

Kansas



Abortions in Kansas, 2010



Preliminary Report

**Kansas Department of Health and Environment
Division of Health**

Bureau of Epidemiology and Public Health Informatics

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

<http://www.kdheks.gov/bepi/>

March 2011

Abortions in Kansas, 2010 Preliminary Report

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Our Vision – Healthy Kansans Living in Safe and Sustainable Environments

As the state's environmental protection and public health agency, KDHE promotes responsible choices to protect the health and environment for all Kansans. Through education, direct services, and the assessment of data and trends, coupled with policy development and enforcement, KDHE will improve health and quality of life. We prevent illness, injuries and foster a safe and sustainable environment for the people of Kansas.

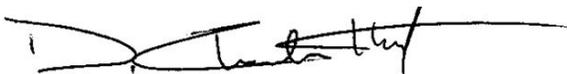
Dear Interested Party:

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

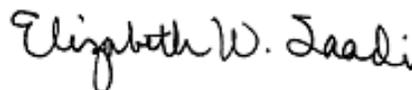
In-state collection of 2010 abortion reports is complete. The total, 8,338 reports, is 12.0 percent less than reported in 2009. In-state residents slightly outnumbered out-of-state residents, 4,188 reports to 4,150. Almost three out of five (58.9%) of the procedures occurred to women 20-29 years of age.

If you need any further information please feel free to contact Public Health Informatics staff with any questions you have at (785) 296-8627.

Sincerely,



D. Charles Hunt, MPH
State Epidemiologist and Director



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

EWS:LS:ls

**Selected Induced Abortion Statistics
Kansas, 2010**

Selected Statistics	Number	Percent *
Total* induced abortions reported	8,338	100
Total † physician certifications reported	8,615	100
<u>Residence of Patient:</u>		
In-state residents	4,188	50.2
Out-of-state residents	4,150	49.8
Not Stated	0	n.a.
Total Reported	8,338	100
<u>Age Group of Patient:</u>		
Under 14 years	8	0.1
14 years	30	0.4
15 years	70	0.8
16-17 years	288	3.5
18-19 years	770	9.2
20-24 years	2,805	33.6
25-29 years	2,113	25.3
30-34 years	1,277	15.3
35-39 years	725	8.7
40-44 years	240	2.9
45 years and over	12	0.1
Not Stated ‡	0	n.a.
Total Reported	8,338	100
<u>Population Group of Patient §:</u>		
White Non-Hispanic	4,987	60.0
Black Non-Hispanic	1,829	22.0
Native American Non-Hispanic	61	0.7
Asian/Pacific Islander Non-Hispanic	315	3.8
Other Non-Hispanic ¶	304	3.7
Hispanic Any Race	811	9.8
Not Stated ‡	31	n.a.
Total Reported	8,338	100

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

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

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

† Occurrence data

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

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

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

**Selected Induced Abortion Statistics
Kansas, 2010**

Selected Statistics	Number	Percent
<u>Marital Status of Patient:</u>		
Married	1,233	14.8
Unmarried	7,088	85.2
Not Stated *	17	n.a.
Total Reported	8,338	100
<u>Weeks Gestation:</u>		
Less than 9 weeks	5,404	64.8
9-12 weeks	1,948	23.4
13-16 weeks	630	7.6
17-21 weeks	355	4.3
22 weeks & over	1	0.0
Not Stated *	0	n.a.
Total Reported	8,338	100
<u>Method of Abortion:</u>		
Suction curettage	5,416	65.0
Sharp curettage	1	0.0
Dilation & Evacuation	715	8.6
Medical Procedure I	2,202	26.4
Medical Procedure II	1	0.0
Intra-uterine prostaglandin instillation	2	0.0
Hysterotomy	1	0.0
Hysterectomy	0	0.0
Digoxin/Induction	0	0.0
Partial Birth Procedure †	0	0.0
Other	0	0.0
Not Stated	0	n.a.
Total Reported	8,338	100

