

SESSION OF 2011

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2218

As Amended by Senate Committee of the Whole

Brief*

HB 2218, as amended, would enact new statutory restrictions on certain late term abortions. The bill would add a new section that lists the Legislature's findings on the capacity of an unborn child to feel pain.

The bill would define a "pain-capable child" as an unborn child that has reached the gestational age of 22 weeks or more, and would set restrictions and requirements for physicians performing abortions in cases involving a pain-capable unborn child. Except under statutorily defined circumstances permitted for certain abortions, the bill would set criminal severity levels for violations under the bill's provisions that do not conform to the new requirements.

The bill would establish the circumstances and procedures to be followed for exceptions that would allow abortions where a pain-capable child is present, including cases where specific medical conditions would lead the physician to believe the death of a pregnant women might result, or there might be a substantial and irreversible physical impairment of a major bodily function of the pregnant woman.

The Secretary of Health and Environment would be required to adopt rules and regulations to collect details about referrals, record keeping, and reporting requirements for physicians performing such abortions. Medical care facilities would be required to keep specific records about procedures

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

associated with such cases involving pain-capable unborn children, and to submit such data to the Department of Health and Environment.

The bill would conclude that “Nothing in this act shall be construed to repeal any statute dealing with abortion, but shall be considered supplemental to such other statutes.” (New Section 5)

Background

Proponents including Representative Lance Kinzer, three medical physicians, and a representative of Kansans for Life. Written testimony in support of the bill was provided by representatives of the Kansas Catholic Conference and Concerned Women for America of Kansas.

Opponents included representatives for Planned Parenthood of Kansas and Mid-America, Kansas National Organization for Women, and Trust Women. Written testimony in opposition to the bill was received from five other individuals.

The House Committee adopted two technical amendments. The first amendment corrected the section numbering and the second amendment added the phrase “or induced” or similar language after references in the bill to “abortions performed” that do not appear consistently in the bill as introduced reading “abortions performed or induced.”

The House Committee of the Whole added new Section 5, dealing with the bill being supplemental to other statutes and not repealing any statute dealing with abortion.

The Senate Committee of the Whole amended the section that would list the Legislature's findings to clarify that eight weeks after fertilization, an unborn child reacts to touch, and by 20 weeks after fertilization, reacts to stimuli.

The fiscal note on the original bill indicated that the Board of Healing Arts believed passage of the bill could

increase the number of investigations and disciplinary cases assigned to the Board. According to the Board, any increased activity could be absorbed with the agency's budget. No response was available from the Department of Health and Environment when the Division of the Budget prepared the original fiscal note.