



Abortions in Kansas, 2012

The words "Preliminary" and "Report" are written in a large, white, outlined, sans-serif font. The text is set against a background of horizontal grey lines that create a striped effect.

Preliminary Report

Kansas Department of Health and Environment
Division of Public Health

Bureau of Epidemiology and Public Health Informatics

Curtis State Office Building – 1000 SW Jackson, Topeka, KS, 66612-1354

<http://www.kdheks.gov/hci/absumm.html>

March 2013

Abortions in Kansas, 2012

Preliminary Report

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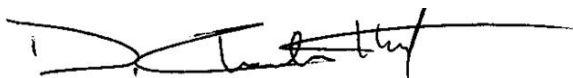
Dear Interested Party:

State law requires that physicians, hospitals, and ambulatory surgical centers report abortions they perform to the Kansas Department of Health and Environment (KDHE). The Women's Right-to-Know Act requires physicians who perform abortions to report to KDHE the number of certifications received that women received certain information required by the Women's Right-to-Know Act 24 hours prior to the abortion, . This report is a preliminary analysis of these data as collected by the KDHE Bureau of Epidemiology and Public Health Informatics.

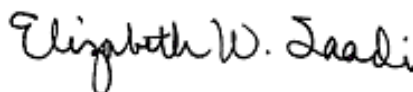
In-state collection of 2012 abortion reports is complete. The total, 7,457 reports, is 5.4 percent less than reported in 2011. Out-of-state residents slightly outnumbered in-state residents, 3,796 reports to 3,661. Three Kansas resident women obtained abortions at 22 weeks or greater outside the state.

Contact Public Health Informatics staff at (785) 296-8627 for additional information.

Sincerely,



D. Charles Hunt, MPH
State Epidemiologist and Director



Elizabeth W. (Lou) Saadi, PhD
State Registrar & Deputy Director

EWS:LS:ls

**Selected Induced Abortion Statistics
Kansas, 2012**

Selected Statistics	Number	Percent [❖]
Total * induced abortions reported	7,457	100
Total [†] physician certifications reported	7,600	100
<u>Residence of Patient:</u>		
In-state residents	3,661	49.1
Out-of-state residents	3,796	50.9
Not Stated	0	n.a.
Total Reported	7,457	100
<u>Age Group of Patient:</u>		
Under 14 years	6	0.1
14 years	19	0.3
15 years	64	0.9
16-17 years	215	2.9
18-19 years	647	8.7
20-24 years	2,464	33.0
25-29 years	1,911	25.6
30-34 years	1,193	16.0
35-39 years	701	9.4
40-44 years	218	2.9
45 years and over	19	0.3
Not Stated [‡]	0	n.a.
Total Reported	7,457	100
<u>Population Group of Patient: [§]</u>		
White Non-Hispanic	4,368	58.8
Black Non-Hispanic	1,708	23.0
Native American Non-Hispanic	43	0.6
Asian/Pacific Islander Non-Hispanic	257	3.5
Other Non-Hispanic [¶]	299	4.0
Hispanic Any Race	758	10.2
Not Stated [‡]	24	n.a.
Total Reported	7,457	100

[❖] When calculating percentages, not stated values are excluded. Due to rounding the sum of the individual percentages may not total to 100.0.

* All reported, includes six Kansas resident abortions that occurred out of state.

This total is subject to change as other states submit information on Kansas resident abortions in their state.

[†] Occurrence data

[‡] Patient(s) refused to provide information or information not collected by other states.

[§] For further explanation, see Technical Notes in the *Annual Summary of Vital Statistics, 2007*.

[¶] Includes selection of two or more races or other non-specified race.

**Selected Induced Abortion Statistics
Kansas, 2012**

Selected Statistics	Number	Percent
<u>Marital Status of Patient:</u>		
Married	1,052	14.2
Unmarried	6,369	85.8
Not Stated *	36	n.a.
Total Reported	7,457	100
<u>Weeks Gestation:</u>		
Less than 9 weeks	4,887	65.5
9-12 weeks	1,745	23.4
13-16 weeks	499	6.7
17-21 weeks	323	4.3
22 weeks & over	3	0.0
Not Stated *	0	n.a.
Total Reported	7,457	100
<u>Method of Abortion:</u>		
Suction curettage	4,527	60.7
Sharp curettage	8	0.1
Dilation & Evacuation	640	8.6
Medical Procedure I (Mifepristone)	2,279	30.6
Medical Procedure II (Methotrexate)	1	0.0
Intra-uterine prostaglandin instillation	0	0.0
Hysterotomy	0	0.0
Hysterectomy	0	0.0
Digoxin/Induction	0	0.0
Partial Birth Procedure †	0	0.0
Other	2	0.0
Not Stated	0	n.a.
Total Reported	7,457	100
<u>Reason for Determining Gestational Age (method)</u>		
As required by law; sonography used	927	12.4
Ultrasound	5,083	68.2
Ultrasound, examination and operative findings	1	0.0
Sonogram & bimanual pelvic exam	1,440	19.3
Not Stated ‡	6	0.1
Total Reported	7,457	100
<u>Report of Physical, Mental, or Emotional Abuse or Neglect Filed</u>		
No	7,446	99.9
Yes	5	0.1
Not Stated ‡	6	0.1
Total Reported	7,457	100

* Patient(s) refused to provide information or information not collected by other states.

† **No Partial Birth procedures have been reported in Kansas since October 1999.**

‡ Out of State Abortion, information not collected

Source: KDHE Bureau of Epidemiology and Public Health Informatics

**Selected Induced Abortion Statistics
Kansas, 2012**

Selected Statistics	Number	Percent
<u>Number of Previous Pregnancies:</u>		
None	2,197	29.5
One	1,539	20.6
Two	1,259	16.9
Three	1,029	13.8
Four	617	8.3
Five	376	5.0
Six	226	3.0
Seven or more	214	2.9
Not Stated	0	n.a.
Total Reported	7,457	100
<u>Number of Living Children:</u>		
None	3,080	41.3
One	1,847	24.8
Two	1,473	19.8
Three	651	8.7
Four	266	3.6
Five or more	140	1.9
Not Stated	0	n.a.
Total Reported	7,457	100
<u>Number of Previous Spontaneous Terminations:</u>		
None	6,491	87.0
One	747	10.0
Two	150	2.0
Three	40	0.5
Four or more	29	0.4
Not Stated	0	n.a.
Total Reported	7,457	100
<u>Number of Previous Induced Abortions:</u>		
None	4,595	61.6
One	1,753	23.5
Two	696	9.3
Three	262	3.5
Four or more	151	2.0
Not Stated	0	n.a.
Total Reported	7,457	100

Source: KDHE Bureau of Epidemiology and Public Health Informatics

**Reported Abortions by Place of Residence
Kansas, 1971-2012**

Year	Total	Out-of-State Residents	Kansas Residents	Not Stated
1971	9,472	5,763	3,709	0
1972	12,248	7,736	4,512	0
1973	12,612	7,695	4,917	0
1974	10,171	4,503	5,657	11
1975	9,160	3,565	5,581	14
1976	9,154	3,455	5,686	13
1977	7,965	2,918	5,045	2
1978	9,740	3,957	5,722	61
1979	12,335	5,042	7,281	12
1980	11,791	4,750	7,038	3
1981	10,448	4,150	6,291	7
1982	9,976	3,823	6,153	0
1983	8,547	3,218	5,329	0
1984	8,008	2,689	5,319	0
1985	7,092	2,447	4,645	0
1986	6,561	2,316	4,245	0
1987	6,409	2,357	4,052	0
1988	7,930	3,161	4,769	0
1989	8,984 *	3,270	4,149	1,565 †
1990	9,459 *	3,341	4,175	1,943 †
1991	10,141 *	4,071	6,070	0
1992	11,135 *	4,904	6,231	0
1993	11,247	4,853	6,394	0
1994	10,847	4,245	6,596	6
1995	11,149 †	4,562	6,566	21
1996	11,181	4,367	6,806	8
1997	11,507	4,973	6,532	2
1998	11,624	5,184	6,440	0
1999	12,445	6,029	6,416	0
2000	12,327	5,971	6,356	0
2001	12,422	6,003	6,419	0
2002	11,844	5,546	6,298	0
2003	11,697	5,534	6,163	0
2004	11,446	5,475	5,971	0
2005	10,543	4,914	5,629	0
2006	11,271	5,385	5,886	0
2007	10,841	5,162	5,679	0
2008	10,643	5,131	5,512	0
2009	9,474	4,693	4,780	1
2010	8,373	4,150	4,223	0
2011	7,885 §	3,939	3,946	0
2012	7,457 §	3,796	3,661	0

* The increase in the 1989-1992 figures may not reflect an increase in the number of abortions being performed but rather an increase in the number of providers voluntarily reporting data

† As of July 1, 1995, reporting became mandatory for every medical care facility and every person licensed to practice medicine and surgery

‡ Residency data was not available for all abortions in 1989-1990. However, due to improved reporting, residency was obtained for most of the abortions reported in subsequent years

