Appendices

TYPE OR PRINT IN PERMANENT INK

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

1. Provider Identification Number

2. Patient ID Number

3. Age on Last Birthday

4. Married ☐ Yes ☐ No

5. Date of Pregnancy Termination
Month Day Year

6a. Residence *US State or Country*

6b. County

6c. City or Town

6d. Inside City Limits ☐ Yes ☐ No

7a. Hispanic Origin
(Check the box or boxes that best describes whether the individual is Spanish, Hispanic, or Latina, or not Spanish, Hispanic, or Latina)

- ☐ Not Spanish, Hispanic, or Latina
- ☐ Mexican, Mexican American, or Chicana
- ☐ Puerto Rican
- ☐ Cuban
- ☐ Central American
- ☐ South American
- ☐ Other Spanish, Hispanic, or Latina (specify) _____
- ☐ Unknown

7b. Ancestry
(Enter the name of the country that best describes the heritage or origin of the individual)

8. Race
(Check one or more races to indicate what the individual considers herself to be

- ☐ White
- ☐ Black or African American
- ☐ American Indian or Alaska Native
- Principal Tribe(s)_____
- ☐ Asian Indian
- ☐ Chinese
- ☐ Filipino
- ☐ Japanese
- ☐ Korean
- ☐ Vietnamese
- ☐ Other Asian (specify) _____
- ☐ Native Hawaiian
- ☐ Guamanian or Chamorro
- ☐ Samoan
- ☐ Other Pacific Islander (specify) _____
- ☐ Other (specify) _____
- ☐ Unknown

9. Education
(specify only highest grade completed)

- ☐ 8th grade or less
- ☐ 9th-12th grade no diploma
- ☐ High school graduate/GED
- ☐ Some College - no degree
- ☐ Associate degree
- ☐ Bachelor's degree
- ☐ Master's degree
- ☐ Doctorate
- ☐ Unknown

10. Date Last Normal Menses Began
Month Day Year

11. Clinical Estimate of Gestation
(Weeks) *

12. Previous Pregnancies
(Enter number or zero in every section)

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
(Check only one)

- ☐ Suction Curettage
- ☐ Sharp Curettage
- ☐ Dilation & Evacuation
- ☐ Medical Procedure I (Mifepristone)
- ☐ Medical Procedure II (Methotrexate)
- ☐ Intra-Uterine Prostaglandin Instillation
- ☐ Hysterotomy
- ☐ Hysterectomy
- ☐ Digoxin/Induction
- ☐ Partial Birth **
- ☐ Other (Specify) _____

13b Additional procedures used for this termination, if any
(Check all that apply)

- ☐ Suction Curettage
- ☐ Sharp Curettage
- ☐ Dilation & Evacuation
- ☐ Medical Procedure I (Mifepristone)
- ☐ Medical Procedure II (Methotrexate)
- ☐ Intra-Uterine Prostaglandin Instillation
- ☐ Hysterotomy
- ☐ Hysterectomy
- ☐ Digoxin/Induction
- ☐ Partial Birth **
- ☐ Other (Specify) _____

14 Reasons for determining gestational age - describe methods used.

15. Was report of physical, mental, or emotional abuse or neglect filed pursuant to K.S.A. 38-2223?
YES ☐ NO ☐

* If clinical estimate of gestational age is 22 weeks or more, complete reverse side of form.
** If Partial Birth Procedure as defined by KSA 65-6721 is used, complete reverse side of form.

VS 213 Rev. 7/2014

SAMPLE

If the clinical estimate of gestational age of the unborn child is 22 weeks or more, complete items 16 and 17.	
16a	If the clinical estimate of gestation age of the unborn child was 22 weeks or greater, indicate the reason why the abortion was necessary. ☐ To preserve the life of the pregnant woman ☐ Prevent substantial and irreversible impairment of a major bodily function of the pregnant woman
16b	Provide medical basis including specific medical diagnoses and diagnosis codes of the pregnant woman.
17a	Was the unborn child viable? ☐ YES ☐ NO
17b	Provide medical basis including specific medical diagnoses and diagnosis codes and the reasons for the determination of the viability/non-viability of the unborn child.

