

**HOUSE BILL No. 2598**

By Committee on Federal and State Affairs

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Proposed Amendment on HB 2598  
Representative Ruben  
February 23, 2012  
Prepared by Mike Heim  
Office of Revisor of Statutes

1 AN ACT concerning abortion; relating to restrictions on late term  
2 abortions; relating to the woman's-right-to-know act; creating the no  
3 taxpayer funding for abortion act; amending K.S.A. 60-1901 and  
4 K.S.A. 2011 Supp. 40-2246, 65-6701, 65-6703, 65-6709, 65-6710, 79-  
5 32,117, 79-32,138, 79-32,182b, 79-32,195, 79-32,261 and 79-3606 and  
6 repealing the existing sections; also repealing K.S.A. 2011 Supp. 79-  
7 3606g.

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

9 New Section 1. (a) Sections 1 through 7, and amendments thereto,  
10 shall be known and may be cited as the no taxpayer funding for abortion  
11 act.

12 (b) As used in this act:

13 (1) "Abortion" has the same meaning as such term is defined in  
14 K.S.A. 65-6701, and amendments thereto.

15 (2) "Health benefit plan" means any hospital or medical expense  
16 policy, health, hospital or medical services corporation contract, and a plan  
17 provided by a municipal group-funded pool, or a health maintenance  
18 organization contract offered by any employer or any certificate issued  
19 under any such policy, contract or plan.

20 (3) "Health care entity" means an individual physician or other health  
21 care professional, a hospital, a provider-sponsored organization, a health  
22 maintenance organization or any other health care facility or organization.

23 (4) "State agency" has the same meaning as such term is defined in  
24 K.S.A. 75-3701, and amendments thereto.

25 New Sec. 2. Except to the extent required by federal law:

26 (a) No moneys appropriated from the state general fund or from any  
27 special revenue fund shall be expended for any abortion;

28 (b) no tax credit shall be allowed against any income tax, premium or  
29 privilege tax liability and no exemption shall be granted from sales or  
30 compensating use tax for that portion of such amounts paid or incurred for  
31 an abortion, or that portion of such amounts paid or incurred for a health  
32 benefit plan, including premium assistance, for the purchase of an optional  
33 rider for coverage of abortion in accordance with K.S.A. 2011 Supp. 40-  
34 2,190, and amendments thereto;

35 (c) in the case of any tax-preferred trust or account, the purpose of  
36

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1 which is to pay medical expenses of the account beneficiary, any amount  
2 paid or distributed from such an account for an abortion shall be included  
3 in the gross income of such beneficiary; and

4 (d) no health care services provided by any state agency, or any  
5 employee of a state agency while acting within the scope of such  
6 employee's employment, shall include abortion.

7 New Sec. 3. Nothing in sections 1 through 7, and amendments  
8 thereto, shall repeal, amend or have any effect on any other state law to the  
9 extent such law imposes any limitation on the use of funds for abortion,  
10 more restrictive than the limitations set forth in sections 1 through 7, and  
11 amendments thereto.

12 New Sec. 4. Nothing in sections 1 through 7, and amendments  
13 thereto, shall be construed:

14 (a) To require any state agency or municipality to provide or pay for  
15 any abortion; or

16 (b) as creating or recognizing a right to abortion.

17 New Sec. 5. No state agency shall discriminate against any individual  
18 or institutional health care entity on the basis that such health care entity  
19 does not provide, pay for or refer for abortions.

20 New Sec. 6. The limitations set forth in sections 1 through 7, and  
21 amendments thereto, shall not apply to an abortion which is necessary to  
22 preserve the life of the pregnant woman.

23 New Sec. 7. The provisions of sections 1 through 7, and amendments  
24 thereto, are declared to be severable, and if any provision, or the  
25 application thereof, to any person shall be held invalid, such invalidity  
26 shall not affect the validity of the remaining provisions of sections 1  
27 through 7, and amendments thereto.

28 New Sec. 8. (a) No person shall perform an abortion with  
29 knowledge that the pregnant woman is seeking the abortion solely on  
30 account of the sex of the unborn child.

31 (b) (1) A woman upon whom an abortion is performed or induced, or  
32 upon whom there is an attempt to perform or induce an abortion, in  
33 violation of this section, the father, if married to the woman at the time of  
34 the abortion, and the parents or custodial guardian of the woman, if the  
35 woman has not attained the age of 18 years at the time of the abortion,  
36 may in a civil action obtain appropriate relief, unless, in a case where the  
37 plaintiff is not the woman upon whom the abortion was performed, the  
38 pregnancy resulted from the plaintiff's criminal conduct.