§ 1971-2011 numbers final, 2012 numbers preliminary

**Induced Abortions
By County of Residence of Patient
Kansas, 2012**

County	Total	County	Total	County	Total
Kansas Residents	3,661				
Allen	6	Greeley	0	Osborne	4
Anderson	5	Greenwood	6	Ottawa	0
Atchison	14	Hamilton	0	Pawnee	4
Barber	1	Harper	1	Phillips	2
Barton	13	Harvey	13	Pottawatomie	14
Bourbon	8	Haskell	0	Pratt	2
Brown	7	Hodgeman	1	Rawlins	0
Butler	52	Jackson	15	Reno	40
Chase	1	Jefferson	18	Republic	0
Chautauqua	1	Jewell	0	Rice	9
Cherokee	14	Johnson	1,031	Riley	147
Cheyenne	0	Kearny	0	Rooks	0
Clark	1	Kingman	0	Rush	3
Clay	5	Kiowa	1	Russell	3
Cloud	4	Labette	6	Saline	60
Coffey	2	Lane	3	Scott	0
Comanche	0	Leavenworth	99	Sedgwick	566
Cowley	18	Lincoln	0	Seward	3
Crawford	38	Linn	10	Shawnee	285
Decatur	0	Logan	0	Sheridan	1
Dickinson	23	Lyon	35	Sherman	0
Doniphan	6	Marion	3	Smith	0
Douglas	222	Marshall	3	Stafford	2
Edwards	1	McPherson	15	Stanton	0
Elk	0	Meade	0	Stevens	1
Ellis	26	Miami	37	Sumner	7
Ellsworth	3	Mitchell	2	Thomas	1
Finney	11	Montgomery	10	Trego	1
Ford	22	Morris	3	Wabaunsee	2
Franklin	23	Morton	0	Wallace	0
Geary	109	Nemaha	0	Washington	1
Gove	0	Neosho	9	Wichita	0
Graham	0	Ness	1	Wilson	2
Grant	0	Norton	0	Woodson	1
Gray	5	Osage	13	Wyandotte	478
				Unknown*	46

* County of residence information not collected by some states that provide data on abortions to Kansas residents occurring in those states.

Induced Abortions By State of Residence and Age, 2012					
State	Under 18	Total	State	Under 18	Total
Kansas Residents	143	3,661			
Out-of-state residents	161	3,796			
Alabama	0	0	New Mexico	0	0
Alaska	0	0	New York	0	0
Arizona	0	1	North Carolina	0	1
Arkansas	0	9	North Dakota	0	0
California	0	5	Ohio	0	0
Colorado	0	1	Oklahoma	2	36
Connecticut	0	0	Oregon	0	0
Delaware	0	1	Pennsylvania	0	0
District of Columbia	0	0	Rhode Island	0	0
Florida	0	4	South Carolina	0	0
Georgia	0	0	South Dakota	0	0
Hawaii	0	0	Tennessee	0	1
Idaho	0	0	Texas	0	2
Illinois	0	3	Utah	0	0
Indiana	0	0	Vermont	0	0
Iowa	0	1	Virginia	0	0
Kentucky	0	1	Washington	0	1
Louisiana	0	2	West Virginia	0	0
Maine	0	0	Wisconsin	0	0
Maryland	0	0	Wyoming	0	0
Massachusetts	0	0	Puerto Rico	0	0
Michigan	0	1	Canada	0	0
Minnesota	0	0	All other Countries	0	0
Mississippi	0	0			
Missouri	159	3,714			
Montana	0	0			
Nebraska	0	9			
Nevada	0	2			
New Hampshire	0	0			
New Jersey	0	1			

Source: KDHE Bureau of Epidemiology and Public Health Informatics,

Abortions Reported at 22 Weeks or More Gestation

Physicians in Kansas reporting abortions at 22 weeks or more were required to fill out questions on the back of the VS-213 form. In 2012, no abortions were performed in Kansas at 22 weeks or more. The questions and answers are provided below for Kansas occurrence events. Data represent reported abortions for calendar year 2012.

Three procedures to Kansas women were performed in other states at 22 weeks or more. Therefore, no information for questions 16-19 is available. A sample VS-213 form is contained in the appendices.

16a) Was the fetus viable?

Answers	KS Residents	Out-of-State Residents	Total
Yes	0	0	0
No	0	0	0
Not Stated	0	0	0
Total	0	0	0

16b) Reasons for determination of fetus viability

Answers	KS Residents	Out-of-State Residents	Total
Total	0	0	0

17a) If 16a was yes, was this abortion necessary to:

Answers	KS Residents	Out-of-State Residents	Total
Prevent patient's death	0	0	0
Prevent substantial and irreversible impairment of a major bodily function	0	0	0
Total	0	0	0

17b) If 16a was yes, reasons for determination in 17a:

Answers	KS Residents	Out-of-State Residents	Total
Total	0	0	0

17c) If 16a was yes, basis for determination in 17a:

Answers	KS Residents	Out-of-State Residents	Total
Total	0	0	0

All Reported Data

Note: **No late-term procedures were reported on viable fetuses, thus there are no statistics to report for questions 17a-17c.**

Partial Birth Procedure Statistics

Physicians reporting partial birth abortions were required to fill out questions on the back of the VS-213 form. Those questions and the answers are provided below for Kansas and out-of-state residents. The questions would be in addition to those filled out if gestation was 22 weeks or more. All data are Kansas occurrence. The data represent a full year of reporting. A sample VS-213 form is in the appendices.

No partial birth abortions were reported in 2012 in Kansas.

18a) For terminations where partial birth procedure was performed, was fetus viable?

Answers	KS Residents	Out-of-State Residents	Total
Yes	0	0	0
No	0	0	0
Total	0	0	0

18b) Reasons for determination of fetus viability

Answers	KS Residents	Out-of-State Residents	Total
Total	0	0	0

19a) Was this abortion necessary to:

Answers	KS Residents	Out-of-State Residents	Total
Prevent patient's death	0	0	0
Prevent substantial and irreversible impairment of a major bodily function	0	0	0
Total	0	0	0

19a) If the abortion was necessary to prevent substantial and irreversible impairment of a major bodily function, was the impairment:

Answers	KS Residents	Out-of-State Residents	Total
Physical	0	0	0
Mental	0	0	0
Total	0	0	0

19b) Reasons for Determination of 18a

Answers	KS Residents	Out-of-State Residents	Total
Total	0	0	0

KS Occurrence Data

Appendices

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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Bureau of Epidemiology and Public Health Informatics
Curtis State Office Building, Suite 130
1000 SW Jackson
Topeka, Kansas 66612-1354
785-296-8627

Report of Induced Termination of Pregnancy

State File Number

INSTRUCTIONS SEE HANDBOOK

1. Provider Identification Number															
2. Patient ID Number	3. Age on Last Birthday	4. Married <input type="checkbox"/> Yes <input type="checkbox"/> No	5. Date of Pregnancy Termination <table border="1"> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td colspan="2">Month</td> <td colspan="2">Day</td> <td colspan="2">Year</td> </tr> </table>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Month		Day		Year	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>										
Month		Day		Year											
6a. Residence US State or Country	6b. County	6c. City or Town	6d. Inside City Limits <input type="checkbox"/> Yes <input type="checkbox"/> No												
7a. Hispanic Origin <i>(Check the box or boxes that best describes whether the individual is Spanish, Hispanic, or Latina, or not Spanish, Hispanic, or Latina)</i> <input type="checkbox"/> Not Spanish, Hispanic, or Latina <input type="checkbox"/> Mexican, Mexican American, or Chicana <input type="checkbox"/> Puerto Rican <input type="checkbox"/> Cuban <input type="checkbox"/> Central American <input type="checkbox"/> South American <input type="checkbox"/> Other Spanish, Hispanic, or Latina (specify) _____ <input type="checkbox"/> Unknown	7b. Ancestry <i>(Enter the name of the country that best describes the heritage or origin of the individual)</i>	8. Race <i>(Check one or more races to indicate what the individual considers herself to be)</i> <input type="checkbox"/> White <input type="checkbox"/> Black or African American <input type="checkbox"/> American Indian or Alaska Native Principal Tribe(s) _____ <input type="checkbox"/> Asian Indian <input type="checkbox"/> Chinese <input type="checkbox"/> Filipino <input type="checkbox"/> Japanese <input type="checkbox"/> Korean <input type="checkbox"/> Vietnamese <input type="checkbox"/> Other Asian (specify) _____ <input type="checkbox"/> Native Hawaiian <input type="checkbox"/> Germanian or Chamorro <input type="checkbox"/> Samoan <input type="checkbox"/> Other Pacific Islander (specify) _____ <input type="checkbox"/> Other (specify) _____ <input type="checkbox"/> Unknown	9. Education <i>(specify only highest grade completed)</i> <input type="checkbox"/> 8th grade or less <input type="checkbox"/> 9th-12th grade no diploma <input type="checkbox"/> High school graduate/GED <input type="checkbox"/> Some College - no degree <input type="checkbox"/> Associate degree <input type="checkbox"/> Bachelor's degree <input type="checkbox"/> Master's degree <input type="checkbox"/> Doctorate <input type="checkbox"/> Unknown												
10. Date Last Normal Menses Began <table border="1"> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td colspan="2">Month</td> <td colspan="2">Day</td> <td colspan="2">Year</td> </tr> </table>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Month		Day		Year		11. Clinical Estimate of Gestation (Weeks) (1)	12. Previous Pregnancies <i>(Enter number or zero in every section)</i>	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>										
Month		Day		Year											
		Live Births		12c. Previous Induced Abortions	12d. Spontaneous Terminations (Miscarriages, Fetal Deaths)										
		12a. Now Living	12b. Now Dead												
13 TERMINATION PROCEDURES															
13a. Procedure that terminated pregnancy <i>(Check only one)</i> <input type="checkbox"/> Suction Curettage <input type="checkbox"/> Sharp Curettage <input type="checkbox"/> Dilution & Evacuation <input type="checkbox"/> Medical Procedure I (Mifepristone) <input type="checkbox"/> Medical Procedure II (Methotrexate) <input type="checkbox"/> Intra-Uterine Prostaglandin Instillation <input type="checkbox"/> Hysterotomy <input type="checkbox"/> Hysterectomy <input type="checkbox"/> Digoxin/Induction <input type="checkbox"/> Partial Birth (2) <input type="checkbox"/> Other (Specify) _____			13b. Additional procedures used for this termination, if any <i>(Check all that apply)</i> <input type="checkbox"/> Suction Curettage <input type="checkbox"/> Sharp Curettage <input type="checkbox"/> Dilution & Evacuation <input type="checkbox"/> Medical Procedure I (Mifepristone) <input type="checkbox"/> Medical Procedure II (Methotrexate) <input type="checkbox"/> Intra-Uterine Prostaglandin Instillation <input type="checkbox"/> Hysterotomy <input type="checkbox"/> Hysterectomy <input type="checkbox"/> Digoxin/Induction <input type="checkbox"/> Partial Birth (2) <input type="checkbox"/> Other (Specify) _____												
14. Reasons for determining gestational - describe methods used															
15. Was Report of physical, mental, or emotional abuse or neglect filed pursuant to K.S.A. 38-2223 YES <input type="checkbox"/> NO <input type="checkbox"/>															