If a partial birth procedure was performed, complete item 18.	
18.	Provide the medical basis, including specific medical diagnoses and diagnosis codes, and reasons for the determination that a partial-birth procedure was necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness or personal injury, including a life-endangering physical condition, caused by the pregnancy itself.

SAMPLE

TYPE OR PRINT IN PERMANENT INK

INSTRUCTIONS SEE HANDBOOK

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

1. Provider Identification Number

2. Patient ID Number

3. Age on Last Birthday

4. Married ☐ Yes ☐ No

5. Date of Pregnancy Termination Month Day Year

6a. Residence *US State or Country*

6b. County

6c. City or Town

6d. Inside City Limits ☐ Yes ☐ No

7a. Hispanic Origin
(Check the box or boxes that best describes whether the individual is Spanish, Hispanic, or Latina, or not Spanish, Hispanic, or Latina)

- ☐ Not Spanish, Hispanic, or Latina
- ☐ Mexican, Mexican American, or Chicana
- ☐ Puerto Rican
- ☐ Cuban
- ☐ Central American
- ☐ South American
- ☐ Other Spanish, Hispanic, or Latina (specify) _____
- ☐ Unknown

7b. Ancestry
(Enter the name of the country that best describes the heritage or origin of the individual)

8. Race
(Check one or more races to indicate what the individual considers herself to be

- ☐ White
- ☐ Black or African American
- ☐ American Indian or Alaska Native

Principal Tribe(s)_____

- ☐ Asian Indian
- ☐ Chinese
- ☐ Filipino
- ☐ Japanese
- ☐ Korean
- ☐ Vietnamese
- ☐ Other Asian (specify) _____
- ☐ Native Hawaiian
- ☐ Guamanian or Chamorro
- ☐ Samoan
- ☐ Other Pacific Islander (specify) _____
- ☐ Other (specify) _____
- ☐ Unknown

9. Education
(specify only highest grade completed)

- ☐ 8th grade or less
- ☐ 9th-12th grade no diploma
- ☐ High school graduate/GED
- ☐ Some College - no degree
- ☐ Associate degree
- ☐ Bachelor's degree
- ☐ Master's degree
- ☐ Doctorate
- ☐ Unknown

10. Date Last Normal Menses Began Month Day Year

11. Clinical Estimate of Gestation *(Weeks) (1)*

12. Previous Pregnancies *(Enter number or zero in every section)*

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
(Check only one)

- ☐ Suction Curettage
- ☐ Sharp Curettage
- ☐ Dilation & Evacuation
- ☐ Medical Procedure I (Mifepristone)
- ☐ Medical Procedure II (Methotrexate)
- ☐ Intra-Uterine Prostaglandin Instillation
- ☐ Hysterotomy
- ☐ Hysterectomy
- ☐ Digoxin/Induction
- ☐ Partial Birth (2)
- ☐ Other (Specify) _____

13b Additional procedures used for this termination, if any
(Check all that apply)

- ☐ Suction Curettage
- ☐ Sharp Curettage
- ☐ Dilation & Evacuation
- ☐ Medical Procedure I (Mifepristone)
- ☐ Medical Procedure II (Methotrexate)
- ☐ Intra-Uterine Prostaglandin Instillation
- ☐ Hysterotomy
- ☐ Hysterectomy
- ☐ Digoxin/Induction
- ☐ Partial Birth (2)
- ☐ Other (Specify) _____

14 Reasons for determining gestational age - describe methods used

15. Was Report of physical, mental, or emotional abuse or neglect filed pursuant to K.S.A. 38-2223
YES ☐ NO ☐

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
VS 213 Rev. 6/2012

Sample

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 17a-c only if 16a 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

Sample

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 19a-b only if 18a 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

TYPE
OR PRINT
IN
PERMANENT
INK

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	☐☐☐	MAY	☐☐☐	SEPTEMBER	☐☐☐
FEBRUARY	☐☐☐	JUNE	☐☐☐	OCTOBER	☐☐☐
MARCH	☐☐☐	JULY	☐☐☐	NOVEMBER	☐☐☐
APRIL	☐☐☐	AUGUST	☐☐☐	DECEMBER	☐☐☐

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, referral for, or participation in medical procedures not required; prescription or administration of any device or drug not required. No person shall be required to perform, refer for, or participate in medical procedures or in the prescription or administration of any device or drug which result in the termination of a pregnancy or an effect of which the person reasonably believes may result in the termination of a pregnancy, and the refusal of any person to perform, refer for, or participate in those medical procedures, prescription or administration shall not be a basis for civil liability to any person. No medical care facility, medical care facility administrator or governing board of any medical care facility 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 exercise of rights protected by this section.

