

SESSION OF 2012

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 313**

As Amended by House Committee of the Whole

Brief*

House Sub. for SB 313 would establish the No Taxpayer Funding of Abortion Act in new sections 1 to 6, while the subsequent sections of the bill would implement the policy of the No Taxpayer Funding of Abortion Act and modify current law to make it consistent with provisions in the new sections of the bill.

There are three major groupings of sections in the bill that would:

- Define either new or revised policy relating to abortions;
- Modify restrictions on abortions; and
- Revise the Woman's Right-to-Know Act.

The bill would:

- Prohibit sex selection abortions;
- Prohibit a civil cause of action for wrongful births; and
- Expand the wrongful death civil cause of action by extending the definition of "person" to include an unborn child.

*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>

Finally, most of the last sections of the bill would revise the state tax code, eliminating any tax advantages regarding abortions.

New section 2 would define the key elements of the new No Taxpayer Funding of Abortion Act:

- No state moneys would be expended for abortions;
- No tax credits or exemptions would be allowed for abortion expenses or insurance rider coverage for abortions;
- No distributions from any health tax-preference trust or account would be permitted for abortions; and
- No state health plan would include abortion coverage.

Sections 8 and 16 to 23 would implement the policy of no taxpayer funding of abortions established by the new act. The bill would provide for the following additional changes to current law:

- Sex selection abortions would be made a crime and a civil cause of action would be created;
- No abortion services or teaching about abortions would be permitted by school districts, school employees or educational service providers;
- No civil cause of action could be brought for wrongful life or wrongful birth;
- No employer would be allowed to take an income tax credit for health care insurance for purchasing an optional rider for abortion coverage;
- The wrongful death civil cause of action would be expanded to cover the death of an unborn child;

- Abortion law definitions would be amended in KSA 2011 Supp. 65-6701, with "bodily function" added and the definition of "medical emergency" modified. "Bodily function" would mean physical functions only and the term would not include mental or emotional functions. "Medical emergency" would include new language that a physician's good clinical judgment "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," to modify current law. Additional language would be added: "No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible physical impairment of a major bodily function."
- The late term abortion statute would be amended by adding new language "or attempt to perform or induce" or similar language; the word "physical" is added before "impairment of a major bodily function"; and other changes regarding the conditions which must be met for a late term abortion;
- The informed consent abortion statute would be amended to add a number of new requirements, including:
 - Requiring a written description of the risk of premature birth in future pregnancies and the risk of breast cancer;
 - Disclosing pain that is felt by an unborn child;
 - Using a hand-held Doppler fetal monitor to allow a pregnant woman to hear the unborn child's heartbeat; and

- Adding additional information on signs required to be displayed in the abortion provider's office;
- The Kansas Department of Health and Environment would be required to provide new information, including detailed information about the growth and developmental stages of an unborn child, in its publication of abortion education materials;
- The definition of "medical emergency" would be changed in KSA 2011 Supp. 76-3308 to conform with the definition in KSA 65-6701 noted earlier in this review of the bill's provisions;
- A number of tax statutes would be adjusted to carry out the policy of the No Taxpayer Funding of Abortion Act, including KSA 2011 Supp. 40-2246, KSA 79-32,117, 79-32,138, 79-32,182b, 79-32,195, 79-32,261, and 79-3606; and
- A savings clause would declare that the act and any other provision would remain valid if any part of section of the act were declared invalid by a court.

Background

SB 313, as passed by the Senate, would have allowed a person to consume alcoholic liquor on the premises of any land or water owned or managed by the Kansas Department of Wildlife, Parks and Tourism (KDWPT), except where prohibited by rules and regulations of KDWPT.

In the Senate Committee on Federal and State Affairs, a representative of KDWPT testified as a proponent for the bill. No opponents testified.

According to the fiscal note for the original bill, its enactment would have no fiscal effect on KDWPT.

The House Committee on Federal and State Affairs amended the contents of SB 313 into SB 288 along with several other alcohol bills.

The House Committee inserted other proposed legislation into SB 313 by substituting the contents of 2012 HB 2598, as amended by the House Committee on Federal and State Affairs.

The supplemental note on HB 2598, as amended, provided the complete background in the bill's development in the House Committee, and that information is repeated below.

In the House Committee on Federal and State Affairs, proponents for the proposed legislation included four conferees testifying and two testimonies submitted in written only form. The four conferees were Representative Lance Kinzer, Dr. Angela Lanfranchi, Dr. Melissa Colbern, and a representative of Kansans for Life. Two organizations submitted written material, the Kansas Catholic Conference and Concerned Women for America.

Opponents to the proposed bill included two conferees testifying and five written only testimonies. The two conferees were representatives of Planned Parenthood of Kansas and Mid-Missouri and of the Kansas National Organization for Women. Written opposing material was submitted by Planned Parenthood of Kansas and Mid-Missouri, Trust Women, the American Civil Liberties Union of Kansas and Western Missouri, the Mainstream Coalition, and one individual citizen.

There was one neutral written only testimony submitted by the Mental Health Credentialing Coalition.

The House Committee on Federal and State Affairs adopted a number of amendments to the original version of the bill. The Committee deleted a savings clause for the first six sections of the bill's provisions and shifted it to the end of the bill. The Committee modified the definition of "medical emergency" in KSA 65-6701 and made the definition change applicable to KSA 76-3308, which governs the Kansas Hospital Authority. Also addressing the Kansas Hospital Authority, the Committee modified statutory language regarding the medical residency program and provided a sunset on certain provisions of June 30, 2013, regarding physicians enrolled in a residency program and when receiving experience in induced abortions would be considered as acting outside the scope of their official employment in such actions. Educational information about abortion services that previously could be provided by public and private agencies would be stricken from current law. Several dates were changed from 2011 to 2012 to update the bill to the current Legislative Session.

The House Committee of the Whole amended the bill by adding several clarifying amendments and deleting a new requirement that the Department of Health and Environment report on the number of women deciding not to have an abortion after hearing the unborn child's heartbeat.

The fiscal note for the original bill estimated expenditures of \$16,500 would be required by the Department of Health and Environment to update and print new copies of the statutorily required Women's Right to Know materials. The Board of Healing Arts would be responsible for receiving and investigating compliance that might arise under the provisions in the new act. However, the Board was unable to estimate the fiscal impact since an unknown increase in complaints might occur. The Department of Revenue indicated that the fiscal effect of the bill on State General Fund revenues would be negligible. No information was available to estimate the number of taxpayers who might be impacted or the amount of taxes that might be collected.

No revised fiscal note was available for the substitute bill recommended by the House Committee.