39 (2) Such relief shall include:

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

42 (B) statutory damages equal to three times the cost of the abortion;  
43 and

1 (C) reasonable attorney fees.

2 (c) A woman upon whom an abortion is performed shall not be  
3 prosecuted under this section for a conspiracy to violate this section  
4 pursuant to K.S.A. 2011 Supp. 21-5302, and amendments thereto.

5 (d) Nothing in this section shall be construed to create a right to an  
6 abortion. Notwithstanding any provision of this section, a person shall not  
7 perform an abortion that is prohibited by law.

8 (e) Upon a first conviction of a violation of this section, a person  
9 shall be guilty of a class A person misdemeanor. Upon a second or  
10 subsequent conviction of a violation of this section, a person shall be  
11 guilty of a severity level 10, person felony.

12 (f) If any provision of this section is held to be invalid or  
13 unconstitutional, it shall be conclusively presumed that the legislature  
14 would have enacted the remainder of this section without such invalid or  
15 unconstitutional provision.

16 New Sec. 9. (a) No school district, employee or volunteer thereof,  
17 or educational service provider contracting with such school district shall  
18 provide abortion services. No school district shall permit any person or  
19 entity to offer, sponsor or otherwise furnish in any manner any course  
20 materials or instruction relating to human sexuality or sexually transmitted  
21 diseases if such person or entity is an abortion services provider.

22 (b) For the purposes of this section, the term "abortion" shall have the  
23 same meaning as such term is defined in K.S.A. 65-6701, and amendments  
24 thereto.

25 New Sec. 10. (a) No civil action may be commenced in any court  
26 for a claim of wrongful life or wrongful birth, and no damages may be  
27 recovered in any civil action for any physical condition of a minor that  
28 existed at the time of such minor's birth if the damages sought arise out of  
29 a claim that a person's action, or omission, contributed to such minor's  
30 mother not obtaining an abortion.

31 (b) Nothing in this section shall be deemed to create any new cause of  
32 action, nor preclude any otherwise proper cause of action based on a claim  
33 that, but for a person's wrongful action, or omission, the death or injury of  
34 the mother would not have occurred, or the handicap, disease or disability  
35 of an individual prior to birth would have been prevented, cured or  
36 ameliorated in a manner that preserved the health and life of such  
37 individual.

38 (c) As used in this section:

39 (1) "Abortion" has the same meaning as such term is defined in  
40 K.S.A. 65-6701, and amendments thereto.

41 (2) "Claim of wrongful birth" means a cause of action brought by a  
42 parent, legal guardian or other individual legally required to provide for  
43 the support of a minor, which seeks damages, whether economic or

1 noneconomic, as a result of a physical condition of such minor that existed  
2 at the time of such minor's birth, and which is based on a claim that a  
3 person's action, or omission, contributed to such minor's mother not  
4 obtaining an abortion.

5 (3) "Claim of wrongful life" means a cause of action brought by, or  
6 on behalf of, a minor, which seeks damages, whether economic or  
7 noneconomic, for such minor as a result of a physical condition of such  
8 minor that existed at the time of such minor's birth, and which is based on  
9 a claim that a person's action, or omission, contributed to such minor's  
10 mother not obtaining an abortion.

11 Sec. 11. K.S.A. 2011 Supp. 40-2246 is hereby amended to read as  
12 follows: 40-2246. (a) A credit against the taxes otherwise due under the  
13 Kansas income tax act shall be allowed to an employer for amounts paid  
14 during the taxable year for purposes of this act on behalf of an eligible  
15 employee as defined in K.S.A. 40-2239, and amendments thereto, to  
16 provide health insurance or care and amounts contributed to health savings  
17 accounts of eligible covered employees, *except that for taxable years*  
18 *commencing after December 31, 2011, no credit shall be allowed pursuant*  
19 *to this section for that portion of any amounts paid by an employer for*  
20 *healthcare, a health benefit plan, as defined in section 1, and amendments*  
21 *thereto, or amounts contributed to health savings accounts for the*  
22 *purchase of an optional rider for coverage of abortion in accordance with*  
23 *K.S.A. 2011 Supp. 40-2,190, and amendments thereto.*