1 If clinical estimate of gestational age is 22 weeks or more, complete reverse side of form

2 If Partial Birth Procedure as defined by KSA 65-6721 is used, complete reverse side of form

Complete the following items only if the clinical estimate of gestational age is 22 weeks or more

16a Was fetus viable?
 YES NO

16b Reasons for the determination - describe medical reasons and basis; include medical procedure/diagnosis codes

Complete 16a-c only if 15a is yes

17a Was this abortion necessary to
(Check all that apply)

Prevent patient's death
 Prevent substantial and irreversible impairment of a major bodily function

17b Reasons for the determination - describe medical reasons and basis; include medical procedure/diagnosis codes

17c Basis for determination - describe medical reasons and basis; include medical procedure/diagnosis codes

Complete the following items only if a partial birth procedure was performed

18a Was fetus viable?
 YES NO

18b Reasons for the determination - describe medical reasons and basis; include medical procedure/diagnosis codes

Complete 18a-b only if 17a is yes

19a Was this abortion necessary to
(Check all that apply)

Prevent patient's death
 Prevent substantial and irreversible physical impairment of a major bodily function

19b Reasons for the determination - describe medical reasons and basis; include medical procedure/diagnosis codes

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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Bureau of Epidemiology and Public Health Informatics
Curtis State Office Building
1000 SW Jackson, Suite 130
Topeka, Kansas 66612-1354
Ph 785-296-8627---Fax 785-368-7118

STATE FILE NUMBER
(Office Use Only)

**INDUCED TERMINATION OF PREGNANCY
PHYSICIAN'S REPORT ON NUMBER OF CERTIFICATIONS RECEIVED**

PHYSICIAN IDENTIFICATION CODE: _____

DATE REPORTED:
Month Day Year

NUMBER OF CERTIFICATIONS RECEIVED: (Month Received from Patient)

JANUARY	<input type="text"/> <input type="text"/> <input type="text"/>	MAY	<input type="text"/> <input type="text"/> <input type="text"/>	SEPTEMBER	<input type="text"/> <input type="text"/> <input type="text"/>
FEBRUARY	<input type="text"/> <input type="text"/> <input type="text"/>	JUNE	<input type="text"/> <input type="text"/> <input type="text"/>	OCTOBER	<input type="text"/> <input type="text"/> <input type="text"/>
MARCH	<input type="text"/> <input type="text"/> <input type="text"/>	JULY	<input type="text"/> <input type="text"/> <input type="text"/>	NOVEMBER	<input type="text"/> <input type="text"/> <input type="text"/>
APRIL	<input type="text"/> <input type="text"/> <input type="text"/>	AUGUST	<input type="text"/> <input type="text"/> <input type="text"/>	DECEMBER	<input type="text"/> <input type="text"/> <input type="text"/>

SAMPLE

INSTRUCTIONS: Please see sample provided.

PHYSICIAN IDENTIFICATION CODE: This is the code used for the induced termination of pregnancy reporting system. Each physician must have his/her own identification number. For this identification number, it is preferable to continue to use the facility's identification number with the physician being coded with a letter after the number. For example: Facility X's identification number is 23571. Dr. Jones at facility X's identification number would be 23571A. Other physicians' identification numbers would follow with increasing the alphabet--23571B, C etc. For those facilities that do not have a facility/physician identification number, please contact the Office of Health Care Information at the number listed above.

DATE REPORTED: Please put in a two-digit number for the month (01-12), a two digit number for the day (01-31) and the four digit year (1999) in which the report is being completed.

NUMBER OF CERTIFICATIONS RECEIVED: Please put the number of certifications performed corresponding to the appropriate month.

ACCORDING TO KSA 65-6709 THIS FORM NEEDS TO BE FILED MONTHLY WITH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT AT THE ADDRESS LISTED ABOVE.

65-443. Termination of human pregnancy; performance or participation in medical procedures not required. No person shall be required to perform or participate in medical procedures which result in the termination of a pregnancy, and the refusal of any person to perform or participate in those medical procedures shall not be a basis for civil liability to any person. No hospital, hospital administrator or governing board of any hospital shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any person because of such person's refusal to perform or participate in the termination of any human pregnancy.

History: L. 1969, ch. 182, § 1; L. 1975, ch. 313, § 1; July 1.

65-445. Termination of human pregnancy; records; annual reports; confidentiality of information, exceptions; penalties for violations. (a) Every medical care facility shall keep written records of all pregnancies which are lawfully terminated within such medical care facility and shall annually submit a written report thereon to the secretary of health and environment in the manner and form prescribed by the secretary. Every person licensed to practice medicine and surgery shall keep a record of all pregnancies which are lawfully terminated by such person in a location other than a medical care facility and shall annually submit a written report thereon to the secretary of health and environment in the manner and form prescribed by the secretary.

(b) Each report required by this section shall include the number of pregnancies terminated during the period of time covered by the report, the type of medical facility in which the pregnancy was terminated, information required to be reported under subsections (b) and (c) of K.S.A. 65-6703, subsection (j) of K.S.A. 65-6705, subsection (c) of K.S.A. 65-6721 and K.S.A. 2011 Supp. 65-6724, and amendments thereto, if applicable to the pregnancy terminated, and such other information as may be required by the secretary of health and environment, but the report shall not include the names of the persons whose pregnancies were so terminated. Each report required by subsections (b) and (c) of K.S.A. 65-6703, subsection (j) of K.S.A. 65-6705 and subsection (c) of K.S.A. 65-6721, and amendments thereto, shall specify the medical diagnosis and condition constituting a substantial and irreversible impairment of a major bodily function or the medical diagnosis and condition which necessitated performance of an abortion to preserve the life of the pregnant woman. Each report required by K.S.A. 65-6703, and amendments thereto, shall include a sworn statement by the physician performing the abortion and the referring physician that such physicians are not legally or financially affiliated.

(c) Information obtained by the secretary of health and environment under this section shall be confidential and shall not be disclosed in a manner that would reveal the identity of any person licensed to practice medicine and surgery who submits a report to the secretary under this section or the identity of any medical care facility which submits a report to the secretary under this section, except that such information, including information identifying such persons and facilities may be disclosed to the state board of healing arts upon request of the board for disciplinary action conducted by the board and may be disclosed to the attorney general or any district or county attorney in this state upon a showing that a reasonable cause exists to believe that a violation of this act has occurred. Any information disclosed to the state board of healing arts, the attorney general or any district or county attorney pursuant to this subsection shall be used solely for the purposes of a disciplinary action or criminal proceeding. Except as otherwise provided in this subsection, information obtained by the secretary under this section may be used only for statistical purposes and such information shall not be released in a manner which would identify any county or other area of this state in which the termination of the pregnancy occurred. A violation of this subsection (c) is a class A nonperson misdemeanor.

(d) In addition to such criminal penalty under subsection (c), any person licensed to practice medicine and surgery or medical care facility whose identity is revealed in violation of this section may bring a civil action against the responsible person or persons for any damages to the person licensed to practice medicine and surgery or medical care facility caused by such violation.

(e) For the purpose of maintaining confidentiality as provided by subsections (c) and (d), reports of terminations of pregnancies required by this section shall identify the person or facility submitting such reports only by confidential code number assigned by the secretary of health and environment to such person or facility and the department of health and environment shall maintain such reports only by such number.

(f) The annual public report on abortions performed in Kansas issued by the secretary of health and environment shall contain the information required to be reported by this section to the extent such information is not deemed confidential pursuant to this section. The secretary of health and environment shall adopt rules and regulations to implement this section. Such rules and regulations shall prescribe, in detail, the information required to be kept by the physicians and hospitals and the information required in the reports which must be submitted to the secretary.

