Kansas

Abortions in Kansas, 2002

Preliminary Report

Center for Health and Environmental Statistics
Kansas Department of Health and Environment
Curtis State Office Building – 1000 SW Jackson, Suite 130, Topeka, KS 66612-1354
http://www.kdhe.state.ks.us/ches/
April 2003

Abortions in Kansas, 2002
Preliminary Analysis

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K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

April 4, 2003

Dear Interested Party:

State Statutes require physicians, hospitals, and ambulatory surgical centers to report abortions to the Kansas Department of Health and Environment (KDHE). The law also requires physicians, who perform abortions, to report to KDHE the number of certifications received under the Women's-Right-to-Know Act. These data are collected and analyzed by the Center for Health Environmental Statistics.

The in-state collection of these vital statistics for 2002 is now complete. Additional information has been received from other states on abortions performed on Kansas residents. This report is a summary of the preliminary analysis of that data. Since abortion data from other states may continue to arrive, the *Kansas Annual Summary of Vital Statistics, 2002*, will contain the final analysis of abortion data.

This report also contains information the law requires physicians to report regarding abortions performed at 22 weeks or greater and partial birth procedures. No partial birth procedures were reported in 2002, the third year in a row that none were reported.

Please feel free to contact me with any questions you have.

Sincerely,

Lorne A. Phillips, Ph.D.
State Registrar and Director
Center for Health and Environmental Statistics

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CENTER FOR HEALTH AND ENVIRONMENTAL STATISTICS
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Selected Induced Abortion Statistics Kansas, 2002		
Selected Statistics ❖	Number	Percent
Total* induced abortions reported	11,844	100.0
Total ** physician certifications reported	12,219	100.0
Residence of Patient:		
Number of in-state residents	6,298	53.2
Number of out-of-state residents	5,546	46.8
Not Stated	0	n.a.
Total Reported	11,844	100.0
Age Group of Patient:		
Under 15 years	88	0.8
15-19 years	2,243	18.9
20-24 years	4,110	34.7
25-29 years	2,541	21.5
30-34 years	1,637	13.8
35-39 years	893	7.5
40-44 years	308	2.6
45 years and over	24	0.2
Not Stated	0	n.a.
Total Reported	11,844	100.0
Race of Patient:		
White	8,383	70.9
Black	2,774	23.5
Native American	129	1.1
Chinese	66	0.6
Japanese	24	0.2
Hawaiian	1	0.0
Filipino	19	0.1
Other Asian or Pacific Islander	347	2.9
Other Nonwhite	78	0.7
Not Stated [1]	23	n.a.
Total Reported	11,844	100.0

❖ Not stated values excluded when calculating percentages

* All reported, includes 79 Kansas resident abortions that occurred out-of-state.

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

** Occurrence data

[1] Patient(s) refused to provide information

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information

Selected Induced Abortion Statistics Kansas, 2002		
Selected Statistics	Number	Percent
Hispanic Origin of Patient [1]		
Hispanic	821	6.9
Non-hispanic	11,023	93.1
Total Reported	11,844	100.0
Marital Status of Patient:		
Married	2,162	18.3
Unmarried	9,650	81.7
Not Stated [2]	32	n.a.
Total Reported	11,844	100.0
Weeks Gestation:		
Less than 9 weeks	7,027	59.4
9-12 weeks	2,927	24.7
13-16 weeks	863	7.3
17-21 weeks	447	3.8
22 weeks & over	564	4.8
Not Stated [3]	16	n.a.
Total Reported	11,844	100.0
Method of Abortion:		
Suction curettage	9,435	79.7
Sharp curettage	9	0.1
Dilation & Evacuation	892	7.5
Medical Procedure I	667	5.6
Medical Procedure II	310	2.6
Intra-uterine prosta-glandin instillation	0	0.0
Hysterotomy	0	0.0
Hysterectomy	0	0.0
Digoxin/Induction	528	4.5
"Partial Birth" Procedure [4]	0	0.0
Other	3	0.0
Not Stated	0	n.a.
Total Reported	11,844	100.0

[1] Hispanic origin may be of any race.