24 (b) (1) For employers that have established a small employer health  
25 benefit plan after December 31, 1999, but prior to January 1, 2005, the  
26 amount of the credit allowed by subsection (a) shall be \$35 per month per  
27 eligible covered employee or 50% of the total amount paid by the  
28 employer during the taxable year; whichever is less, for the first two years  
29 of participation. In the third year, the credit shall be equal to 75% of the  
30 lesser of \$35 per month per employee or 50% of the total amount paid by  
31 the employer during the taxable year. In the fourth year, the credit shall be  
32 equal to 50% of the lesser of \$35 per month per employee or 50% of the  
33 total amount paid by the employer during the taxable year. In the fifth year,  
34 the credit shall be equal to 25% of the lesser of \$35 per month per  
35 employee or 50% of the total amount paid by the employer during the  
36 taxable year. For the sixth and subsequent years, no credit shall be  
37 allowed.

38 (2) For employers that have established a small employer health  
39 benefit plan or made contributions to a health savings account of an  
40 eligible covered employee after December 31, 2004, the amount of credit  
41 allowed by subsection (a) shall be \$70 per month per eligible covered  
42 employee for the first 12 months of participation, \$50 per month per  
43 eligible covered employee for the next 12 months of participation and \$35

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1 per eligible covered employee for the next 12 months of participation.  
2 After 36 months of participation, no credit shall be allowed.

3 (c) If the credit allowed by this section is claimed, the amount of any  
4 deduction allowable under the Kansas income tax act for expenses  
5 described in this section shall be reduced by the dollar amount of the  
6 credit. The election to claim the credit shall be made at the time of filing  
7 the tax return in accordance with law. If the credit allowed by this section  
8 exceeds the taxes imposed under the Kansas income tax act for the taxable  
9 year, that portion of the credit which exceeds those taxes shall be refunded  
10 to the taxpayer.

11 (d) Any amount of expenses paid by an employer under this act shall  
12 not be included as income to the employee for purposes of the Kansas  
13 income tax act. If such expenses have been included in federal taxable  
14 income of the employee, the amount included shall be subtracted in  
15 arriving at state taxable income under the Kansas income tax act.

16 (e) The secretary of revenue shall promulgate rules and regulations to  
17 carry out the provisions of this section.

18 (f) This section shall apply to all taxable years commencing after  
19 December 31, 1999.

20 Sec. 12. K.S.A. 60-1901 is hereby amended to read as follows: 60-  
21 1901. (a) If the death of a person is caused by the wrongful act or  
22 omission of another, an action may be maintained for the damages  
23 resulting therefrom if the former might have maintained the action had he  
24 or she such person lived, in accordance with the provisions of this article,  
25 against the wrongdoer, or his or her such wrongdoer's personal  
26 representative if he or she such wrongdoer is deceased.

27 (b) As used in article 19 of chapter 60 of the Kansas Statutes  
28 Annotated, and amendments thereto, a person also means an unborn child.

29 (c) As used in this section, "unborn child" means a living individual  
30 organism of the species homo sapiens, in utero, at any stage of gestation  
31 from fertilization to birth.

32 (d) This section shall not apply to a wrongful death action if the  
33 death is of an unborn child by means of:

34 (1) Any act committed by the mother of the unborn child;

35 (2) any medical procedure, including abortion, performed by a  
36 physician or other licensed medical professional at the request of the  
37 pregnant woman or her legal guardian; or

38 (3) the lawful dispensation or administration of lawfully prescribed  
39 medication.

40 Sec. 13. K.S.A. 2011 Supp. 65-6701 is hereby amended to read as  
41 follows: 65-6701. As used in this act K.S.A. 65-6701 through 65-6721 and  
42 section 8, and amendments thereto:

43 (a) "Abortion" means the use or prescription of any instrument,

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1 medicine, drug or any other substance or device to terminate the  
2 pregnancy of a woman known to be pregnant with an intention other than  
3 to increase the probability of a live birth, to preserve the life or health of  
4 the child after live birth, or to remove a dead unborn child who died as the  
5 result of natural causes in utero, accidental trauma or a criminal assault on  
6 the pregnant woman or her unborn child, and which causes the premature  
7 termination of the pregnancy.

