
is necessary to ensure that the court may reach a decision promptly.

(b) It shall be the duty of any school counselor or school nurse counseling an unemancipated minor regarding the minor's pregnancy to:

- (1) Provide the minor with information regarding the minor's right to a hearing under this act; and
- (2) refer the minor to the appropriate office of the department of social and rehabilitation services for counseling and assistance in exercising her right to a hearing under this act.

(c) It shall be the duty of the department of social and rehabilitation services to assign a social worker to provide counseling and assistance in exercising the minor's right to a hearing under this act. At the request of the minor, the social worker shall cause a petition to be filed on behalf of the minor pursuant to this act within seven days after the minor's request.

_____, but the court may meet with the minor in chambers if it deems it necessary. The social worker assigned to the department of social and rehabilitation services on behalf of the minor in the proceedings. The court shall advise the minor to be advised of her

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but a hearing shall be held and the court shall enter judgment, either granting or denying the petition, within five days of the filing of petition, unless extended at the request of the minor.

120
121 ~~_____~~ (g) may

122 ~~(1) The district court shall hear the merits of the petition on~~
123 ~~the record. The court shall hear evidence about the minor's age,~~
124 ~~family, circumstances of pregnancy, gestation of the fetus, emotional~~
125 ~~and physical stability and development of the minor, the alternatives~~
126 ~~to the abortion considered by the minor, whether the minor's parents~~
127 ~~have consented to the abortion, previous pregnancies of the minor~~
128 ~~and any other matter which the court considers useful in determining~~
129 ~~if the minor's petition should be granted.~~

130 ~~(2) If the minor is under 14 years of age, the court may consider~~
131 ~~whether one or both parents of the minor should be consulted by~~
132 ~~the court or should counsel the minor concerning the abortion.~~

— strike

133 ~~(3) The consent requirement of section 2 shall be waived if the~~
134 court finds that:

2

135 (A) The minor is mature and well-informed enough to make the
136 abortion decision on her own; or

137 (B) the performance of the abortion would be in the minor's best
138 interests.

139 ~~(4) An expedited anonymous appeal shall be available to any minor~~
140 ~~from a decision of the district court denying the petition. Such appeal~~
141 ~~shall be pursuant to article 21 of chapter 60 of the Kansas Statutes~~
142 ~~Annotated. A notice of appeal shall be filed within three days of an~~
143 ~~entry of judgment denying the petition. The clerk of the court shall~~
144 ~~prepare the entire official file before the district court and forward~~
145 ~~it to the court of appeals within five days of the filing of the notice~~
146 ~~of appeal. The official file shall be the record on appeal. A hearing~~
147 ~~before the appellate courts shall be held within seven days of the~~
148 ~~filing of appeal and an order shall be issued within five days of the~~
149 ~~hearing unless a longer time is requested by the minor. Any sub-~~
150 ~~sequent appeals shall follow these same procedures.~~

(h)

If the minor wishes to appeal, the court shall appoint counsel to represent the minor on appeal.

151 ~~(5) Any court that conducts proceedings under this section shall~~
152 ~~issue written and specific factual findings and legal conclusions sup-~~
~~porting its decision and shall order that a confidential record of the~~
~~evidence be maintained.~~

(k)

(j) If the social worker, the district court, the clerk of the district court or the appellate court fails to comply with the time limits imposed by this section, judicial consent to the abortion shall be considered granted.

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156 avails herself of the procedures provided by this section. Expenses
157 for all proceedings under this act shall be paid in the manner pro-
158 vided by subsection (b) of K.S.A. 38-1511 and 38-1593, and amend-
159 ments thereto, for expenses of proceedings under the Kansas code
160 for care of children.

161 ~~(4) The judicial administrator shall annually report to the legis-~~ (1)
162 ~~lature the number of proceedings conducted pursuant to this act and~~
163 ~~the disposition of those proceedings.~~ 4

164 New Sec. ~~5~~ The requirements of sections ~~2 and 4~~ shall not apply 2 and 3
165 if, in the best medical judgment of the physician, based on the facts
166 of the case, a medical emergency exists that so complicates the
167 pregnancy and would so impair the health of the minor as to require
168 an immediate abortion.