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

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

**Selected Induced Abortion Statistics
Kansas, 2010**

Selected Statistics	Number	Percent
<u>Number of Previous Pregnancies:</u>		
None	2,330	27.9
One	1,692	20.3
Two	1,497	18.0
Three	1,138	13.6
Four	773	9.3
Five	440	5.3
Six	248	3.0
Seven or more	220	2.6
Not Stated	0	n.a.
Total Reported	8,338	100
<u>Number of Living Children:</u>		
None	3,354	40.2
One	2,132	25.6
Two	1,689	20.3
Three	768	9.2
Four	279	3.3
Five or more	116	1.4
Not Stated	0	n.a.
Total Reported	8,338	100
<u>Number of Previous Spontaneous Terminations:</u>		
None	7,042	84.5
One	1,000	12.0
Two	205	2.5
Three	65	0.8
Four or more	24	0.3
Not Stated	2	n.a.
Total Reported	8,338	100
<u>Previous Induced Abortions:</u>		
None	4,992	59.9
One	2,091	25.1
Two	795	9.5
Three	298	3.6
Four or more	160	1.9
Not Stated	2	n.a.
Total Reported	8,338	100

Source: KDHE Bureau of Epidemiology and Public Health Informatics

**Reported Abortions by Place of Residence
Kansas, 1971-2010**

Year	Total	Out-of-State Residents	Kansas Residents	Not Stated
1971.....	9,472	5,763	3,709	0
1972.....	12,248	7,736	4,512	0
1973.....	12,612	7,695	4,917	0
1974.....	10,171	4,503	5,657	11
1975.....	9,160	3,565	5,581	14
1976.....	9,154	3,455	5,686	13
1977.....	7,965	2,918	5,045	2
1978.....	9,740	3,957	5,722	61
1979.....	12,335	5,042	7,281	12
1980.....	11,791	4,750	7,038	3
1981.....	10,448	4,150	6,291	7
1982.....	9,976	3,823	6,153	0
1983.....	8,547	3,218	5,329	0
1984.....	8,008	2,689	5,319	0
1985.....	7,092	2,447	4,645	0
1986.....	6,561	2,316	4,245	0
1987.....	6,409	2,357	4,052	0
1988.....	7,930	3,161	4,769	0
1989.....	8,984 *	3,270	4,149	1,565 ‡
1990.....	9,459 *	3,341	4,175	1,943 ‡
1991.....	10,141 *	4,071	6,070	0
1992.....	11,135 *	4,904	6,231	0
1993.....	11,247	4,853	6,394	0
1994.....	10,847	4,245	6,596	6
1995.....	11,149 †	4,562	6,566	21
1996.....	11,181	4,367	6,806	8
1997.....	11,507	4,973	6,532	2
1998.....	11,624	5,184	6,440	0
1999.....	12,445	6,029	6,416	0
2000.....	12,327	5,971	6,356	0
2001.....	12,422	6,003	6,419	0
2002.....	11,844	5,546	6,298	0
2003.....	11,697	5,534	6,163	0
2004.....	11,446	5,475	5,971	0
2005.....	10,543	4,914	5,629	0
2006....	11,271	5,385	5,886	0
2007....	10,841	5,162	5,679	0
2008....	10,643	5,131	5,512	0
2009....	9,474	4,693	4,780	1
2010....	8,338 §	4,150	4,188	0