(g) The department of social and rehabilitation services shall prepare and publish an annual report on the number of reports of child sexual abuse received by the department from abortion providers. Such report shall be categorized by the age of the victim and the month the report was submitted to the department. The name of the victim and any other identifying information shall be kept confidential by the department and shall not be released as part of the public report.

History: L. 1969, ch. 182, § 3; L. 1975, ch. 462, § 72; L. 1995, ch. 260, § 2; L. 1998, ch. 142, § 17; L. 2011, ch. 44, § 2; L. 2011, ch. 91, § 27; July 1.

Article 67 –ABORTION

Law Review and Bar Journal References

“Roe to Casey: A survey of Abortion Law,” Rachael K. Pirner and Laurie B. Williams, 32 W.L.J. 166,183 (1993)

65-2401. Definitions. As used in this act: (1) "Vital statistics" includes the registration, preparation, transcription, collection, compilation, and preservation of data pertaining to birth, adoption, legitimation, death, stillbirth, marriage, divorce, annulment of marriage, induced termination of pregnancy, and data incidental thereto.

(2) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(3) "Stillbirth" means any complete expulsion or extraction from its mother of a product of human conception the weight of which is in excess of 350 grams, irrespective of the duration of pregnancy, resulting in other than a live birth, as defined in this act, and which is not an induced termination of pregnancy.

(4) "Induced termination of pregnancy" means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth.

(5) "Dead body" means a lifeless human body or such parts of a human body or the bones thereof from the state of which it reasonably may be concluded that death recently occurred.

(6) "Person in charge of interment" means any person who places or causes to be placed a stillborn child or dead body or the ashes, after cremation, in a grave, vault, urn or other receptacle, or otherwise disposes thereof.

(7) "Secretary" means the secretary of health and environment.

History: L. 1951, ch. 355, § 1; L. 1963, ch. 319, § 1; L. 1974, ch. 352, § 119; L. 1995, ch. 260, § 4; July 1.

65-6701. Definitions. As used in this act:

(a) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

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

(c) "Department" means the department of health and environment.

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

(e) "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

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

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

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

(i) "Qualified person" means an agent of the physician who is a psychologist, licensed social worker, registered professional counselor, registered nurse or physician.

(j) "Unemancipated minor" means any minor who has never been: (1) Married; or (2) freed, by court order or otherwise, from the care, custody and control of the minor's parents.

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

History: L. 1992, ch. 183, § 1; L. 1997, ch. 190, § 26; L. 2000, ch. 162, § 25; L. 2011, ch. 44, § 3; July 1.

65-6702. Drugs or devices for birth control or fertilization lawful; political subdivisions prohibited from limiting abortion. (a) The use of any drug or device that inhibits or prevents ovulation, fertilization or implantation of an embryo and disposition of the product of *in vitro* fertilization prior to implantation are lawful in this state and neither the state nor any political subdivision of the state shall prohibit the use of any such drug or device or the disposition of such product.

(b) No political subdivision of the state shall regulate or restrict abortion.

History: L. 1992, ch. 183, § 2; July 1.

65-6703. Abortion when unborn child viable; restrictions and prohibitions; civil damages and criminal penalties for violations. (a) No person shall perform or induce an abortion when the unborn child is viable unless such person is a physician and has a documented referral from another physician not legally or financially affiliated with the physician performing or inducing the abortion and both physicians provide a written determination, based upon a medical judgment

arrived at 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 and that would be made by a reasonably prudent physician, knowledgeable in the field, and knowledgeable about the case and the treatment possibilities with respect to the conditions involved, that: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman.

(b) Except in the case of a medical emergency, a copy of the written documented referral and of the abortion-performing physician's written determination shall be provided to the pregnant woman no less than 30 minutes prior to the initiation of the abortion. The written determination shall be time-stamped at the time it is delivered to the pregnant woman. The medical basis for the determination 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. Such determination shall specify:

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

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

(3) if a continuation of the pregnancy will cause a substantial and irreversible 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 impairment of a major bodily function of the pregnant woman.

(c) (1) Except in the case of a medical emergency, prior to performing 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 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 that the unborn child is viable, both physicians under subsection (a) determine in accordance with the provisions of subsection (a) that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman and the physician performs an abortion on the woman, the physician who performs the abortion shall report such determinations, the medical basis and the reasons for such determinations, including the specific medical diagnosis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman and the name of the referring physician required by subsection (a) 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 who performs the abortion shall report such determinations, the medical basis and the reasons for such determinations, including the specific medical diagnosis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman and the name of the referring physician required by subsection (a) 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.

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

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

(1) A detailed list of the information that must be kept by a physician under paragraphs (1) and (2) of subsection (c);

(2) the contents of the written reports required under paragraphs (3) and (4) of subsection (c); and

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

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

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

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

(2) Such relief shall include:

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

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

(C) reasonable attorney fees.

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

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

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

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

History: L. 1992, ch. 183, § 3; L. 1993, ch. 291, § 240; L. 1998, ch. 142, § 15; L. 2011, ch. 91, § 29; July 1.

65-6704. Abortion upon minor; required information and counseling. (a) Before the performance of an abortion upon a minor, a counselor shall provide pregnancy information and counseling in a manner that can be understood by the minor and allows opportunity for the minor's questions to be addressed. A parent or guardian, or a person 21 or more years of age who is not associated with the abortion provider and who has a personal interest in the minor's well-being, shall accompany the minor and be involved in the minor's decision-making process regarding whether to have an abortion. Such information and counseling shall include:

(1) The alternatives available to the minor, including abortion, adoption and other alternatives to abortion;

(2) an explanation that the minor may change a decision to have an abortion at any time before the abortion is performed or may decide to have an abortion at any time while an abortion may be legally performed;

(3) make available to the minor information on agencies available to assist the minor and agencies from which birth control information is available;

(4) discussion of the possibility of involving the minor's parent or parents, other adult family members or guardian in the minor's decision-making; and

(5) information regarding the provisions of K.S.A. 65-6705 and the minor's rights under such provisions.

(b) After the performance of an abortion on a minor, a counselor shall provide counseling to assist the minor in adjusting to any post-abortion problems that the minor may have.

(c) After the counselor provides information and counseling to a minor as required by this section, the counselor shall have the minor sign and date a statement setting forth the requirements of subsections (a) and (b) and declaring that the minor has received information and counseling in accordance with those requirements.

(d) The counselor shall also sign and date the statement and shall include the counselor's business address and business telephone number. The counselor shall keep a copy for the minor's medical record and shall give the form to the minor or, if the minor requests and if the counselor is not the attending physician, transmit the statement to the minor's attending physician. Such medical record shall be maintained as otherwise provided by law.

(e) The provision by a counselor of written materials which contain information and counseling meeting the requirements of subsections (a) and (b) and which is signed by the minor shall be presumed to be evidence of compliance with the requirements of this section.

(f) The requirements of subsection (a) shall not apply when, in the best medical judgment of the attending physician based on the facts of the case, an emergency exists that threatens the health, safety or well-being of the minor as to require an abortion. A physician who does not comply with the requirements of this section by reason of this exception shall state in the medical record of the abortion the medical indications on which the physician's judgment was based.

History: L. 1992, ch. 183, § 4; July 1.

65-6705. Same; written consent of certain persons required before performance of abortion; waiver of requirement; court proceedings; penalties; judicial record and report; civil action. (a) Except in the case of a medical

emergency or as otherwise provided in this section, no person shall perform an abortion upon an unemancipated minor, unless the person first obtains the notarized written consent of the minor and both parents or the legal guardian of the minor.

(1) If the minor's parents are divorced or otherwise unmarried and living separate and apart, then the written consent of the parent with primary custody, care and control of such minor shall be sufficient.

(2) If the minor's parents are married and one parent is not available to the person performing the abortion in a reasonable time and manner, then the written consent of the parent who is available shall be sufficient.

(3) If the minor's pregnancy was caused by sexual intercourse with the minor's natural father, adoptive father, stepfather or legal guardian, then the written consent of the minor's mother shall be sufficient. Notice of such circumstances shall be reported to the proper authorities as provided in K.S.A. 2011 Supp. 38-2223, and amendments thereto.

(b) After receiving counseling as provided by subsection (a) of K.S.A. 65-6704, and amendments thereto, the minor may object to the written consent requirement set forth in subsection (a). If the minor so objects, the minor may petition, on her own behalf or by an adult of her choice, the district court of any county of this state for a waiver of the written consent requirement. If the minor so desires, the counselor who counseled the minor as required by K.S.A. 65-6704, and amendments thereto, shall notify the court and the court shall ensure that the minor or the adult petitioning on the minor's behalf is given assistance in preparing and filing the petition. The minor may participate in proceedings in the court on the minor's own behalf or through the adult petitioning on the minor's behalf. The court shall provide a court-appointed counsel to represent the minor at no cost to the minor.

(c) Court proceedings under this section shall be anonymous and the court shall ensure that the minor's identity is kept confidential. The court shall order that a confidential record of the evidence in the proceeding be maintained. All persons shall be excluded from hearings under this section except the minor, her attorney and such other persons whose presence is specifically requested by the applicant or her attorney.

(d) Consent shall be waived if the court finds by clear and convincing evidence that either: (1) The minor is mature and well-informed enough to make the abortion decision on her own; or (2) the consent of the individuals specified in subsection (a) would not be in the best interest of the minor.