History: L. 1969, ch. 182, § 1; L. 1975, ch. 313, § 1; L. 2012, ch. 112, § 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. 2014 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 Kansas department for children and families 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; L. 2014, ch. 115, § 247; July 1.

65-2401. Definitions. As used in this act: (a) "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.
(b) "Live birth" means the complete expulsion or extraction from its mother of a human child, 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.
(c) "Gestational age" means the age of the human child as measured in weeks as determined by either the last date of the mother's menstrual period, a sonogram conducted prior to the 20th week of pregnancy or the confirmed known date of conception.
(d) "Stillbirth" means any complete expulsion or extraction from its mother of a human child the gestational age of which is not less than 20 completed weeks, resulting in other than a live birth, as defined in this section, and which is not an induced termination of pregnancy.
(e) "Induced termination of pregnancy" means abortion, as defined in K.S.A. 65-6701, and amendments thereto.
(f) "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.
(g) "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.
(h) "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; L. 2014, ch. 128, § 3; 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)

65-6701. Definitions. As used in K.S.A. 65-6701 through 65-6721, 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 functions only. The term "bodily function" does not include mental or emotional functions.
(c) "Counselor" means a person who is: (1) Licensed to practice medicine and surgery; (2) licensed to practice professional or practical nursing; (3) the following persons licensed to practice behavioral sciences: Licensed psychologists, licensed master's level psychologists, licensed clinical psychotherapists, licensed social workers, licensed specialist clinical social workers, licensed marriage and family therapists, licensed clinical marriage and family therapists, licensed professional counselors, licensed clinical professional counselors; (4) a licensed physician assistant; or (5) 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.
(d) "Department" means the department of health and environment.
(e) "Fertilization" means the fusion of a human spermatozoon with a human ovum.
(f) "Gestational age" means the time that has elapsed since the first day of the woman's last menstrual period.
(g) "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 to avert the death of the woman or for which a delay necessary to comply with the applicable statutory requirements 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.
(h) "Minor" means a person less than 18 years of age.
(i) "Physician" means a person licensed to practice medicine and surgery in this state.
(j) "Pregnant" or "pregnancy" means that female reproductive condition of having an unborn child in the mother's body.
(k) "Qualified person" means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, licensed marriage and family therapist, licensed master's level psychologist, licensed clinical psychotherapist, registered nurse or physician.
(l) "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.
(m) "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; L. 2013, ch. 119, § 12; L. 2014, ch. 87, § 3; Apr. 24.

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, or attempt to 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, 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 condition shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct that 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 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 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 physical 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. 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 or inducing, or attempting to perform or induce 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 physical 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 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 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 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.

(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 physical 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. 2013 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; L. 2013, ch. 119, § 13; 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, no person shall perform an abortion upon an unemanicipated 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. 2014 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 when a medical emergency exists.

(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. 2014 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; L. 2014, ch. 87, § 5; Apr. 24

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 risk of premature birth in future pregnancies, risk of breast cancer and 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 physical 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 counseling assistance for medically challenging pregnancies, the contact information for perinatal hospice services and a listing of websites for national perinatal assistance, including information regarding which entities provide such services free of charge;
(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;
(5) the abortion will terminate the life of a whole, separate, unique, living human being; and
(6) by no later than 20 weeks from fertilization, the unborn child has the physical structures necessary to experience pain. There is evidence that by 20 weeks from fertilization unborn children seek to evade certain stimuli in a manner that in an infant or an adult would be interpreted to be a response to pain. Anesthesia is routinely administered to unborn children who are 20 weeks from fertilization or older who undergo prenatal surgery.
(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 total number of certifications shall 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. 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. The sign shall include the address for the pregnancy resources website published and maintained by the department of health and environment, and the following text:
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. It is unlawful for anyone to make you have an abortion against your will, even if you are a minor. The father of your child must provide support for the child, even if he has offered to pay for an abortion. If you decide not to have an abortion, you may qualify for financial help for pregnancy, childbirth and newborn care. If you qualify, medicaid will pay or help pay the cost of doctor, clinic, hospital and other related medical expenses, including childbirth delivery services and care for your newborn baby. Many agencies are willing to provide assistance so that you may carry your child to term, and to assist you after your child's birth.
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) Any private office, freestanding surgical outpatient clinic or other facility or clinic in which abortions are performed that has a website shall publish an easily identifiable link on the homepage of such website that directly links to the department of health and environment's website that provides informed consent materials under the woman's-right-to-know act. Such link shall read: "The Kansas Department of Health and Environment maintains a website containing information about the development of the unborn child, as well as video of sonogram images of the unborn child at various stages of development. The Kansas Department of Health and Environment's website can be reached by clicking here."
(m) 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; L. 2013, ch. 119, § 14; L. 2014, ch. 87, § 6; Apr. 24.