169 ~~New Sec. 6. All abortions after the first trimester shall be per-~~ strike
170 ~~formed in either a hospital or a licensed surgical facility as defined~~
171 ~~in K.S.A. 65-125 and amendments thereto.~~ 5

172 New Sec. ~~7~~ Failure to obtain written acknowledgment of in- 6
173 formed consent, where required pursuant to the requirements of
174 this act, is *prima facie* evidence of failure to obtain informed consent
175 and of interference with family relations in appropriate civil actions.
176 The law of this state shall not be construed to preclude the award
177 of exemplary damages in any appropriate civil action relevant to
178 violations of this act. Nothing in this act shall be construed to limit
179 the common law rights of parents.

180 New Sec. ~~8~~ (a) Aggravated abortion is: (1) The performance of 6
181 an abortion by any person other than a person licensed to practice
182 medicine and surgery pursuant to K.S.A. 65-2873 and 65-2873a, and
183 amendments thereto; (2) the performance of an abortion without first 1; or
184 obtaining informed consent as defined in section ~~2~~; (3) the perform-
185 ance of an abortion upon a person known to the physician to be an 2
186 unemancipated minor if the requirements of section ~~9~~ have not been
187 satisfied, ~~or (4) the performance of an abortion after the first trimester~~ strike
188 ~~of pregnancy in any place or location other than that required by~~
189 ~~any law regulating abortion.~~

190 (b) Aggravated abortion is a class D felony. 7

191 New Sec. ~~9~~ (a) Illegal abortion is the failure of any person to 7

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ing to a felony.

(b) Illegal abortion is a class A misdemeanor.

New Sec. ~~44~~ It is a complete defense to aggravated abortion and illegal abortion that either a medical emergency existed or that the informed consent could not be obtained as required because the medical condition of the minor upon whom the abortion was performed prohibited or made the obtaining of such consent impractical and impossible.

Sec. ~~41~~ K.S.A. 38-123 is hereby amended to read as follows:

38-123. *Except as provided by section ~~4~~ and notwithstanding any other provision of the law, an unmarried pregnant minor where if no parent or guardian is available may give consent to the furnishing of hospital, medical and surgical care related to her pregnancy, and such consent shall not be subject to disaffirmance because of minority. Except as provided by section ~~4~~, the consent of a parent or guardian of an unmarried pregnant minor shall not be necessary in order to authorize hospital, medical and surgical care related to her pregnancy; where if no parent or guardian is available.*

Sec. 12. K.S.A. 38-133 is hereby amended to read as follows:

~~38-133. (a) Whenever any child has been placed by the secretary of social and rehabilitation services or by any court of competent jurisdiction in a licensed foster care home, or a home approved by the department of health and environment and department of social and rehabilitation services as meeting licensing standards of a foster care home, and such child needs medical or surgical care, other than an abortion, determined by a physician to be necessary for the welfare of such child, consent to such care by the child's parent or other legal guardian shall be deemed to have been given if there has been given a consent to medical and surgical care by the terms of a written order of a court of competent jurisdiction or if there has been given a consent in terms that substantially conform to the provisions of subsection (c) and such form has been signed by a parent or other legal guardian of such child and acknowledged before a notary public or other person authorized by law to administer oaths.~~

(b) The secretary of social and rehabilitation services or such

shall administer the consent form as legal

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guardian of any child committed to the custody of the secretary when the parental rights of a child's parents have been severed or when authorized by order of a court of competent jurisdiction.

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(c) The form provided for in subsection (a) is as follows:

CONSENT TO MEDICAL CARE

I, _____, parent or legal guardian of _____, born _____, do hereby consent to any medical or surgical care and the administration of anesthesia determined by a physician to be necessary for the welfare of _____ while said child is under the care, custody and control of the secretary of social and rehabilitation services.

(Name of Child)

(Signature of Parent or Legal Guardian)

Acknowledged before me this _____ day of _____,

(Signature of Notary Public)

My appointment expires _____.

New Sec. ~~40~~. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the provisions or applications of this act which can be given effect without the invalid provision or application. To this end, the provisions of this act are severable. 10

Sec. ~~44~~. K.S.A. 38-123 and 38-124 are hereby repealed. 11

Sec. ~~45~~. This act shall take effect and be in force from and after its publication in the statute book. 12