(e) A court that conducts proceedings under this section shall issue written and specific factual findings and legal conclusions supporting its decision as follows:

(1) Granting the minor's application for waiver of consent pursuant to this section, if the court finds that the minor is mature and well-enough informed to make the abortion decision without the consent of the individuals specified in subsection (a);

(2) granting the minor's application for waiver of consent if the court finds that the minor is immature but that consent of the individuals specified in subsection (a) would not be in the minor's best interest; or

(3) denying the application if the court finds that the minor is immature and that waiver of the consent of the individuals specified in subsection (a) would not be in the minor's best interest.

(f) The court shall give proceedings under this section such precedence over other pending matters as necessary to ensure that the court may reach a decision promptly. The court shall issue a written order which shall be issued immediately to the minor, or her attorney or other individual designated by the minor to receive the order. If the court fails to rule within 48 hours, excluding Saturdays and Sundays, of the time of the filing of the minor's application, the application shall be deemed granted.

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

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

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

(j) (1) No consent shall be required under this section if in the best medical judgment of the attending physician based on the facts of the case, an emergency exists that threatens the health, safety or well-being of the minor as to require an abortion.

(2) A physician acting pursuant to this subsection shall state in the medical record of the abortion the medical indications on which the physician's judgment was based. The medical basis for the determination 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.

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

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

(m) Prior to conducting proceedings under this section, the court may require the minor to participate in an evaluation session with a psychiatrist, licensed psychologist or licensed clinical social worker. Such evaluation session shall be for the purpose of developing trustworthy and reliable expert opinion concerning the minor's sufficiency of knowledge, insight, judgment and maturity with regard to her abortion decision in order to aid the court in its decision and to make the state's

resources available to the court for this purpose. Persons conducting such sessions may employ the information and materials referred to in K.S.A. 65-6708 et seq., and amendments thereto, in examining how well the minor is informed about pregnancy, fetal development, abortion risks and consequences and abortion alternatives, and should also endeavor to verify that the minor is seeking an abortion of her own free will and is not acting under intimidation, threats, abuse, undue pressure or extortion by any other persons. The results of such evaluation shall be reported to the court by the most expeditious means, commensurate with security and confidentiality, to assure receipt by the court prior to or at the proceedings initiated pursuant to this section.

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

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

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

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

(2) the number of petitions granted;

(3) the reasons for granting such petitions;

(4) any subsequent actions taken to protect the minor from domestic or predator abuse;

(5) each minor's state of residence, age and disability status; and

(6) the gestational age of the unborn child if the petition is granted.

(q) (1) A custodial parent or legal guardian of the minor may pursue civil remedies against individuals, including the physician and abortion clinic staff, who violate the rights of parents, legal guardian or the minor as set forth in this section.

(2) Such relief shall include:

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

(B) the cost of any subsequent medical treatment such minor might require because of the abortion performed without parental consent or knowledge, or without a court order, in violation of this section;

(C) statutory damages equal to three times the cost of the abortion; and

(D) reasonable attorney fees.

(r) In the course of a judicial hearing to waive parental consent, if the court has reason to suspect that a minor has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse, the court shall report the matter promptly as provided in subsection (c) of K.S.A. 2011 Supp. 38-2223, and amendments thereto. In the course of reporting suspected child abuse or neglect to the appropriate state authorities, nothing in this section shall abridge or otherwise modify the anonymity or confidentiality provisions of the judicial waiver proceeding as specified in this section.

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

History: L. 1992, ch. 183, § 5; L. 1993, ch. 291, § 241; L. 2011, ch. 44, § 5; July 1.

65-6706.

History: L. 1992, ch. 183, § 7; Repealed L. 1997, ch. 190, § 34; July 1.

65-6707. Same; severability clause. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

History: L. 1992, ch. 183, § 8; July 1.

65-6708. Woman's-right-to-know act; citation. K.S.A. 65-6701 and K.S.A. 65-6708 to 65-6715, inclusive, and amendments thereto shall be known and may be cited as the woman's-right-to-know act.

History: L. 1997, ch. 190, § 25; July 1

65-6709. Same; abortion, informed consent required; information required to be given to women, certification of receipt; offer to view ultrasound image and hear heartbeat, certification of offer; required signage. No abortion shall

be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if:

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

- (1) The name of the physician who will perform the abortion;
- (2) a description of the proposed abortion method;
- (3) a description of risks related to the proposed abortion method, including risks to the woman's reproductive health and alternatives to the abortion that a reasonable patient would consider material to the decision of whether or not to undergo the abortion;
- (4) the probable gestational age of the unborn child at the time the abortion is to be performed and that Kansas law requires the following: "No person shall perform or induce an abortion when the unborn child is viable unless such person is a physician and has a documented referral from another physician not financially associated with the physician performing or inducing the abortion and both physicians determine that: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman." If the child is born alive, the attending physician has the legal obligation to take all reasonable steps necessary to maintain the life and health of the child;
- (5) the probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed;
- (6) the contact information for free counseling assistance for medically challenging pregnancies and the contact information for free perinatal hospice services;
- (7) the medical risks associated with carrying an unborn child to term; and
- (8) any need for anti-Rh immune globulin therapy, if she is Rh negative, the likely consequences of refusing such therapy and the cost of the therapy.

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

- (1) Medical assistance benefits may be available for prenatal care, childbirth and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials given to her and described in K.S.A. 65-6710, and amendments thereto;
- (2) the informational materials in K.S.A. 65-6710, and amendments thereto, are available in printed form and online, and describe the unborn child, list agencies which offer alternatives to abortion with a special section listing adoption services and list providers of free ultrasound services;
- (3) the father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion except that in the case of rape this information may be omitted;
- (4) the woman is free to withhold or withdraw her consent to the abortion at any time prior to invasion of the uterus without affecting her right to future care or treatment and without the loss of any state or federally-funded benefits to which she might otherwise be entitled; and
- (5) the abortion will terminate the life of a whole, separate, unique, living human being.

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

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

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

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

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

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

- (1) Informs the woman that she has the right to view the ultrasound image of her unborn child, at no additional expense to her;
- (2) informs the woman that she has the right to receive a physical picture of the ultrasound image, at no additional expense to her;
- (3) offers the woman the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image;
- (4) certifies in writing that the woman was offered the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image at least 30 minutes prior to the performance of the abortion; and

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

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

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

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

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

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

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

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

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

(k) Any private office, freestanding surgical outpatient clinic or other facility or clinic in which abortions are performed shall conspicuously post a sign in a location so as to be clearly visible to patients. The sign required pursuant to this subsection shall be printed with lettering that is legible and shall be at least three quarters of an inch boldfaced type which reads:

Notice: It is against the law for anyone, regardless of their relationship to you, to force you to have an abortion. By law, we cannot perform an abortion on you unless we have your freely given and voluntary consent. It is against the law to perform an abortion on you against your will. You have the right to contact any local or state law enforcement agency to receive protection from any actual or threatened physical abuse or violence. You have the right to change your mind at any time prior to the actual abortion and request that the abortion procedure cease.

The provisions of this subsection shall not apply to any private office, freestanding surgical outpatient clinic or other facility or clinic which performs abortions only when necessary to prevent the death of the pregnant woman.

(l) For purposes of this section:

(1) The term "human being" means an individual living member of the species of homo sapiens, including the unborn human being during the entire embryonic and fetal ages from fertilization to full gestation.

(2) The term "medically challenging pregnancy" means a pregnancy where the unborn child is diagnosed as having: (A) A severe anomaly; or (B) an illness, disease or defect which is invariably fatal.

History: L. 1997, ch. 190, § 27; L. 2009, ch. 28, § 1; L. 2011, ch. 44, § 6; July 1.

65-6710. Same; materials to be published and distributed by the department of health and environment; materials to be available at no cost. (a) The department shall cause to be published and distributed widely, within 30 days after the effective date of this act, and shall update on an annual basis, the following easily comprehensible informational materials:

(1) Geographically indexed printed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth and while her child is dependent, including but not limited to, a list of providers of free ultrasound services and adoption agencies. The materials shall include a comprehensive list of the agencies, a description of the services they offer and the telephone numbers and addresses of the agencies; and inform the woman about available medical assistance benefits for prenatal care, childbirth and neonatal care and about the support obligations of the father of a child who is born alive. The department shall ensure that the materials described in this section are comprehensive and do not directly or indirectly promote, exclude or discourage the use of any agency or service described in this section. The materials shall also contain a toll-free 24-hour-a-day telephone number which may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer. The materials shall state that it is unlawful for any individual to coerce a woman to undergo an abortion, that any physician who performs an abortion upon a woman without her informed consent may be liable to her for damages. Kansas law permits adoptive parents to pay costs of prenatal care, childbirth and neonatal care. The materials shall include the following statement:

"Many public and private agencies exist to provide counseling and information on available services. You are strongly urged to seek their assistance to obtain guidance during your pregnancy. In addition, you are encouraged to seek information on abortion services, alternatives to abortion, including adoption, and resources available to post-partum mothers. The law requires that your physician or the physician's agent provide the enclosed information."