[2] Patient(s) refused to provide information.

[3] Information not collected by other states.

[4] No Partial Birth procedures have been performed in Kansas since October 1999.

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information

Selected Induced Abortion Statistics Kansas, 2002		
Selected Statistics	Number	Percent
Number of Previous Pregnancies:		
None	3,309	27.9
One	2,462	20.8
Two	2,214	18.7
Three	1,682	14.2
Four	998	8.4
Five	598	5.1
Six	280	2.4
Seven or more	301	2.5
Not Stated	0	n.a.
Total Reported	11,844	100.0
Number of Living Children:		
None	4,782	40.4
One	3,131	26.4
Two	2,437	20.6
Three	991	8.4
Four	353	3.0
Five or more	149	1.2
Not Stated [1]	1	n.a.
Total Reported	11,844	100.0
Number of Previous Spontaneous Terminations:		
None	10,102	85.3
One	1,370	11.5
Two	246	2.1
Three	79	0.7
Four or more	47	0.4
Not Stated	0	n.a.
Total Reported	11,844	100.0
Previous Induced Abortions:		
None	7,071	59.7
One	3,105	26.2
Two	1,136	9.6
Three	344	2.9
Four or more	187	1.6
Not Stated [1]	1	n.a.
Total Reported	11,844	100.0

[1] Patient(s) refused to provide information

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information

Reported Abortions by Place of Residence Kansas, 1971-2002				
Year	Total	Out of State Residents	Kansas Residents	N.S.
1971.....	9,472	5,763	3,709	0
1972.....	12,248	7,736	4,512	0
1973.....	12,612	7,695	4,917	0
1974.....	10,171	4,503	5,657	11
1975.....	9,160	3,565	5,581	14
1976.....	9,154	3,455	5,686	13
1977.....	7,965	2,918	5,045	2
1978.....	9,740	3,957	5,722	61
1979.....	12,335	5,042	7,281	12
1980.....	11,791	4,750	7,038	3
1981.....	10,448	4,150	6,291	7
1982.....	9,976	3,823	6,153	0
1983.....	8,547	3,218	5,329	0
1984.....	8,008	2,689	5,319	0
1985.....	7,092	2,447	4,645	0
1986.....	6,561	2,316	4,245	0
1987.....	6,409	2,357	4,052	0
1988.....	7,930	3,161	4,769	0
1989.....	8,984 *	3,270	4,149	1,565 ***
1990.....	9,459 *	3,341	4,175	1,943 ***
1991.....	10,141 *	4,071	6,070	0
1992.....	11,135 *	4,904	6,231	0
1993.....	11,247	4,853	6,394	0
1994.....	10,847	4,245	6,596	6
1995.....	11,149 **	4,562	6,566	21
1996.....	11,181	4,367	6,806	8
1997.....	11,507	4,973	6,532	2
1998.....	11,624	5,184	6,440	0
1999.....	12,445	6,029	6,416	0
2000.....	12,327	5,971	6,356	0
2001.....	12,422	6,003	6,419	0
2002.....	11,844	5,546	6,298	0

