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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Chairman Brunk
Members of the House Committee on Federal and State Affairs

From: Jason B. Long, Senior Assistant Revisor

Date: March 9, 2015

Subject: SB 95, As Amended by Senate Committee – Creating the Kansas unborn child protection from dismemberment abortion act.

Senate Bill No. 95 creates the Kansas Unborn Child Protection from Dismemberment Abortion Act (Act). The primary purpose of the Act is to prohibit the practice of dismemberment abortion. The term “dismemberment abortion” is defined in Section 2 of the Act as knowingly dismembering a living unborn child while in utero and extracting the dismembered parts with the purpose of causing the death of the unborn child. This definition does not include the use of suction to dismember the unborn child, but does include the use of suction to extract the fetal parts after a dismemberment abortion is performed.

Section 3 of the bill prohibits dismemberment abortions except when necessary to preserve the life of the pregnant woman or to prevent substantial and irreversible physical impairment of a major bodily function of the pregnant woman. These are the standard exceptions to all unlawful abortion procedures under Kansas law. Under Section 6, violation of the Act is a class A misdemeanor on first conviction and a level 10 person felony for subsequent convictions.

Section 4 authorizes the Attorney General or any district or county attorney to seek an injunction against any abortion provider who has performed or attempted to perform a dismemberment abortion. Such injunction would prohibit the provider from performing such abortions in violation of the Act.

Section 5 authorizes the filing of a civil action against the abortion provider who performs a dismemberment abortion in violation of the Act. The action may be brought by the woman upon whom the abortion is performed, the father of the unborn child if he is married to

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the mother at the time of the abortion, or the parents or legal guardians of the woman if she is a minor at the time of the abortion. This cause of action is similar to that permitted in existing statutes prohibiting partial birth abortion, abortion of a pain-capable unborn child, and abortions based on gender.

Section 7 of SB 95 allows the court in any civil, criminal or administrative proceeding arising out of a violation of a statute prohibiting abortion practices, including SB 95, to issue a ruling protecting the anonymity of the woman upon whom the unlawful abortion was performed. Under such a ruling, the woman's name would not be disclosed without her written consent. The woman's name would still be disclosed to the defendant and attorneys for the defendant.

If enacted, the provisions of SB 95 would become effective on July 1, 2015.