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

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

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

§1971-2009 numbers final, 2010 number preliminary

Source: KDHE Bureau of Epidemiology and Public Health Informatics

**Induced Abortions
By County of Residence of Patient
Kansas, 2010**

County	Total	County	Total	County	Total
Kansas Residents	4,188				
Allen	8	Greeley	0	Osborne	0
Anderson	5	Greenwood	5	Ottawa	2
Atchison	16	Hamilton	0	Pawnee	5
Barber	1	Harper	5	Phillips	0
Barton	21	Harvey	28	Pottawatomie	14
Bourbon	9	Haskell	0	Pratt	7
Brown	6	Hodgeman	1	Rawlins	0
Butler	53	Jackson	19	Reno	45
Chase	3	Jefferson	14	Republic	0
Chautauqua	0	Jewell	0	Rice	9
Cherokee	6	Johnson	1,175	Riley	170
Cheyenne	0	Kearny	1	Rooks	0
Clark	0	Kingman	10	Rush	5
Clay	10	Kiowa	0	Russell	7
Cloud	6	Labette	22	Saline	68
Coffey	4	Lane	0	Scott	1
Comanche	1	Leavenworth	111	Sedgwick	677
Cowley	9	Lincoln	1	Seward	8
Crawford	43	Linn	9	Shawnee	283
Decatur	1	Logan	0	Sheridan	0
Dickinson	18	Lyon	49	Sherman	0
Doniphan	6	Marion	8	Smith	0
Douglas	281	Marshall	3	Stafford	0
Edwards	0	McPherson	24	Stanton	0
Elk	2	Meade	0	Stevens	1
Ellis	33	Miami	39	Sumner	17
Ellsworth	5	Mitchell	1	Thomas	1
Finney	10	Montgomery	12	Trego	1
Ford	27	Morris	1	Wabaunsee	5
Franklin	45	Morton	0	Wallace	0
Geary	106	Nemaha	7	Washington	1
Gove	1	Neosho	12	Wichita	0
Graham	0	Ness	3	Wilson	2
Grant	0	Norton	0	Woodson	2
Gray	0	Osage	6	Wyandotte	554
				Unknown*	1

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

**Induced Abortions
By State of Residence and Age, 2010**

State	Under 18	Total	State	Under 18	Total
Kansas Residents	203	4,188			
Out-of-state residents	193	4,150			
Alabama	0	0	New Mexico	0	0
Alaska	0	0	New York	0	0
Arizona	0	2	North Carolina	0	2
Arkansas	0	8	North Dakota	0	0
California	0	5	Ohio	0	0
Colorado	0	1	Oklahoma	3	26
Connecticut	0	0	Oregon	0	0
Delaware	0	0	Pennsylvania	0	1
District of Columbia	0	0	Rhode Island	0	0
Florida	0	1	South Carolina	0	1
Georgia	0	0	South Dakota	0	1
Hawaii	0	0	Tennessee	0	2
Idaho	0	0	Texas	0	2
Illinois	0	0	Utah	0	0
Indiana	0	0	Vermont	0	0
Iowa	0	8	Virginia	0	1
Kentucky	0	0	Washington	0	1
Louisiana	0	0	West Virginia	0	0
Maine	0	0	Wisconsin	0	1
Maryland	0	0	Wyoming	0	0
Massachusetts	0	0			
Michigan	0	2			
Minnesota	0	0	Puerto Rico	0	0
Mississippi	0	0	Canada	0	0
Missouri	190	4,077	All other Countries	0	0
Montana	0	0	Unknown	0	0
Nebraska	0	7			
Nevada	0	1			
New Hampshire	0	0			
New Jersey	0	0			

Source: KDHE Bureau of Epidemiology and Public Health Informatics,

Abortions Reported at 22 Weeks or More Gestation

Physicians reporting abortions at 22 weeks or more were required to fill out three numbered questions on the back of the VS-213 form. In 2010, one abortion was performed at 22 weeks or more. The questions and answers are provided below for Kansas and out-of-state residents. Data represent reported abortions for calendar year 2010. 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
LMP (last menstrual period) and 10-week sonogram	1	0	1
Total	1	0	1

15a) Was the fetus viable?

Answers	KS Residents	Out-of-State Residents	Total
Yes	0	0	0
No	1	0	1
Not Stated	0	0	0
Total	1	0	1

15b) Reasons for determination of fetus viability

Answers	KS Residents	Out-of-State Residents	Total
Anencephaly	1	0	1
Total	1	0	1

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	0	0	0
Total	0	0	0

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

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

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

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

All Reported Data

Note: **No late-term procedures were reported on viable fetuses, thus there are no statistics to report for questions 16a-16c.**

Source: KDHE Bureau of Epidemiology and Public Health Informatics

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 2010 in Kansas.