(2) Printed materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from fertilization to full term, including pictures or drawings representing the development of an unborn child at two-week gestational increments, and any relevant information on the possibility of

the unborn child's survival. Any such pictures or drawings shall contain the dimensions of the unborn child and shall be realistic. The material shall include the statement that abortion terminates the life of a whole, separate, unique, living human being. The materials shall be objective, nonjudgmental and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each such procedure and the medical risks associated with carrying an unborn child to term.

(3) A certification form to be used by physicians or their agents under subsection (e) of K.S.A. 65-6709, and amendments thereto, which will list all the items of information which are to be given to women by physicians or their agents under the woman's-right-to-know act.

(4) A standardized video containing all of the information described in paragraphs (1) and (2). In addition, the video shall show ultrasound images, using the best available ultrasound technology, of an unborn child at two week gestational increments.

(b) The print materials required under this section shall be printed in a typeface large enough to be clearly legible. The informational video shall be published in digital video disc format. All materials required to be published under this section shall also be published online on the department's website. All materials shall be made available in both English and Spanish language versions.

(c) The materials required under this section shall be available at no cost from the department upon request and in appropriate number to any person, facility or hospital.

History: L. 1997, ch. 190, § 28; L. 2009, ch. 28, § 2; L. 2011, ch. 44, § 7; July 1.

65-6711. Same; information where medical emergency compels performances of an abortion. Where a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert her death or to avert substantial and irreversible impairment of a major bodily function.

History: L. 1997, ch. 190, § 29; July 1

65-6712. Same; failure to provide informed consent and printed materials under act is unprofessional conduct.

Any physician who intentionally, knowingly or recklessly fails to provide in accordance with K.S.A. 65-6709 and amendments thereto the printed materials described in K.S.A. 65-6710 and amendments thereto, whether or not an abortion is actually performed on the woman, is guilty of unprofessional conduct as defined in K.S.A. 65-2837 and amendments thereto.

History: L. 1997, ch. 190, § 30; L. 1998, ch. 142, § 16; July 1.

65-6713. Same; physicians who complies with act not civilly liable to patient for failure to obtain informed consent to the abortion. Any physician who complies with the provisions of this act shall not be held civilly liable to a patient for failure to obtain informed consent to the abortion.

History: L. 1997, ch. 190, § 31; July 1.

65-6714. Same; severability clause. The provisions of this act are declared to be severable, and if any provision, word, phrase or clause of the act or the application thereof to any person shall be held invalid, such invalidity shall not affect the validity of the remaining portions of the woman's-right-to-know act.

History: L. 1997, ch. 190, § 32; July 1.

65-6715. Same; act does not create or recognize a right to abortion or make lawful an abortion that is currently unlawful. (a) Nothing in the woman's-right-to-know act shall be construed as creating or recognizing a right to abortion.

(b) It is not the intention of the woman's-right-to-know act to make lawful an abortion that is currently unlawful.

History: L. 1997, ch. 190, § 33; July 1.

65-6716 to 65-6720. Reserved

65-6721. Partial birth abortion; restrictions and prohibitions; civil damages and criminal penalties for violations.

(a) No person shall perform or induce a partial birth abortion on an unborn child unless such person is a physician and has a documented referral from another physician who is licensed to practice in this state, and who is not legally or financially affiliated with the physician performing or inducing the abortion and both physicians provide a written determination, based upon a medical judgment that would be made by a reasonably prudent physician, knowledgeable in the field and knowledgeable about the case and the treatment possibilities with respect to the conditions involved, that the partial birth abortion is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(b) As used in this section, "partial birth abortion" means an abortion procedure in which the person performing the

abortion deliberately and intentionally vaginally delivers a living unborn child until, in the case of a head-first presentation, the entire head of the unborn child is outside the body of the mother, or, in the case of a breech presentation, any part of the trunk of the unborn child past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living unborn child, and performs the overt act, other than completion of delivery, that kills the partially delivered living unborn child.

(c) (1) If a physician determines in accordance with the provisions of subsection (a) that a partial birth abortion is necessary and performs a partial birth abortion on the woman, the physician shall report such determination, the medical basis, including the specific medical diagnosis and the reasons for such determination 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 determination, the medical basis, including the specific medical diagnosis, and the reasons for such determination 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. The physician shall retain a copy of the written reports required under this subsection for not less than 10 years.

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

(A) A detailed list of the contents of the written reports required under paragraph (1) of this subsection; and

(B) detailed information that must be provided by a physician to insure that the specific medical basis and clinical diagnosis regarding the woman is reported.

(d) (1) The father, if married to the woman at the time of the abortion, and, if the woman has not attained the age of 18 years at the time of the abortion, the parents or custodial guardian of the woman, may in a civil action obtain appropriate relief, unless, in a case where the plaintiff is not the woman upon whom the abortion was performed, the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include:

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

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

(C) reasonable attorney fees.

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

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

(g) Upon conviction of a violation of this section, a person shall be guilty of a severity level 8 person felony.

History: L. 1998, ch. 142, § 18; L. 2011, ch. 44, § 8; L. 2011, ch. 91, § 30; July 1.

Attorney General's Opinions:

Constitutionality of proposed prohibition against partial birth abortion: relation to D&E procedure. 2000-9.

65-6722. Abortion of pain-capable unborn child; legislative findings. The legislature hereby finds and declares that:

(a) Pain receptors (nociceptors) are present throughout the unborn child's entire body by no later than 16 weeks after fertilization and nerves link these receptors to the brain's thalamus and subcortical plate by no later than 20 weeks;

(b) by eight weeks after fertilization, the unborn child reacts to touch. By 20 weeks after fertilization, the unborn child reacts to stimuli that would be recognized as painful if applied to an adult human, for example, by recoiling;

(c) in the unborn child, application of such painful stimuli is associated with significant increases in stress hormones known as the stress response;

(d) subjection to such painful stimuli is associated with long-term harmful neurodevelopmental effects, such as altered pain sensitivity and, possibly, emotional, behavioral and learning disabilities later in life;

(e) for the purposes of surgery on unborn children, fetal anesthesia is routinely administered and is associated with a decrease in stress hormones compared to their level when painful stimuli is applied without such anesthesia;

(f) the position, asserted by some medical experts, that the unborn child is incapable of experiencing pain until a point later in pregnancy than 20 weeks after fertilization predominately rests on the assumption that the ability to experience pain depends on the cerebral cortex and requires nerve connections between the thalamus and the cortex. However, recent medical research and analysis, especially since 2007, provides strong evidence for the conclusion that a functioning cortex is not necessary to experience pain;

(g) substantial evidence indicates that children born missing the bulk of the cerebral cortex, those with hydranencephaly, nevertheless experience pain;

(h) in adults, stimulation or ablation of the cerebral cortex does not alter pain perception, while stimulation or ablation of the thalamus does;

(i) substantial evidence indicates that structures used for pain processing in early development differ from those of adults, using different neural elements available at specific times during development, such as the subcortical plate, to fulfill the role of pain processing;

(j) consequently, there is substantial medical evidence that an unborn child is capable of experiencing pain by 20 weeks after fertilization; and

(k) it is the purpose of the state to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain.

History: L. 2011, ch. 41, § 1; July 1.

65-6723. Same; definitions. As used in K.S.A. 2011 Supp. 65-6722 through 65-6724, and amendments thereto:

(a) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

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

(c) "Department" means the department of health and environment.

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

(e) "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. 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.

(f) "Pain-capable unborn child" means an unborn child having reached the gestational age of 22 weeks or more.

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

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

History: L. 2011, ch. 41, § 2; July 1.

65-6724. Same; certain abortions prohibited, exceptions; determination of gestational age; civil action; criminal penalties.

(a) No person shall perform or induce, or attempt to perform or induce an abortion upon a pain-capable unborn child unless such person is a physician and has a documented referral from another physician not legally or financially affiliated with the physician performing or inducing, or attempting to perform or induce the abortion and both physicians provide a written determination, based upon a medical judgment arrived at 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 and that would be made by a reasonably prudent physician, knowledgeable in the field, and knowledgeable about the case and the treatment possibilities with respect to the conditions involved, that: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible physical impairment of a major bodily function of the pregnant woman. No such condition shall be deemed to exist if it is 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.

(b) Except in the case of a medical emergency, a copy of the written documented referral and of the abortion-performing physician's written determination shall be provided to the pregnant woman no less than 30 minutes prior to the initiation of the abortion. The written determination shall be time-stamped at the time it is delivered to the pregnant woman. The medical basis for the determination 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. Such determination shall specify:

(1) If the abortion is necessary to preserve the life of the pregnant woman and the medical basis of such determination, including the specific medical condition the physician believes would cause the death of the pregnant woman; or

(2) 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 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. In making such a determination, the physician shall make such inquiries of the woman and perform or cause to be performed such medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to gestational age. The physician shall document as part of the medical records of the woman the basis for the determination of gestational age. 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 or induced 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 or induced in a medical care facility, the physician who performs or induces the abortion 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.

(2) If the physician determines the gestational age of the unborn child is 22 or more weeks, then no abortion of the pain-capable unborn child shall be performed or induced, or attempted to be performed or induced except as provided for in subsection (a). In such event, the physician who performs or induces the abortion shall report such determinations, the medical basis and the reasons for such determinations, including the specific medical diagnosis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible physical impairment of a major bodily function of the pregnant woman and the name of the referring physician required by subsection (a) in writing to the medical care facility in which the abortion is performed or induced 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 or induced in a medical care facility, the physician who performs or induces the abortion shall report such determinations, the medical basis and the reasons for such determinations, including the specific medical diagnosis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible physical impairment of a major bodily function of the pregnant woman and the name of the referring physician required by subsection (a) 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.