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

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

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

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information

Induced Abortions
By County of Residence of Patient
Kansas, 2002

County	Total	County	Total	County	Total
Kansas Residents	6,298				
Allen	32	Greeley	0	Osborne	1
Anderson	7	Greenwood	10	Ottawa	6
Atchison	20	Hamilton	2	Pawnee	9
Barber	5	Harper	7	Phillips	1
Barton	47	Harvey	44	Pottawatomie	13
Bourbon	26	Haskell	6	Pratt	7
Brown	14	Hodgeman	1	Rawlins	1
Butler	100	Jackson	7	Reno	94
Chase	3	Jefferson	30	Republic	0
Chautauqua	1	Jewell	3	Rice	15
Cherokee	20	Johnson	1,306	Riley	173
Cheyenne	1	Kearny	4	Rooks	5
Clark	2	Kingman	6	Rush	1
Clay	10	Kiowa	1	Russell	9
Cloud	9	Labette	22	Saline	98
Coffey	8	Lane	3	Scott	3
Comanche	1	Leavenworth	167	Sedgwick	1,310
Cowley	61	Lincoln	3	Seward	52
Crawford	65	Linn	15	Shawnee	422
Decatur	3	Logan	2	Sheridan	0
Dickinson	16	Lyon	62	Sherman	2
Doniphan	10	Marion	12	Smith	1
Douglas	360	Marshall	2	Stafford	2
Edwards	4	McPherson	26	Stanton	4
Elk	1	Meade	5	Stevens	3
Ellis	39	Miami	46	Sumner	27
Ellsworth	4	Mitchell	3	Thomas	12
Finney	85	Montgomery	61	Trego	3
Ford	71	Morris	4	Wabaunsee	5
Franklin	37	Morton	4	Wallace	0
Geary	121	Nemaha	6	Washington	6
Gove	2	Neosho	22	Wichita	2
Graham	2	Ness	4	Wilson	8
Grant	4	Norton	2	Woodson	9
Gray	3	Osage	21	Wyandotte	863
				Unknown[1]	18

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

Source: KDHE Center for Health and Environmental Statistics, Office of Health Information

Induced Abortions State of Residence of Patient Kansas, 2002			
State	Total	State	Total
Out-of-state residents	5,546		
Alabama	6	Nebraska	24
Alaska	0	Nevada	0
Arizona	7	New Hampshire	0
Arkansas	11	New Jersey	26
California	21	New Mexico	6
Colorado	24	New York	24
Connecticut	6	North Carolina	6
Delaware	0	North Dakota	3
District of Columbia	2	Ohio	20
Florida	16	Oklahoma	228
Georgia	16	Oregon	2
Hawaii	1	Pennsylvania	21
Idaho	0	Rhode Island	2
Illinois	52	South Carolina	4
Indiana	9	South Dakota	5
Iowa	16	Tennessee	8
Kentucky	7	Texas	32
Louisiana	8	Utah	1
Maine	1	Vermont	1
Maryland	10	Virginia	6
Massachusetts	9	Washington	2
Michigan	15	West Virginia	1
Minnesota	35	Wisconsin	15
Mississippi	3	Wyoming	1
Missouri	4,784	Puerto Rico	0
Montana	1	Canada	39
		All other Countries	9

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information

Abortions Performed at 22 Weeks or More Statistics

Physicians reporting abortions performed at 22 weeks or more were required to fill out three numbered questions on the back of the VS-213 form. The questions and the answers are provided below for Kansas and out-of-state residents. All data are occurrence and represent a full year of reports. A sample VS-213 form is contained in the appendices.

14) Reasons for determining gestational age 22 weeks or more

Answers	KS Residents	Out-of-State Residents	Total
Sonogram	1	0	1
Physical examination, sonogram results and last menstrual period (if known).	44	472	516
Based on sonogram and biparietal diameter (BPD), determined gestational age to be 22 weeks.	15	24	39
Last menstrual period, sonogram, and perinatal consultation	0	2	2
Estimated date of delivery/confinement and ultrasound	0	4	4
Sonogram and Last Menses	1	0	1
Followup Visit	1	0	1
Total	62	502	564

15a) Was the fetus viable?

Answers	KS Residents	Out-of-State Residents	Total
Yes	14	342	356
No	48	160	208
Total	62	502	564

15b) Reasons for determination of fetus viability

Answers	KS Residents	Out-of-State Residents	Total
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy may be viable.	14	341	355
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy is not viable.	31	135	166
No reasonable probability at this gestational age.	15	24	39
Ultrasound - Extreme immaturity of heart and lungs	0	0	0
Hypoplastic Left Heart, Chromosome abnormality	0	1	1
0 Apgar score; mother had severe oligohydramnios; fetus had poly/multicystic kidney disease	0	0	0

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information

Abortions Performed at 22 Weeks or More Statistics (continued)

15b) Reasons for determination of fetus viability (continued)

Answers	KS Residents	Out-of-State Residents	Total
Diagnosis by genetic specialist with no amniotic fluid and other abnormalities	0	0	0
Extreme Immaturity of Organs	0	0	0
Anencephaly	1	0	1
Hypoplastic L Heart determined by Level 2 ULS and perinatology consultation	1	0	1
Trisomy 22 Hydrocephaly	0	1	1
Total	62	502	564