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, and 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

alternatives to abortion, including adoption, and resources available to postpartum 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 following statements: (A) That by no later than 20 weeks from fertilization, the unborn child has the physical structures necessary to experience pain; (B) that there is evidence that by 20 weeks from fertilization unborn children seek to evade certain stimuli in a manner that in an infant or an adult would be interpreted to be a response to pain; (C) that anesthesia is routinely administered to unborn children who are 20 weeks from fertilization or older who undergo prenatal surgery; (D) that less than 5% of all natural pregnancies end in spontaneous miscarriage after detection of cardiac activity, and a fetal heartbeat is, therefore, a key medical indicator that an unborn child is likely to achieve the capacity for live birth; and (E) 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, including risk of premature birth in future pregnancies, risk of breast cancer, risks to the woman's reproductive health and the medical risks associated with carrying an unborn child to term.

(3) The printed materials shall, at a minimum, contain the following text:

Your doctor is required to tell you about the nature of the physical and emotional risks of both the abortion procedure and carrying a child to term. The doctor must tell you how long you have been pregnant and must give you a chance to ask questions and discuss your decision about the pregnancy carefully and privately in your own language.

In order to determine the gestational age of the unborn child, the doctor may use ultrasound equipment preparatory to the performance of an abortion. You have the right to view the ultrasound image of the unborn child at no additional expense, and you have the right to receive a picture of the unborn child.

A directory of services is also available. By calling or visiting the agencies and offices in the directory you can find out about alternatives to abortion, assistance to make an adoption plan for your baby or locate public and private agencies that offer medical and financial help during pregnancy, during childbirth and while you are raising your child.

Furthermore, you should know that: (A) It is unlawful for any individual to coerce you to undergo an abortion. Coercion is the use of express or implied threats of violence or intimidation to compel a person to act against such person's will; (B) abortion terminates the life of a whole, separate, unique, living human being; (C) any physician who fails to provide informed consent prior to performing an abortion may be guilty of unprofessional conduct and liable for damages; (D) you are not required to pay any amount for the abortion procedure until the 24-hour waiting period has expired; (E) the father of your child is legally responsible to assist in the support of the child, even in instances where the father has offered to pay for an abortion; and (F) the law permits adoptive parents to pay the costs of prenatal care, childbirth and neonatal care.

Many public and private agencies exist to provide counseling and information on available services. You are strongly urged to seek assistance from such agencies in order to obtain guidance during your pregnancy. In addition, you are encouraged to seek information on alternatives to abortion, including adoption, and resources available to postpartum mothers. The law requires that your physician, or the physician's agent, provide this information.

Pregnancy begins at fertilization with the union of a man's sperm and a woman's egg to form a single-cell embryo. This brand new being contains the original copy of a new individual's complete genetic code. Gender, eye color and other traits are determined at fertilization.

Most significant developmental milestones occur long before birth during the first eight weeks following fertilization when most body parts and all body systems appear and begin to function. The main divisions of the body, such as the head, chest, abdomen, pelvis, arms and legs are established by about four weeks after fertilization. Eight weeks after fertilization, except for the small size, the developing human's overall appearance and many internal structures closely resemble the newborn.

Pregnancy is not just a time for growing all the parts of the body. It is also a time of preparation for survival after birth. Starting more than 30 weeks before birth, many common daily activities seen in children and adults begin in the womb. These activities include, but are not limited to, hiccups, touching the face, breathing motions, urination, right- or left-handedness, thumb-sucking, swallowing, yawning, jaw movement, reflexes, REM sleep, hearing, taste and sensation.