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
Total	0	0	0

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
Total	0	0	0

Occurrence Data

Appendices

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

Report of Induced Termination of Pregnancy

State File Number

INSTRUCTIONS SEE HANDBOOK

1. Provider Identification Number						
2. Patient ID Number	3. Age on Last Birthday	4. Married <input type="checkbox"/> Yes <input type="checkbox"/> No	5. Date of Pregnancy Termination <table style="width:100%; border:none;"> <tr> <td style="border:none; text-align:center;"> <input type="text"/> <input type="text"/> Month </td> <td style="border:none; text-align:center;"> <input type="text"/> <input type="text"/> Day </td> <td style="border:none; text-align:center;"> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Year </td> </tr> </table>	<input type="text"/> <input type="text"/> Month	<input type="text"/> <input type="text"/> Day	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Year
<input type="text"/> <input type="text"/> Month	<input type="text"/> <input type="text"/> Day	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Year				
6a. Residence <i>US State or Country</i>	6b. County	6c. City or Town	6d. Inside City Limits <input type="checkbox"/> Yes <input type="checkbox"/> No			
7a. Hispanic Origin <i>(Check the box or boxes that best describes whether the individual is Spanish, Hispanic, or Latina, or not Spanish, Hispanic, or Latina)</i> <input type="checkbox"/> Not Spanish, Hispanic, or Latina <input type="checkbox"/> Mexican, Mexican American, or Chicana <input type="checkbox"/> Puerto Rican <input type="checkbox"/> Cuban <input type="checkbox"/> Central American <input type="checkbox"/> South American <input type="checkbox"/> Other Spanish, Hispanic, or Latina (specify) _____ <input type="checkbox"/> Unknown	7b. Ancestry <i>(Enter the name of the country that best describes the heritage or origin of the individual)</i>	8. Race <i>(Check one or more races to indicate what the individual considers herself to be)</i> <input type="checkbox"/> White <input type="checkbox"/> Black or African American <input type="checkbox"/> American Indian or Alaska Native Principal Tribe(s) _____ <input type="checkbox"/> Asian Indian <input type="checkbox"/> Chinese <input type="checkbox"/> Filipino <input type="checkbox"/> Japanese <input type="checkbox"/> Korean <input type="checkbox"/> Vietnamese <input type="checkbox"/> Other Asian (specify) _____ <input type="checkbox"/> Native Hawaiian <input type="checkbox"/> Guamanian or Chamorro <input type="checkbox"/> Samoan <input type="checkbox"/> Other Pacific Islander (specify) _____ <input type="checkbox"/> Other (specify) _____ <input type="checkbox"/> Unknown	9. Education <i>(specify only highest grade completed)</i> <input type="checkbox"/> 8th grade or less <input type="checkbox"/> 9th-12th grade no diploma <input type="checkbox"/> High school graduate/GED <input type="checkbox"/> Some College - no degree <input type="checkbox"/> Associate degree <input type="checkbox"/> Bachelor's degree <input type="checkbox"/> Master's degree <input type="checkbox"/> Doctorate <input type="checkbox"/> Unknown			
10. Date Last Normal Menses Began <table style="width:100%; border:none;"> <tr> <td style="border:none; text-align:center;"> <input type="text"/> <input type="text"/> Month </td> <td style="border:none; text-align:center;"> <input type="text"/> <input type="text"/> Day </td> <td style="border:none; text-align:center;"> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Year </td> </tr> </table>	<input type="text"/> <input type="text"/> Month	<input type="text"/> <input type="text"/> Day	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Year	11. Clinical Estimate of Gestation <i>(Weeks) (1)</i>	12. Previous Pregnancies <i>(Enter number or zero in every section)</i>	
<input type="text"/> <input type="text"/> Month	<input type="text"/> <input type="text"/> Day	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Year				
		Live Births		12c. Previous Induced Abortions	12d. Spontaneous Terminations (Miscarriages, Fetal Deaths)	
		12a. Now Living	12b. Now Dead			
SAMPLE						
13 TERMINATION PROCEDURES						
13a Procedure that terminated pregnancy <i>(Check only one)</i> <input type="checkbox"/> Suction Curettage <input type="checkbox"/> Sharp Curettage <input type="checkbox"/> Dilation & Evacuation <input type="checkbox"/> Medical Procedure I (Mifepristone) <input type="checkbox"/> Medical Procedure II (Methotrexate) <input type="checkbox"/> Intra-Uterine Prostaglandin Instillation <input type="checkbox"/> Hysterotomy <input type="checkbox"/> Hysterectomy <input type="checkbox"/> Digoxin/Induction <input type="checkbox"/> Partial Birth (2) <input type="checkbox"/> Other (Specify) _____			13b Additional procedures used for this termination, if any <i>(Check all that apply)</i> <input type="checkbox"/> Suction Curettage <input type="checkbox"/> Sharp Curettage <input type="checkbox"/> Dilation & Evacuation <input type="checkbox"/> Medical Procedure I (Mifepristone) <input type="checkbox"/> Medical Procedure II (Methotrexate) <input type="checkbox"/> Intra-Uterine Prostaglandin Instillation <input type="checkbox"/> Hysterotomy <input type="checkbox"/> Hysterectomy <input type="checkbox"/> Digoxin/Induction <input type="checkbox"/> Partial Birth (2) <input type="checkbox"/> Other (Specify) _____			