16a) If 15a was yes, was this abortion necessary to:

Answers	KS Residents	Out-of-State Residents	Total
Prevent patient's death	0	0	0
Prevent substantial and irreversible impairment of a major bodily function	14	342	356
Total	14	342	356

16b) If 15a was yes, reasons for determination in 16a:

Answers	KS Residents	Out-of-State Residents	Total
The patient would suffer substantial and irreversible impairment of a major bodily function if she were forced to continue the pregnancy.	14	342	356
Total	14	342	356

16c) If 15a was yes, basis for determination in 16a:

Answers	KS Residents	Out-of-State Residents	Total
Gestational and diagnostic information provided by the referring physician and other health care professional(s) as well as examination and interview of the patient by attending physician.	14	342	356
The patient is suffering a medical emergency. Based on examination and interview of the patient by the attending physician, the physician judges that the abortion is necessary to prevent substantial and permanent damage to a major bodily function.	0	0	0
Total	14	342	356

Occurrence Data

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information

"Partial Birth" Procedure Statistics

Physicians reporting "partial birth" abortions were required to fill out three numbered questions on the back of the VS-213 form. Those questions and the answers are provided below for Kansas and out-of-state residents. The questions would be in addition to those filled out if gestation was 22 weeks or more. All data are occurrence. The data represent a full year of reporting. A sample VS-213 form is in the appendices. No "partial birth" abortions were reported in 2002 in Kansas.

Number of "partial birth" procedures

Time Period	KS Residents	Out-of-State Residents	Total
January 1 - March 31	0	0	0
April 1 - June 30	0	0	0
July 1 - September 30	0	0	0
October 1 - December 31	0	0	0
Total	0	0	0

17a) For terminations where "partial birth" procedure was performed, was fetus viable?

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

17b) Reasons for determination of fetus viability

Answers	KS Residents	Out-of-State Residents	Total
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy is not viable.	0	0	0
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy may be viable.	0	0	0
Total	0	0	0

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information

"Partial Birth" Procedure Statistics (continued)

18a) Was this abortion necessary to:

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

18a) If the abortion was necessary to prevent substantial and irreversible impairment of a major bodily function, was the impairment:

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

18b) Reasons for Determination of 18a

Answers	KS Residents	Out-of-State Residents	Total
Based on the patient's history and physical examination by the attending physician and referral and consultation by an unassociated physician, the attending physician believes that continuing the pregnancy will constitute a substantial and irreversible impairment of the patient's mental function	0	0	0
Total	0	0	0

Occurrence Data

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information

Appendices

TYPE OR PRINT IN PERMANENT INK

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Office of Health Care Information
Curtis State Office Building, Suite 130
1000 SW Jackson
Topeka, Kansas 66612-1354
785-296-8627

REPORT OF INDUCED TERMINATION OF PREGNANCY

STATE FILE NUMBER

INSTRUCTIONS SEE HANDBOOK

1. PROVIDER IDENTIFICATION CODE: 00000

2. PATIENT'S IDENTIFICATION NUMBER

3. AGE LAST BIRTHDAY

4. MARRIED? ☐ Yes ☐ No

5. DATE OF PREGNANCY TERMINATION
Month Day Year

6a. RESIDENCE - STATE

6b. COUNTY

6c. CITY OR TOWN

6d. INSIDE CITY LIMITS? ☐ Yes ☐ No

7. ANCESTRY--CUBAN, MEXICAN, PUERTO-RICAN, VIETNAMESE, HMONG, ENGLISH, GERMAN, ETC.
Specify_____

8. RACE
1. ☐ White
2. ☐ Black
3. ☐ Native American
4. ☐ Other (Specify) _____

9. EDUCATION (Specify only highest grade completed)

Elementary/Secondary (0-12)	College (1-4 or 5 +)