Unless otherwise noted, all prenatal ages in the rest of these materials are referenced from the start of the last normal menstrual period. This age is two weeks greater than the age since fertilization.

By five weeks, development of the brain, the spinal cord and the heart is well underway. The heart begins beating at five weeks and one day, and is visible by ultrasound almost immediately. By six weeks, the heart is pumping the unborn child's own blood to such unborn child's brain and body. All four chambers of the heart are present, and more than one million heartbeats have occurred. The head, chest and abdominal cavities have formed and the beginnings of the arms and legs are easily seen. At 6½ weeks, rapid brain development continues with the appearance of the cerebral hemispheres. At 7½ weeks, the unborn child reflexively turns away in response to light touch on the face. The fingers also begin to form on the hand.

By 8½ weeks, the bones of the jaw and collarbone begin to harden. Brainwaves have been measured and recorded by this point in gestation. By nine weeks, the hands move, the neck turns and hiccups begin. Girls also now have ovaries and boys have testes. The unborn child's heart is nearly fully formed, and the heart rate peaks at about 170 beats per minute and will

gradually slow down until birth. Electrical recordings of the heart at 9½ weeks are very similar to the EKG tracing of the unborn child.
By 10 weeks, intermittent breathing motions begin, and the kidneys begin to produce and release urine. All the fingers and toes are free and fully formed, and several hundred muscles are now present. The hands and feet move frequently, and most unborn children show the first signs of right- or left-handedness. Pain receptors in the skin, the sensory nerves connecting them to the spinal cord, and the nerve tracts in the spinal cord that will carry pain impulses to the brain are all present by this time. Experts estimate the 10-week unborn child possesses approximately 90% of the 4,500 body parts found in adults. This means approximately 4,000 permanent body parts are present just eight weeks after fertilization.
By 11 weeks, the head moves forward and back, the jaw actively opens and closes and the unborn child periodically sighs and stretches. The face, palms of the hands and soles of the feet are sensitive to light touch. The unborn child begins thumb-sucking and swallowing amniotic fluid. The uterus is now present, and girls' ovaries now contain reproductive cells that will give rise to eggs later in life.
At 12 weeks, fingerprints start forming, while fingernails and toenails begin to grow. The bones are hardening in many locations. The heartbeat can be detected with a hand-held doppler fetal monitor, or external heart rate monitor. By 13 weeks the lips and nose are fully formed and the unborn child can make complex facial expressions.
At 14 weeks, taste buds are present all over the mouth and tongue. The unborn child now produces a wide variety of hormones. Also, the arms reach final proportion to body size. By 15 weeks, the entire unborn child, except for parts of the scalp, responds to light touch, and tooth development is underway.
At 16 weeks, a pregnant woman may begin to feel the unborn child move. The unborn child also begins making several digestive enzymes. Around 17 weeks, blood cell formation moves to its permanent location inside the bone marrow, and the unborn child begins storing energy in the form of body fat.
By 18 weeks, the formation of the breathing passages, called the bronchial tree, is complete. The unborn child will release stress hormones in response to being poked with a needle. By 19 weeks, the unborn child's heart has beaten more than 20 million times.
By 20 weeks, nearly all organs and structures of the unborn child have been formed. The larynx, or voice box, moves in a way similar to movement seen during crying after birth. The skin has developed sweat glands and is covered by a greasy white substance called vernix, which protects the skin from the long exposure to amniotic fluid. At 21 weeks, breathing patterns, body movements and the heart rate begin to follow daily cycles called circadian rhythms.
By 22 weeks, the cochlea, the organ of hearing, reaches adult size, and the unborn child begins hearing and responding to various sounds. All the skin layers and structures are now complete. The unborn child reacts to stimuli that would be recognized as painful if applied to an adult human. By 22 weeks, some infants can live outside the womb with specialized medical care, and survival rates have been reported as high as 40% in some medical centers. Between 20 and 23 weeks, rapid eye movements begin, which are similar to the REM sleep pattern seen when children and adults have dreams.
By 24 weeks, more than 30 million heartbeats have occurred. Survival rates for infants born at 24 weeks have been reported as high as 81%. By 25 weeks, breathing motions may occur up to 44 times per minute.
By 26 weeks, sudden, loud noises trigger a blink-startle response in the unborn child and may increase body movement, the heart rate and swallowing. The lungs begin to produce a substance necessary for breathing after birth. The survival rate of infants born at 26 weeks has been reported as high as 95%.
By 28 weeks, the sense of smell is functioning and the eyes produce tears. Nearly all infants born between this point and full term survive. By 29 weeks, pupils of the eyes react to light. By 31 weeks, the heart has beat more than 40 million times, and wrinkles in the skin disappear as more fat deposits are formed.
By 32 weeks, breathing movements occur up to 40% of the time. By 34 weeks true alveoli, or air "pocket" cells, begin developing in the lungs. At 36 weeks, scalp hair is silky and lies against the head. By 37 weeks, the unborn child has a firm hand grip, and the heart has beat more than 50 million times. The unborn child initiates labor, ideally around 40 weeks, leading to childbirth.
By state law, no person shall perform or induce an abortion when the unborn child is viable or pain-capable unless such person is a physician and has a documented referral. The physician who performs or induces an abortion when the unborn child is viable must have a documented referral from another physician not legally or financially affiliated with the physician performing or inducing the abortion. Both physicians must determine that the 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 physical 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.
What about adoption? Women or couples facing an untimely pregnancy who choose not to take on the full responsibilities of parenthood have another option, which is adoption. Counseling and support services are a key part of adoption and are available from a variety of adoption agencies and parent support groups across the state. A list of adoption agencies is available. There are several ways to make a plan for adoption, including through a child placement agency or through a private attorney. Although fully anonymous adoptions are available, some degree of openness in adoption is more common, such as permitting the birth mother to choose the adoptive parents. A father only has the right to consent to an adoption or refuse consent and raise the child if he provides support for the mother during the last six months of the pregnancy.
The father of a child has a legal responsibility to provide for the support, educational, medical and other needs of the child. In Kansas, that responsibility includes child support payments to the child's mother or legal guardian. A child has rights of inheritance from the father and may be eligible through him for benefits such as life insurance, social security, pension,