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

10 (b) (c) "Counselor" means a person who is: (1) Licensed to practice  
11 medicine and surgery; (2) licensed to practice psychology; (3) licensed to  
12 practice professional or practical nursing; (4) registered to practice  
13 professional counseling; (5) licensed as a social worker; (6) the holder of a  
14 master's or doctor's degree from an accredited graduate school of social  
15 work; (7) registered to practice marriage and family therapy; (8) a licensed  
16 physician assistant; or (9) a currently ordained member of the clergy or  
17 religious authority of any religious denomination or society. Counselor  
18 does not include the physician who performs or induces the abortion or a  
19 physician or other person who assists in performing or inducing the  
20 abortion.

21 (e) (d) "Department" means the department of health and  
22 environment.

23 (e) (e) "Gestational age" means the time that has elapsed since the  
24 first day of the woman's last menstrual period.

25 (e) (f) "Medical emergency" means a condition which, on the basis  
26 of the physician's good faith clinical judgment using and exercising that  
27 degree of care, skill and proficiency commonly exercised by the ordinary  
28 skillful, careful and prudent physician in the same or similar  
29 circumstances, so complicates the medical condition of a pregnant woman  
30 as to necessitate the immediate abortion of her pregnancy to avert her  
31 death or for which a delay will create serious risk of substantial and  
32 irreversible impairment of a major bodily function. [No condition shall be  
33 deemed a medical emergency if based on a claim or diagnosis that the  
34 woman will engage in conduct which would result in her death or in  
35 substantial and irreversible physical impairment of a major bodily  
36 function.

37 (g) "Minor" means a person less than 18 years of age.

38 (h) "Physician" means a person licensed to practice medicine and  
39 surgery in this state.

40 (i) "Pregnant" or "pregnancy" means that female reproductive  
41 condition of having an unborn child in the mother's body.

42 (j) "Qualified person" means an agent of the physician who is a  
43 psychologist, licensed social worker, registered professional counselor

licensed to practice professional or practical nursing; (3) the following persons  
licensed to practice behavioral sciences: Licensed psychologists, licensed masters  
level psychologists, licensed clinical psychotherapists, licensed social workers,  
licensed specialist clinical social workers, licensed marriage and family therapists,  
licensed clinical marriage and family therapists, licensed professional counselors,  
licensed clinical professional counselors; (4)

(5)

"Medical emergency" means a condition that, in reasonable medical  
judgment, so complicates the medical condition of the pregnant  
woman as to necessitate the immediate abortion of her pregnancy  
without first determining gestational age to avert her death or for  
which a delay necessary to determine gestational age will create  
serious risk of substantial and irreversible physical impairment of a  
major bodily function.

licensed

licensed marriage and family therapist, licensed master's  
level psychologist, licensed clinical psychotherapist,

1 registered nurse or physician.

2 (f) (k) "Unemancipated minor" means any minor who has never been:

3 (1) Married; or (2) freed, by court order or otherwise, from the care,  
4 custody and control of the minor's parents.

5 (f) (l) "Viable" means that stage of fetal development when it is the  
6 physician's judgment according to accepted obstetrical or neonatal  
7 standards of care and practice applied by physicians in the same or similar  
8 circumstances that there is a reasonable probability that the life of the child  
9 can be continued indefinitely outside the mother's womb with natural or  
10 artificial life-supportive measures.

11 Sec. 14. K.S.A. 2011 Supp. 65-6703 is hereby amended to read as  
12 follows: 65-6703. (a) No person shall perform or induce, or attempt to  
13 perform or induce an abortion when the unborn child is viable unless such  
14 person is a physician and has a documented referral from another  
15 physician not legally or financially affiliated with the physician  
16 performing or inducing or attempting to perform or induce the abortion  
17 and both physicians provide a written determination, based upon a medical  
18 judgment arrived at using and exercising that degree of care, skill and  
19 proficiency commonly exercised by the ordinary skillful, careful and  
20 prudent physician in the same or similar circumstances and that would be  
21 made by a reasonably prudent physician, knowledgeable in the field, and  
22 knowledgeable about the case and the treatment possibilities with respect  
23 to the conditions involved, that: (1) The abortion is necessary to preserve  
24 the life of the pregnant woman; or (2) a continuation of the pregnancy will  
25 cause a substantial and irreversible physical impairment of a major bodily  
26 function of the pregnant woman. *No condition shall be deemed to exist if*  
27 *it is based on a claim or diagnosis that the woman will engage in conduct*  
28 *that would result in her death or in substantial and irreversible physical*  
29 *impairment of a major bodily function.*