10. DATE LAST NORMAL MENSES BEGAN
Month Day Year

11. CLINICAL ESTIMATE OF GESTATION (Weeks) *

12. PREVIOUS PREGNANCIES (Complete Each Section)

LIVE BIRTHS		12c. PREVIOUS INDUCED ABORTIONS	12d. SPONTANEOUS TERMINATIONS (Miscarriages, Stillbirths)
12a. Now Living	12b. Now Dead		
Number ____	Number ____	Number ____	Number ____
None ☐	None ☐	None ☐	None ☐

SAMPLE

13. TERMINATION PROCEDURES

13a. PROCEDURE THAT TERMINATED PREGNANCY (Check only one)	TYPE OF TERMINATION PROCEDURES	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	☐
☐	Intra-Uterine Prostaglandin Instillation	☐
☐	Hysterotomy	☐
☐	Hysterectomy	☐
☐	Digoxin/Induction	☐
☐	Partial Birth * [1]	☐
☐	Other Specify_____	☐

*If clinical estimate of gestational age is 22 weeks or more or a Partial Birth Procedure is performed complete reverse side of form.
[1] Partial Birth Procedure as defined by 1998 Supp KSA 65-6721.

VS-213 Rev. 12/2001

COMPLETE THE FOLLOWING ITEMS ONLY IF THE CLINICAL ESTIMATE OF GESTATIONAL AGE IS 22 WEEKS OR MORE.

14.	REASONS FOR DETERMINING GESTATIONAL AGE 22 WEEKS OR MORE
15a.	WAS FETUS VIABLE? G YES G NO
15b.	REASONS FOR THE DETERMINATION.
	COMPLETE 16a-c ONLY IF 15a IS YES
16a.	WAS THIS ABORTION NECESSARY TO (Check all that apply) G PREVENT PATIENT'S DEATH G PREVENT SUBSTANTIAL AND IRREVERSIBLE IMPAIRMENT OF A MAJOR BODILY FUNCTION
16b.	REASONS FOR DETERMINATION
16c.	BASIS FOR DETERMINATION

SAMPLE

COMPLETE THE FOLLOWING ITEMS ONLY IF A PARTIAL BIRTH PROCEDURE WAS PERFORMED.

17a.	WAS FETUS VIABLE? G YES G NO
17b.	REASONS FOR THE DETERMINATION
	COMPLETE 18a-b ONLY IF 17a IS YES
18a.	WAS THIS ABORTION NECESSARY TO (Check all that apply) G PREVENT PATIENT'S DEATH G PREVENT SUBSTANTIAL AND IRREVERSIBLE IMPAIRMENT OF A MAJOR BODILY FUNCTION IF SO, WAS THE IMPAIRMENT G PHYSICAL G MENTAL
18b.	REASONS FOR DETERMINATION

TYPE
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PERMANENT
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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Center for Health and Environmental Statistics
Office of Health Care Information
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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

Rev. 12/2001 vs214.frm

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 (SUPP. 1997) THIS FORM NEEDS TO BE FILED MONTHLY WITH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT AT THE ADDRESS LISTED ABOVE.

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

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

65-445. Same; records; annual report to secretary of health and environment; 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 K.S.A. 65-6703 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.

(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 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 or the attorney general 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.

History: L. 1969, ch. 182, § 3; L. 1975, ch. 462, § 72; L. 1995, ch. 260, § 2; L. 1998, ch. 142, § 17; 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 this act:

(a) "Abortion" means the use of any means to intentionally terminate a pregnancy except for the purpose of causing a live birth. Abortion does not include: (1) The use of any drug or device that inhibits or prevents ovulation, fertilization or the implantation of an embryo; or (2) disposition of the product of *in vitro* fertilization prior to implantation.

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

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

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

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

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

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

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

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

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

(k) "Viable" means that stage of gestation when, in the best medical judgment of the attending physician, the fetus is capable of sustained survival outside the uterus without the application of extraordinary medical means.

History: L. 1992, ch. 183, § 1; L. 1997, ch. 190, § 26; L. 2000, ch. 162, § 25; Feb. 1, 2001.

Cross References to Related Sections:

Partial birth abortion, see 65-6721.