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

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

14. Reasons for determining gestational age 22 weeks or more

15a Was fetus viable?
 YES NO

15b Reasons for the determination

Complete 16a-c only if 15a is yes

16a Was this abortion necessary to
(Check all that apply)

Prevent patient's death
 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?
 YES NO

17b Reasons for determination

Complete 18a-b only if 17a is yes

18a Was this abortion necessary to
(Check all that apply)

Prevent patient's death
 Prevent substantial and irreversible impairment of a major bodily function
 If so, was the impairment

Physical
 Mental

18b Reasons for determination

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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

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

STATE FILE NUMBER
(Office Use Only)

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

PHYSICIAN IDENTIFICATION CODE: _____

DATE REPORTED:
Month Day Year

NUMBER OF CERTIFICATIONS RECEIVED: (Month Received from Patient)

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

SAMPLE

INSTRUCTIONS: Please see sample provided.

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

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

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

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

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

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

65-445. 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. Firner 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 non-person misdemeanor. Upon a second or subsequent conviction of a violation of this section, a person shall be guilty of a severity level 10, non-person 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.

CASE ANNOTATIONS

1. Cited; supreme court sets forth procedure district courts to follow regarding grand jury subpoenas. Tiller v. Corrigan, 286 K. 30, 33, 182 P.3d 719 (2008).

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).

Attorney General's Opinions:

"Mature" minor has capacity to consent to outpatient mental health services. 2003-35.

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 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; information required to be given to women, certification of receipt; offer to view ultrasound image and hear heartbeat, certification of offer; required signage. No abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if:

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

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

(2) a description of the proposed abortion method;

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

(4) the probable gestational age of the 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) that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman." If the child is born alive, the attending physician has the legal obligation to take all reasonable steps necessary to maintain the life and health of the child;

(5) the probable anatomical and physiological characteristics of the fetus at the time the abortion is to be performed;

(6) the contact information for free counseling assistance for medically challenging pregnancies and the contact information for free perinatal hospice services;

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

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

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

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

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

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

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

(2) informs the woman that she has the right to receive a physical picture of the ultrasound image, at no additional expense to her;

(3) offers the woman the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image;

(4) certifies in writing that the woman was offered the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image at least 30 minutes prior to the performance of the abortion; and

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

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

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

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

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

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

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

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

(j) The physician's certification required by subsections (h) and (i) together with the pregnant woman's signed acceptance or rejection of such offer shall be placed in the woman's medical file in the physician's office and kept for 10 years.

However, in the case of a minor, the physician shall keep a copy of the certification and the signed acceptance or rejection in the minor's medical file for five years past the minor's majority, but in no event less than 10 years.

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

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

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

(1) For purposes of this section, the term "medically challenging pregnancy" means a pregnancy where the fetus is diagnosed as having: (1) A severe anomaly; or (2) an illness, disease or defect which is invariably fatal.

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

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

(1) Geographically indexed printed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth and while her child is dependent, including but not limited to, a list of providers of free ultrasound services and adoption agencies. The materials shall include a comprehensive list of the agencies, a description of the services they offer and the telephone numbers and addresses of the agencies; and inform the woman about available medical assistance benefits for prenatal care, childbirth and neonatal care and about the support obligations of the father of a child who is born alive. The department shall ensure that the materials described in this section are comprehensive and do not di-

rectly 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 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 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.

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

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

website. All materials shall be made available in both English and Spanish language versions.

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

History: L. 1997, ch. 190, § 28; L. 2009, ch. 28, § 2; 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.)