30 (b) Except in the case of a medical emergency, a copy of the written  
31 documented referral and of the abortion-performing physician's written  
32 determination shall be provided to the pregnant woman no less than 30  
33 minutes prior to the initiation of the abortion. The written determination  
34 shall be time-stamped at the time it is delivered to the pregnant woman.  
35 The medical basis for the determination shall also be reported by the  
36 physician as part of the written report made by the physician to the  
37 secretary of health and environment under K.S.A. 65-445, and  
38 amendments thereto. Such determination shall specify:

39 (1) If the unborn child was determined to be nonviable and the  
40 medical basis of such determination;

41 (2) if the abortion is necessary to preserve the life of the pregnant  
42 woman and the medical basis of such determination, including the specific  
43 medical condition the physician believes would cause the death of the

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pregnant woman; or

(3) if a continuation of the pregnancy will cause a substantial and irreversible *physical* impairment of a major bodily function of the pregnant woman and the medical basis of such determination, including the specific medical condition the physician believes would constitute a substantial and irreversible *physical* impairment of a major bodily function of the pregnant woman.

(c) (1) Except in the case of a medical emergency, prior to performing *or inducing, or attempting to perform or induce* an abortion upon a woman, the physician shall determine the gestational age of the unborn child according to accepted obstetrical and neonatal practice and standards applied by physicians in the same or similar circumstances. If the physician determines the gestational age is less than 22 weeks, the physician shall document as part of the medical records of the woman the basis for the determination. The medical basis for the determination of the gestational age of the unborn child shall also be reported by the physician as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445, and amendments thereto.

(2) If the physician determines the gestational age of the unborn child is 22 or more weeks, prior to performing *or inducing, or attempting to perform or induce* an abortion upon the woman the physician shall determine if the unborn child is viable by using and exercising that degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent physician in the same or similar circumstances. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age of the unborn child and shall enter such findings and determinations of viability in the medical record of the woman.

(3) If the physician determines the gestational age of an unborn child is 22 or more weeks, and determines that the unborn child is not viable and performs an abortion on the woman, the physician shall report such determinations, the medical basis and the reasons for such determinations in writing to the medical care facility in which the abortion is performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445, and amendments thereto, or if the abortion is not performed in a medical care facility, the physician shall report such determinations, the medical basis and the reasons for such determinations in writing to the secretary of health and environment as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445, and amendments thereto.

(4) If the physician who is to perform the abortion determines the gestational age of an unborn child is 22 or more weeks, and determines



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1 that the unborn child is viable, both physicians under subsection (a)  
 2 determine in accordance with the provisions of subsection (a) that an  
 3 abortion is necessary to preserve the life of the pregnant woman or that a  
 4 continuation of the pregnancy will cause a substantial and irreversible  
 5 *physical* impairment of a major bodily function of the pregnant woman  
 6 and the physician performs an abortion on the woman, the physician who  
 7 performs the abortion shall report such determinations, the medical basis  
 8 and the reasons for such determinations, including the specific medical  
 9 diagnosis for the determination that an abortion is necessary to preserve  
 10 the life of the pregnant woman or that a continuation of the pregnancy will  
 11 cause a substantial and irreversible *physical* impairment of a major bodily  
 12 function of the pregnant woman and the name of the referring physician  
 13 required by subsection (a) in writing to the medical care facility in which  
 14 the abortion is performed for inclusion in the report of the medical care  
 15 facility to the secretary of health and environment under K.S.A. 65-445,  
 16 and amendments thereto, or if the abortion is not performed in a medical  
 17 care facility, the physician who performs the abortion shall report such  
 18 determinations, the medical basis and the reasons for such determinations,  
 19 including the specific medical diagnosis for the determination that an  
 20 abortion is necessary to preserve the life of the pregnant woman or that a  
 21 continuation of the pregnancy will cause a substantial and irreversible  
 22 *physical* impairment of a major bodily function of the pregnant woman  
 23 and the name of the referring physician required by subsection (a) in  
 24 writing to the secretary of health and environment as part of the written  
 25 report made by the physician to the secretary of health and environment  
 26 under K.S.A. 65-445, and amendments thereto.

27 (5) The physician shall retain the medical records required to be kept  
 28 under paragraphs (1) and (2) of this subsection (c) for not less than 10  
 29 years and shall retain a copy of the written reports required under  
 30 paragraphs (3) and (4) of this subsection (c) for not less than 10 years.