veteran's or disability benefits. Further, the child benefits from knowing the father's medical history and any potential health problems that can be passed genetically. A father's and mother's rights are equal regarding access, care and custody. Paternity can be established in Kansas by two methods: (A) The father and mother, at the time of birth, can sign forms provided by the hospital acknowledging paternity and the father's name is added to the birth certificate; or (B) a legal action can be brought in a court of law to determine paternity and establish a child support order. Issues of paternity affect your legal rights and the rights of the child.

The decision regarding your pregnancy is one of the most important decisions you will ever make. There are lists of state, county and local health and social service agencies and organizations available to assist you. You are encouraged to contact these groups if you need more information so you can make an informed decision.

(4) 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.

(5) 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 may be published in digital video disc format or in the latest video technology available. 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; L. 2013, ch. 119, § 15; 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 cicilly 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. 2013 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. 2014 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 to avert her death or for which a delay necessary to comply with the applicable statutory requirements 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; L. 2014, ch. 87, § 7; Apr. 24.

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. 2013 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.

65-6725. Same; construction of act. Nothing in this act shall be construed to repeal any statute dealing with abortion, but shall be considered supplemental to such other statutes.

History: L. 2011, ch. 41, § 5; July 1.

65-6726. Abortion based on gender; prohibited. (a) No person shall perform or induce an abortion or attempt to perform or induce an abortion with knowledge that the pregnant woman is seeking the abortion solely on account of the sex of the unborn child.
(b) (1) A woman upon whom an abortion is performed or induced, or upon whom there is an attempt to perform or induce an abortion, 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;
(C) injunctive relief; and
(D) reasonable attorney fees.
(c) 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. 2013 Supp. 21-5302, and amendments thereto.
(d) 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.
(e) 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.
(f) If any provision or clause of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.
(g) For purposes of this section, the term "abortion" has the same meaning as such term is defined in K.S.A. 65-6701, and amendments thereto.

History: L. 2013, ch. 119, § 10; July 1.

Source: http://www.kslegislature.org/li/b2013_14/statute/065_000_0000_chapter/065_067_0000_article/

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

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 mifeprestone;
(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 mifeprestone; (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.)