

**HOUSE BILL No. 2035**

By Representatives Kinzer, Rubin, Arpke, Billinger, A. Brown, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Donohoe, Fund, Garber, Goico, Goodman, Grange, Gregory, Gonzalez, Grosserode, Henry, Hermanson, Hildbrand, Hoffman, M. Holmes, Howell, Huebert, Kelley, Kerschen, Kiegerl, Knox, Landwehr, Mast, McLeland, Meier, Meigs, Montgomery, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Powell, Rhoades, Ryckman, Scapa, Schwab, Siegfried, Smith, Suelentrop, Swanson, Tyson, Vickrey, Weber, Wetta, Williams and B. Wolf

1-19

1 AN ACT concerning abortion; regarding certain prohibitions on late-term  
2 and partial birth abortion; amending K.S.A. 65-445, 65-6701, 65-  
3 6703, 65-6705 and 65-6721 and K.S.A. 2010 Supp. 65-6709 and 65-  
4 6710 and repealing the existing sections; also repealing K.S.A. 65-  
5 6713.

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

6  
7 Section 1. K.S.A. 65-445 is hereby amended to read as follows: 65-  
8 445. (a) Every medical care facility shall keep written records of all  
9 pregnancies which are lawfully terminated within such medical care  
10 facility and shall annually submit a written report thereon to the secretary  
11 of health and environment in the manner and form prescribed by the  
12 secretary. Every person licensed to practice medicine and surgery shall  
13 keep a record of all pregnancies which are lawfully terminated by such  
14 person in a location other than a medical care facility and shall annually  
15 submit a written report thereon to the secretary of health and environment  
16 in the manner and form prescribed by the secretary.

17  
18 (b) Each report required by this section shall include the number of  
19 pregnancies terminated during the period of time covered by the report,  
20 the type of medical facility in which the pregnancy was terminated,  
21 information required to be reported under subsections (b) and (c) of  
22 K.S.A. 65-6703, subsection (j) of K.S.A. 65-6705 and subsection (c) of  
23 K.S.A. 65-6721, and amendments thereto, if applicable to the pregnancy  
24 terminated, and such other information as may be required by the  
25 secretary of health and environment, but the report shall not include the  
26 names of the persons whose pregnancies were so terminated. Each report  
27 required by subsections (b) and (c) of K.S.A. 65-6703, subsection (j) of  
28 K.S.A. 65-6705 and subsection (c) of K.S.A. 65-6721, and amendments  
29 thereto, shall specify the medical diagnosis and condition constituting a  
30 substantial and irreversible impairment of a major bodily function or the

Balloon regarding determination of mental capacity

Prepared by: Jason B. Long

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Senate Judiciary

Attachment

3-21-11  
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1 (g) An expedited anonymous appeal shall be available to any minor.  
2 The record on appeal shall be completed and the appeal shall be perfected  
3 within five days from the filing of the notice to appeal.

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

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

9 (j) (1) No notice consent shall be required under this section if:  
10 (A) ~~The pregnant minor declares that the father of the fetus is one of~~  
11 ~~the persons to whom notice may be given under this section;~~

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

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

18 (2) ~~A physician who does not comply with the provisions of this~~  
19 ~~section by reason of the exception of subsection (j)(1)(A) must inform the~~  
20 ~~minor that the physician is required by law to report the sexual abuse to~~  
21 ~~the department of social and rehabilitation services. A physician who does~~  
22 ~~not comply with the requirements of this section by reason of the~~  
23 ~~exception of subsection (j)(1)(B) A physician acting pursuant to this~~  
24 ~~subsection shall state in the medical record of the abortion the medical~~  
25 ~~indications on which the physician's judgment was based. The medical~~  
26 ~~basis for the determination shall also be reported by the physician as part~~  
27 ~~of the written report made by the physician to the secretary of health and~~  
28 ~~environment under K.S.A. 65-445, and amendments thereto.~~

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

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

40 (m) ~~Prior to conducting proceedings under this section, the court~~  
41 ~~may require the minor to participate in an evaluation and counseling~~  
42 ~~session with a mental health professional. Such evaluation and~~

psychiatrist

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

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

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

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

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