31 (d) The secretary of health and environment shall adopt rules and  
 32 regulations to administer this section. Such rules and regulations shall  
 33 include:

34 (1) A detailed list of the information that must be kept by a physician  
 35 under paragraphs (1) and (2) of subsection (c);  
 36 (2) the contents of the written reports required under paragraphs (3)  
 37 and (4) of subsection (c); and

38 (3) detailed specifications regarding information that must be  
 39 provided by a physician in order to comply with the obligation to disclose  
 40 the medical basis and specific medical diagnosis relied upon in  
 41 determining that an abortion is necessary to preserve the life of the  
 42 pregnant woman or that a continuation of the pregnancy will cause a  
 43 substantial and irreversible physical impairment of a major bodily function of the

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1 pregnant woman.

2 (e) A woman upon whom an abortion is performed shall not be  
3 prosecuted under this section for a conspiracy to violate this section  
4 pursuant to K.S.A. 2011 Supp. 21-5302, and amendments thereto.

5 (f) Nothing in this section shall be construed to create a right to an  
6 abortion. Notwithstanding any provision of this section, a person shall not  
7 perform an abortion that is prohibited by law.

8 (g) (1) A woman upon whom an abortion is performed in violation of  
9 this section, the father, if married to the woman at the time of the abortion,  
10 and the parents or custodial guardian of the woman, if the woman has not  
11 attained the age of 18 years at the time of the abortion, may in a civil  
12 action obtain appropriate relief, unless, in a case where the plaintiff is not  
13 the woman upon whom the abortion was performed, the pregnancy  
14 resulted from the plaintiff's criminal conduct.

15 (2) Such relief shall include:

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

18 (B) statutory damages equal to three times the cost of the abortion;  
19 and

20 (C) reasonable attorney fees.

21 (h) The prosecution of violations of this section may be brought by  
22 the attorney general or by the district attorney or county attorney for the  
23 county where any violation of this section is alleged to have occurred.

24 (i) Nothing in this section shall be construed to restrict the authority  
25 of the board of healing arts to engage in a disciplinary action.

26 (j) If any provision of this section is held to be invalid or  
27 unconstitutional, it shall be conclusively presumed that the legislature  
28 would have enacted the remainder of this section without such invalid or  
29 unconstitutional provision.

30 (k) Upon a first conviction of a violation of this section, a person  
31 shall be guilty of a class A nonperson misdemeanor. Upon a second or  
32 subsequent conviction of a violation of this section, a person shall be  
33 guilty of a severity level 10, nonperson felony.

34 Sec. 15. K.S.A. 2011 Supp. 65-6709 is hereby amended to read as  
35 follows: 65-6709. No abortion shall be performed or induced without the  
36 voluntary and informed consent of the woman upon whom the abortion is  
37 to be performed or induced. Except in the case of a medical emergency,  
38 consent to an abortion is voluntary and informed only if:

39 (a) At least 24 hours before the abortion the physician who is to  
40 perform the abortion or the referring physician has informed the woman in  
41 writing of:

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

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

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

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

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

20 (6) the contact information for ~~free~~-counseling assistance for  
21 medically challenging pregnancies and the contact information for ~~free~~-  
22 perinatal hospice services, *including information regarding which entities*  
23 *provide such services free of charge;*

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

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

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

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

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

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

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1 (4) the woman is free to withhold or withdraw her consent to the  
 2 abortion at any time prior to invasion of the uterus without affecting her  
 3 right to future care or treatment and without the loss of any state or  
 4 federally-funded benefits to which she might otherwise be entitled; and  
 5 (5) the abortion will terminate the life of a whole, separate, unique,  
 6 living human being; and

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

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

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

25 (e) The woman certifies in writing on a form provided by the  
 26 department, prior to the abortion, that the information required to be  
 27 provided under subsections (a), (b) and (d) has been provided and that she  
 28 has met with the physician who is to perform the abortion on an individual  
 29 basis as provided under subsection (c). All physicians who perform  
 30 abortions shall report the total number of certifications received monthly  
 31 to the department. The department shall make the number of certifications  
 32 received available on an annual basis.