Fetal organs or tissue, sale or transportation of, see 65-67a01 et seq.

Law Review and Bar Journal References:

"A Primer on Posthumous Conception and Related Issues of Assisted Reproduction," Michelle L. Brenwald and Kay Redeker, 38 W.L.J. 599 (1999).

CASE ANNOTATIONS

1. Whether trial court erred by construing 65-6705 more restrictively than legislature intended examined; judicial procedure discussed. In re Doe, 19 K.A.2d 204, 209, 866 P.2d 1069 (1994).

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 prohibited when fetus viable, exceptions; determination of age of fetus; determination of viability; reports; retention of medical records; viable, defined; criminal penalties. (a) No person shall perform or induce an abortion when the fetus is viable unless such person is a physician and has a documented referral from another physician not legally or financially affiliated with the physician performing or inducing the abortion and both physicians determine that: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman.

(b) (1) Except in the case of a medical emergency, prior to performing an abortion upon a woman, the physician shall determine the gestational age of the fetus 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.

(2) If the physician determines the gestational age of the fetus is 22 or more weeks, prior to performing an abortion upon the woman the physician shall determine if the fetus 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 fetus 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 a fetus is 22 or more weeks, and determines that the fetus is not viable and performs an abortion on the woman, the physician shall report such determinations 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 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 a fetus is 22 or more weeks, and determines that the fetus is viable, both physicians under subsection (a) determine in accordance with the provisions of subsection (a) that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman and the physician performs an abortion on the woman, the physician who performs the abortion shall report such determinations, the reasons for such determinations and the basis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman 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 reasons for such determinations and the basis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman 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 (b) for not less than five years and shall retain a copy of the written reports required under paragraphs (3) and (4) of this subsection (b) for not less than five years.

(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. 21-3302, 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) As used in this section, "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.

(f) 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.

(g) 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; July 1.

Cross References to Related Sections:
Partial birth abortion, see 65-6721.

Law Review and Bar Journal References:
"City of Wichita v. Tilson: The Necessity Defense as Applied to Abortion Clinic Trespass," Terry Pfeifer, 42 K.L.R. Crim. Pro. 79, 86 (1994).
"Medical Care and Criminal Law," Wayne T. Stratton, 97 Kan. Med. No. 1, 8, 9 (1996).

Attorney General's Opinions:
Abortion of viable fetus; mental health exception. 2000-20.

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

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

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

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

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

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

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

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

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

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

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

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

CASE ANNOTATIONS

1. Whether trial court erred by construing 65-6705 more restrictively than legislature intended examined; judicial procedure discussed. In re Doe, 19 K.A.2d 204, 206, 210, 866 P.2d 1069 (1994).

65-6705. Same; notice to certain persons required before performance of abortion; waiver of notice; court proceedings; penalties. (a) Before a person performs an abortion upon an unemancipated minor, the person or the person's agent must give actual notice of the intent to perform such abortion to one of the minor's parents or the minor's legal guardian or must have written documentation that such notice has been given unless, after receiving counseling as provided by subsection (a) of K.S.A. 65-6704, the minor objects to such notice being given. 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 notice requirement of this subsection. If the minor so desires, the counselor who counseled the minor as required by K.S.A. 65-6704 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 application.

(b) 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) Notice shall be waived if the court finds by a preponderance of the evidence that either: (1) The minor is mature and well-informed enough to make the abortion decision on her own; or (2) notification of a person 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 notice pursuant to this section, if the court finds that the minor is mature and well-enough informed to make the abortion decision without notice to a person specified in subsection (a);

(2) granting the minor's application for waiver if the court finds that the minor is immature but that notification of a person 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 notification of a person 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 notice shall be required under this section if:

(A) The pregnant minor declares that the father of the fetus is one of the persons to whom notice may be given under this section;

(B) in the best medical judgment of the attending physician based on the facts of the case, an emergency exists that threatens the health, safety or well-being of the minor as to require an abortion; or

(C) the person or persons who are entitled to notice have signed a written, notarized waiver of notice which is placed in the minor's medical record.