(3) The physician shall retain the medical records required to be kept under this subsection for not less than 10 years.

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

(1) A detailed list of the information that must be kept by a physician under this section;

(2) the contents of the written reports required under this section; and

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

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

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

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

(2) Such relief shall include:

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

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

(C) reasonable attorney fees.

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

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

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

History: L. 2011, ch. 41, § 3; July 1.

Source http://kslegislature.org/li/b2011_12/statute/065_000_0000_chapter/

28-29-27. Medical services waste.

(a) "Medical services waste" means those solid waste materials that are potentially capable of causing disease or injury and are generated in connection with human or animal care through inpatient and outpatient services. Medical services waste shall not include any solid waste that has been classified by the secretary as a hazardous waste under K.S.A. 1996 Supp. 65-3431 and any amendments thereto, or that is radioactive treatment material licensed under K.S.A. 48-1607 and regulations adopted under that statute.

(b) Segregation. All medical services waste shall be segregated from other solid wastes at the point of origin.

(c) Storage. All medical services waste shall be stored in a manner and in a container that will prevent the transmission of disease or the causing of injury. Hypodermic needles and syringes, scalpel blades, suture needles, or other sharp objects shall be stored only in a rigid, puncture-resistant container that has been closed to prevent the escape of any material, including liquids or aerosols. All reusable containers used to store infectious waste shall be cleaned and disinfected before each use.

(d) Collection. Medical services wastes shall be collected at least daily from the point of origin for transport to a storage or disposal area or a processing facility. Personnel shall take precautions to prevent accidental contact with the waste during

transfer.

(e) Transportation. All medical services wastes transported off-site shall be transported in a manner that will prevent the spread of disease or the causing of injury to persons.

(1) The waste transporter or disposal firm shall be notified of the types of waste.

(2) Containers of medical services waste transported off-site shall be labeled or color coded in accordance with 29 CFR 1910.1030(g)(1)(i), as in effect on July 1, 1996.

(f) Processing. In all processing of medical services waste, dispersal of aerosols and liquids shall be prevented through the use of proper coverings seals, and ventilation. Personnel shall be protected against contact with the waste through the use of protective clothing and equipment. Medical services waste that has been processed may be combined with other solid waste. Where feasible, all medical services wastes shall be processed before transportation off-site by using either of the following methods:

(1) Sterilizing infectious wastes by autoclaving or chemical treatment, to destroy the disease transmission potential; or

(2) grinding, melting, or pulverizing sharp objects to destroy the injury-producing potential.

(g) Disposal. Medical services waste shall be disposed of in a manner that minimizes the risk to health, safety, or the environment. The following shall be considered acceptable disposal methods:

(1) Discharge of liquids to a sanitary sewer connected to a secondary sewage treatment plant;

(2) incineration of combustible solids, followed by disposal of the ash in a sanitary landfill;

(3) disposal in a hazardous waste disposal facility that has a permit issued under K.A.R. 28-31-9; or

(4) disposal in a sanitary landfill in accordance with the provisions of K.A.R. 28-29-109. (Authorized by and implementing K.S.A. 1996 Supp. 65-3406, as amended by L. 1997, Ch. 139, Sec. 1; effective May 1, 1982; amended, T-84-41, Dec. 21, 1983; effective May 1, 1984; amended July 10, 1998.)

Source: http://www.kssos.org/pubs/KAR/2009/2A002_28-

[Department%20of%20Health%20and%20Environment%20Articles%2029%20through%2034,%202009%20KAR%20Vol%202A.pdf](http://www.kssos.org/pubs/KAR/2009/2A002_28-Department%20of%20Health%20and%20Environment%20Articles%2029%20through%2034,%202009%20KAR%20Vol%202A.pdf)

Article 56.—REPORTING OF INDUCED TERMINATIONS OF PREGNANCY

28-56-1. Definitions. Each of the following terms shall have the meaning assigned in this regulation:

(a) “Abortion” has the meaning specified in K.S.A. 65-6701, and amendments thereto.

(b) “Abortion provider” means a physician that performs an abortion, a clinic comprised of legally or financially affiliated physicians, a hospital, or any other medical care facility where an abortion is performed.

(c) “Abortion report” means the information required to be submitted by an abortion provider to the department either electronically or on a paper form provided by the department.

(d) “Clinical estimate of gestation” means the number of completed weeks of gestation of an unborn child as determined through a sonogram.

(e) “Confidential code number” means a random five-digit identification number, along with subcategory letters, assigned by the department to an abortion provider for the purpose of submitting an abortion report to the department.

(f) “Correction” means the act of providing information to the department to correct errors or provide missing information to an abortion report.

(g) “Department” has the meaning specified in K.S.A. 65-6701, and amendments thereto.

(h) “Electronic abortion reporting system” means the department’s vital events reporting system through which abortion reports are submitted electronically to the department.

(i) “Failed abortion” means an abortion procedure that was initiated but not completed and resulted in a live birth.

(j) “Failed abortion report” means the information on a failed abortion required to be submitted by the abortion provider to the department on a paper form provided by the department.

(k) “Hospital” has the meaning specified in K.S.A. 65-425, and amendments thereto.

(l) “ICD-9-CM” means volumes one and two, office edition, of the 2011 clinical modification of the “international classification of diseases,” ninth revision, sixth edition, published by practice management information corporation, which is used to code and classify morbidity data from inpatient and outpatient records, physician offices, and most surveys from the national center for health statistics. This document, including the appendices, is hereby adopted by reference.

(m) “Late term” means the clinical estimate of gestation of at least 22 completed weeks.

(n) “Late term affidavit” means a department-provided form for each abortion that occurs at a clinical estimate of gestation of at least 22 weeks. The referring physician and the physician performing the abortion shall each submit a separate form, which shall be completed, signed, and notarized and shall meet the requirements of K.A.R. 28-56-6.

(o) “Live birth” has the meaning specified in K.S.A. 65-2401, and amendments thereto.

(p) “Medical basis” means the specific medical signs, symptoms, history, or other information provided by the patient or the results of clinical examinations, procedures, or laboratory tests used to make a medical diagnosis.

(q) “Medical care facility” has the meaning specified in K.S.A. 65-425, and amendments thereto.

- (r) "Medical diagnosis" means a specific medical condition or disease as determined by a physician.
- (s) "Medical emergency" has the meaning specified in K.S.A. 65-4a01, and amendments thereto.
- (t) "Partial birth abortion" has the meaning specified in K.S.A. 65-6721, and amendments thereto.
- (u) "Physician" has the meaning specified in K.S.A. 65-6701, and amendments thereto.
- (v) "Physician's report on number of certifications received" means a monthly report that shall be submitted to the department on a form provided by the department specifying the number of voluntary and informed consent forms certified by each patient and received by the physician before the patient is to receive an abortion.
- (w) "Referring physician" means a physician who refers a patient to an abortion provider and who is required to provide a late term affidavit.
- (x) "Requirements related to reporting abortions" means the department's handbook containing instructions describing how abortions shall be reported to the department, either on a paper form or electronically, and copies of applicable state statutes and regulations.
- (y) "Unborn child" means a living individual organism of the species *Homo sapiens*, in utero, at any stage of gestation from fertilization to birth.
- (z) "User agreement" means the required document that entitles each abortion provider or the designee to access the department's electronic abortion reporting system.
- (aa) "Viable" has the meaning specified in K.S.A. 65-6701, and amendments thereto.
- (bb) "Voluntary and informed consent form" means the form provided by the department that is signed by the patient authorizing an abortion provider to perform an abortion.
(Authorized by K.S.A. 2011 Supp. 65-445, 65-6701, and 65-6724; implementing K.S.A. 2011 Supp. 65-445 and 65-6703; effective June 15, 2012.)

28-56-2. General requirements for abortion reports.