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

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

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

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

43 (2) informs the woman that she has the right to receive a physical

The total number of certifications shall be reported by the physician as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445, and amendments thereto.

and the number of women who decided not to have an abortion after hearing the heartbeat of the unborn child

1 picture of the ultrasound image, at no additional expense to her;

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

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

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

10 If the woman accepts the offer and requests to view the ultrasound  
11 image, receive a physical picture of the ultrasound image or both, her  
12 request shall be granted by the physician at no additional expense to the  
13 woman. The physician's certification shall be time-stamped at the time the  
14 opportunity to view the ultrasound image and receive a physical picture of  
15 the ultrasound image was offered.

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

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

21 (2) offers the woman the opportunity to listen to the heartbeat of her  
22 unborn child;

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

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

28 If the woman accepts the offer and requests to listen to the heartbeat of  
29 her unborn child, her request shall be granted by the physician at no  
30 additional expense to the woman. The physician's certification shall be  
31 time-stamped at the time the opportunity to listen to the heartbeat of her  
32 unborn child was offered.

33 (i) (1) Prior to a woman giving informed consent to having any part  
34 of an abortion performed or induced, if the pregnancy is at least 10 weeks  
35 from the first day of the last menstrual period, the ~~abortion-provider~~ who  
36 is to perform or induce the abortion, a certified technician or another  
37 agent of the ~~abortion-provider~~ shall, using a hand-held doppler fetal  
38 monitor, make the embryonic or fetal heartbeat of the unborn child audible  
39 for the pregnant woman to hear.

40 (2) ~~An abortion-provider~~ a certified technician or another agent of  
41 the ~~abortion-provider~~ shall not be in violation of this subsection if:

42 (A) The ~~provider~~ certified technician or agent has attempted  
43 consistent with standard medical practice, to make the embryonic or fetal

physician

physician

a heart monitor equipment including, but not limited to,

A physician,

physician

physician

1 heartbeat of the unborn child audible for the pregnant woman to hear  
2 using a hand-held doppler fetal monitor;

3 (B) the attempt does not result in the heartbeat being made audible;  
4 and

5 (C) the provider offers to attempt to make the heartbeat audible at a  
6 subsequent date.

7 (3) Nothing in this subsection shall be construed to require the  
8 pregnant woman to listen to the sounds detected by the hand-held doppler  
9 fetal monitor pursuant to paragraph (1).

10 (f) (k) The physician's certification required by subsections (h) and (i)  
11 together with the pregnant woman's signed acceptance or rejection of such  
12 offer shall be placed in the woman's medical file in the physician's office  
13 and kept for 10 years. However, in the case of a minor, the physician shall  
14 keep a copy of the certification and the signed acceptance or rejection in  
15 the minor's medical file for five years past the minor's majority, but in no  
16 event less than 10 years.

17 (k) (l) Any private office, freestanding surgical outpatient clinic or  
18 other facility or clinic in which abortions are performed shall  
19 conspicuously post a sign in a location so as to be clearly visible to  
20 patients. The sign required pursuant to this subsection shall be printed with  
21 lettering that is legible and shall be at least three quarters of an inch  
22 boldfaced type which reads: The sign shall include the address for the  
23 pregnancy resources website published and maintained by the department  
24 of health and environment, and the following text:

25 Notice: It is against the law for anyone, regardless of their relationship  
26 to you, to force you to have an abortion. By law, we cannot perform an  
27 abortion on you unless we have your freely given and voluntary consent. It  
28 is against the law to perform an abortion on you against your will. You  
29 have the right to contact any local or state law enforcement agency to  
30 receive protection from any actual or threatened physical abuse or  
31 violence. You have the right to change your mind at any time prior to the  
32 actual abortion and request that the abortion procedure cease. It is  
33 unlawful for anyone to make you have an abortion against your will, even  
34 if you are a minor. The father of your child must provide support for the  
35 child, even if he has offered to pay for an abortion. If you decide not to  
36 have an abortion you may qualify for financial help for pregnancy, child  
37 birth and newborn care. If you qualify, medicaid will pay or help pay the  
38 cost of doctor, clinic hospital and other related medical expenses,  
39 including child birth delivery services and care for your newborn baby.  
40 Many agencies are willing to provide assistance so that you may carry  
41 your child to term, and to assist after your child's birth.  
42 The provisions of this subsection shall not apply to any private office,  
43 freestanding surgical outpatient clinic or other facility or clinic which

and  
heart monitor equipment including, but not limited to,

If the woman declined an abortion after hearing the unborn child's heartbeat, this fact shall be reported by the physician as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445, and amendments thereto.  
(4)  
heart monitor equipment such as a

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