(2) A physician who does not comply with the provisions of this section by reason of the exception of subsection (j)(1)(A) must inform the minor that the physician is required by law to report the sexual abuse to the department of social and rehabilitation services. A physician who does not comply with the requirements of this section by reason of the exception of subsection (j)(1)(B) shall state in the medical record of the abortion the medical indications on which the physician's judgment was based.

(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.

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

CASE ANNOTATIONS

1. Kansas residency not required for unemancipated pregnant minor to seek waiver of parental notification. In re Doe, 17 K.A.2d 567, 843 P.2d 735 (1992).

2. Whether trial court erred by construing statute more restrictively than legislature intended examined; judicial procedure discussed. In re Doe, 19 K.A.2d 204, 206, 866 P.2d 1069 (1994).

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; certain information required to be in writing; meeting with physician; copy of certain printed materials to be given women, when; certification in writing of receipt of information; payment not required until waiting period has expired. No abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if:

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

(1) The name of the physician who will perform the abortion;

(2) a description of the proposed abortion method;

(3) a description of risks related to the proposed abortion method, including risks to the woman's reproductive health and alternatives to the abortion that a reasonable patient would consider material to the decision of whether or not to undergo the abortion;

(4) the probable gestational age of the fetus 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 fetus 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) the fetus is affected by a severe or life-threatening deformity or abnormality."[*] 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 fetus at the time the abortion is to be performed;

(6) the medical risks associated with carrying a fetus to term; and

(7) 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 printed materials in K.S.A. 65-6710 and amendments thereto describe the fetus and list agencies which offer alternatives to abortion with a special section listing adoption services;

(3) the father of the fetus 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; and

(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.

(c) 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 printed materials described in K.S.A. 65-6710 and amendments thereto. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

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

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

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

History: L. 1997, ch. 190, § 27; July 1.

* Source of the quoted provision in subsection (a)(4) is K.S.A. 1997 Supp. 65-6703 prior to amendment by L. 1998, ch. 142, § 15. For the current requirement of Kansas law, see K.S.A. 2001 Supp. 65-6703.

65-6710. Same; printed 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 printed materials:

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

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

(2) Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the fetus at two-week gestational increments from fertilization to full term, including pictures or drawings representing the development of a fetus at two-week gestational increments, and any relevant information on the possibility of the fetus' survival. Any such pictures or drawings shall contain the dimensions of the fetus and shall be realistic. The materials shall be objective, nonjudgmental and designed to convey only accurate scientific information about the fetus at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each such procedure and the medical risks associated with carrying a fetus to term.

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

(b) The materials required under this section shall be printed in a typeface large enough to be clearly legible. The 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; 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; physician who complies with act not civilly liable to patient for failure to obtain informed consent to the abortion. Any physician who complies with the provisions of this act shall not be held civilly liable to a patient for failure to obtain informed consent to the abortion.

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

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

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

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

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

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

65-6716 to 65-6720. Reserved.

65-6721. Prohibition against partial birth abortion on viable fetus, exceptions; partial birth abortion, defined; report of determination; criminal penalties. (a) No person shall perform or induce a partial birth abortion on a viable fetus unless such person is a physician and has a documented referral from another physician not legally or financially affiliated with the physician performing or inducing the abortion and both physicians determine: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major physical or mental function of the pregnant woman.

(b) As used in this section:

(1) "Partial birth abortion" means an abortion procedure which includes the deliberate and intentional evacuation of all or a part of the intracranial contents of a viable fetus prior to removal of such otherwise intact fetus from the body of the pregnant woman.

(2) "Partial birth abortion" shall not include the: (A) Suction curettage abortion procedure; (B) suction aspiration abortion procedure; or (C) dilation and evacuation abortion procedure involving dismemberment of the fetus prior to removal from the body of the pregnant woman.

(c) 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 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 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 five years.

(d) 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. 21-3302, and amendments thereto.

(e) 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.

(f) Upon conviction of a violation of this section, a person shall be guilty of a severity level 10 person felony.

History: L. 1998, ch. 142, § 18; July 1.

Attorney General's Opinions:

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

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

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

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

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

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

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

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

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

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.)