- (a) Each abortion provider, before performing an abortion and before using the electronic abortion reporting system, shall obtain the following:
 - (1) A confidential code number from the department; and
 - (2) a copy of the requirements related to reporting abortions.
- (b) Each abortion provider performing less than five abortions annually may use the paper form abortion report.
- (c) Each abortion provider performing five or more abortions annually shall use the electronic abortion reporting system to file each abortion report and shall meet the following requirements: (1) Submit an executed user agreement; and
 - (2) ensure that each individual authorized by the abortion provider to enter abortion data into the electronic abortion reporting system has a separate user account to access the electronic abortion reporting system.
- (d) An abortion report shall be filed for each abortion performed. Each abortion report shall contain the following information:
 - (1) The confidential code number of the abortion provider filing the abortion report;
 - (2) the patient's unique identification number as maintained in the abortion provider's medical record. The patient's name and street address shall not be submitted;
 - (3) the patient's age in years on the patient's last birthday; (4) the patient's marital status at the time of the abortion;
 - (5) the month, day, and year the abortion was performed;
 - (6) the state or United States territory of residence of the patient or, if the patient is not a resident of the United States, the patient's country of residence;
 - (7) the patient's county of residence if the patient is a resident of a state or territory of the United States or, if the patient is a resident of Canada, the province;
 - (8) the patient's city or town of residence;
 - (9) specification of whether the patient resided within the city limits of the city or town of residence;
 - (10) the hispanic origin of the patient, if applicable;
 - (11) the patient's ancestry; (12) the patient's race;
 - (13) the highest level of education completed by the patient;
 - (14) the date when the patient's last normal menses began, including the month, day, and year as reported by the patient;
 - (15) clinical estimate of gestation;
 - (16) number of previous pregnancies, in the following categories:
 - (A) Children born live and now living;
 - (B) children born live and now dead;
 - (C) previous induced abortions; and
 - (D) previous spontaneous terminations, including miscarriages, or stillbirths;

(17) the primary abortion procedure used in terminating the pregnancy, including one of the following abortion procedures:

- (A) Suction curettage; (B) sharp curettage;
- (C) dilation and evacuation;
- (D) administration of mifepristone;
- (E) administration of methotrexate;
- (F) prostaglandins delivered by intrauterine instillation or other methods;
- (G) hysterotomy; (H) hysterectomy;
- (I) digoxin induction;
- (J) partial birth abortion; or
- (K) other procedure, which shall be specified;

(18) if applicable, all secondary abortion procedures used in terminating the pregnancy, including any of the following procedures that apply: (A) Suction curettage;

- (B) sharp curettage;
- (C) dilation and evacuation;
- (D) administration of mifepristone; (E) administration of methotrexate;
- (F) prostaglandins delivered by intrauterine instillation or other methods; (G) hysterotomy;
- (H) hysterectomy;
- (I) digoxin induction;
- (J) partial birth abortion; or
- (K) other procedure, which shall be specified;

(19) specification of the medical factors and methods used to determine the clinical estimate of gestation; and

(20) specification of whether there was a report of physical, mental, or emotional abuse or neglect filed pursuant to K.S.A. 38-2223, and amendments thereto.

(Authorized by K.S.A. 2011 Supp. 65-445 and 65-6703; implementing K.S.A. 2011 Supp. 65-6703; effective June 15, 2012; amended Jan. 4, 2013.)

28-56-3. Reporting requirements for abortions performed at clinical estimate of gestation of at least 22 weeks.

When performing an abortion at clinical estimate of gestation of 22 or more weeks, in addition to the requirements specified in K.A.R. 28-56-2, each abortion report shall contain the following information:

- (a) Specification of whether the unborn child was viable;
- (b) a detailed, case-specific description that includes the medical diagnosis and medical basis of the patient and unborn child if the unborn child was viable;
- (c) specification of whether continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function or the death of the patient;
- (d) a detailed, case-specific description that includes the medical diagnosis and medical basis for the determination that the abortion was necessary to prevent the patient's death or irreversible impairment of a major bodily function; and
- (e) a medical determination that includes all applicable medical diagnosis codes from the ICD-9-CM.

(Authorized by K.S.A. 2011 Supp. 65-6703 and 65-6724; implementing K.S.A. 2011 Supp. 65-6703; effective June 15, 2012.)

28-56-4. Reporting requirements for partial birth abortions. For each procedure performed involving a partial birth abortion, in addition to the requirements specified in K.A.R. 28-56-2 and

28-56-3, each abortion report for a partial birth abortion shall contain the following information: (a) Specification of whether the unborn child was viable;

- (b) a detailed, case-specific description that includes the medical diagnosis, medical basis, and description of the medical conditions of the patient and unborn child if the unborn child was viable;
- (c) specification of whether continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function or the death of the patient;
- (d) a detailed, case-specific medical diagnosis and medical basis for the determination that the abortion was necessary to prevent the patient's death or irreversible impairment of a major bodily function; and
- (e) a medical determination that includes all applicable medical diagnosis codes from the ICD-9-CM.

(Authorized by K.S.A. 2011 Supp. 65-445, 65-6703, and 65-6721; implementing K.S.A. 2011 Supp. 65-6721; effective June 15, 2012.)

28-56-5. Requirements for reporting failed abortions.

If an abortion attempt fails and results in a live birth, each abortion provider shall complete and

file the following information:

- (a) A certificate of live birth pursuant to K.S.A. 65-2409a, and amendments thereto; and
 - (b) a failed abortion report meeting the following requirements: (1) Meeting the requirements specified in K.A.R. 28-56-2; and
 - (2) specifying the medical basis and medical diagnosis for the reason the abortion was not completed.
- (Authorized by and implementing K.S.A. 2011 Supp. 65-445; effective June 15, 2012.)

28-56-6. Reporting requirements for abortions performed on minors in the case of a medical emergency.

- (a) Each abortion provider shall file an abortion report as specified in K.A.R. 28-56-2 and, if applicable, K.A.R. 28-56-3.
 - (b) Each abortion report for an abortion performed on a minor during a medical emergency shall contain the following information:
 - (1) If applicable, the information specified in K.A.R. 28-56-4 and K.A.R. 28-56-5;
 - (2) the medical basis for determining that a medical emergency exists;
 - (3) the medical methods used in determining the medical emergency;
 - (4) the patient identification number obtained from the patient's medical records where the abortion was performed; and
 - (5) the date on which the abortion was performed.
- (Authorized by K.S.A. 2011 Supp. 65-445, 65-6703, 65-6705 and 65-6721; implementing K.S.A. 2011 Supp. 65-6705; effective June 15, 2012.)

28-56-7. Physician's report on number of certifications received. (a) Each physician performing an abortion shall submit to the department the number of patient-completed voluntary and informed consent forms as specified in K.S.A. 65-6709, and amendments thereto. The report shall be submitted within five business days after the end of each month.

- (b) Each physician's report on number of certifications received shall be submitted by United States mail or facsimile transmission. The report shall contain the following information: (1) The physician's confidential code number;
 - (2) the date the report was submitted; and
 - (3) the number of voluntary and informed consent forms as specified in K.S.A. 65-6709, and amendments thereto, received during the previous calendar month, including any voluntary and informed consent form that was not followed by an abortion.
- (c) Each correction to the physician's report on the number of certifications received shall be made within 15 business days of discovery of the error or omission.
- (Authorized by K.S.A. 2011 Supp. 65-445 and 65-6709; implementing K.S.A. 2011 Supp. 65-6709; effective June 15, 2012.)

28-56-8. Late term affidavits. (a) The referring physician and the physician performing an abortion shall each submit a late term affidavit to the department within 15 business days of the completion of the abortion procedure.

- (b) The late term affidavit completed by the referring physician shall contain the following information:
 - (1) Name of the referring physician;
 - (2) the patient's identification number obtained from the patient's medical records where the abortion was performed;
 - (3) a statement that the referring physician and the physician performing the abortion have no legal or financial affiliation with each other as specified in K.S.A. 65-6703, and amendments thereto; and
 - (4) the date the late term affidavit was signed and notarized.
- (c) The late term affidavit completed by the physician performing an abortion shall contain the information required in subsection (b).
- (Authorized by K.S.A. 2011 Supp. 65-445, 65-6703, and 65-6724; implementing K.S.A. 2011 Supp. 65-445 and 65-6703; effective June 15, 2012.)

28-56-9. Correction in an abortion report. (a) In case of an error or missing information in an abortion report, each abortion provider shall report in writing to the department within 15 business days of discovery the specific information that needs to be corrected or provided.

- (b) Each abortion provider shall review all relevant medical records after being advised by the department of an error or missing information on the abortion report and shall provide any correction or updated information on the abortion report within 15 business days of discovery of the error or omission.
 - (c) An abortion provider shall not make corrections or additions to an abortion report within the electronic abortion reporting system or create a new record to replace the incorrect or incomplete abortion report.
- (Authorized by and implementing K.S.A. 2011 Supp. 65-445; effective June 15, 2012.)

28-56-10. Medical information retained on each abortion performed. (a) Each abortion provider shall retain the following information in each patient's medical record for at least 10 years:

- (1) A copy of the abortion report and any subsequent corrections;
- (2) a copy of the voluntary and informed consent form;
- (3) a copy of the late term affidavit of the physician who performed the abortion;
- (4) a copy of a court-ordered bypass of parental consent as specified in K.S.A. 65-6705, and amendments thereto, or consent of both parents or the legal guardian if the minor is not emancipated;
- (5) the physical or mental medical history of the patient;
- (6) all sonogram results;
- (7) a copy of the medical basis and reasons related to partial birth abortion, late term abortion, or emergency abortion procedure on a minor;
- (8) a copy of the patient-specific counseling information provided in addition to state-required material;
- (9) a copy of the postabortion instructions;
- (10) a record and description of any complications;
- (11) the type and amount of anesthesia used;
- (12) any report of physical, mental, or emotional abuse or neglect of a minor pursuant to K.S.A. 38-2223, and amendments thereto;
- (13) a list of all medical tests performed and the results of each test;
- (14) a record of any return visit by patient, if indicated by the physician;
- (15) emergency contact information for the patient;
- (16) a copy of the medical referral from the referring physician; and
- (17) if known, the name, address, and telephone number of the father of the unborn child if the patient is less than 16 years old.

(b) Each referring physician shall retain a copy of that physician's late term affidavits for at least 10 years.

(Authorized by K.S.A. 2011 Supp. 65-445, 65-6703, and 65-6724; implementing K.S.A. 2011 Supp. 65-445 and 65-6703; effective June 15, 2012.)