

SESSION OF 2009

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2206

As Amended by House Committee of the Whole

Brief*

HB 2206, as amended, would revise current law regarding late-term abortions. The Kansas Department of Health and Environment (KDHE) would be required to adopt new forms as well as rules and regulations to collect certain information from physicians who perform abortions and to publish certain data annually. The Board of Healing Arts also would have additional duties. The changes to current law would be as follows:

- Reporting requirements for physicians performing late-term abortions would require noting the specific medical diagnosis and condition constituting a substantial and irreversible impairment of a major bodily function of the mother. In addition, a sworn statement by the physician and the referring physician would be required indicating that there is no legal or financial affiliation between them. Another new requirement that the referring physician must be a Kansas resident would be added;
- KDHE would be required to adopt rules and regulations related to the change in reporting requirements and what information is required to be retained for a period of 10 years by physicians performing abortions. KDHE also would be required to include the new information in its annual public report on abortions performed in Kansas;
- The Board of Healing Arts would be required to revoke a physician's license following the conviction of any misdemeanor under KSA 65-6703 occurring after July 1, 2009, unless a two-thirds majority of the Board determines that such licensee would not pose a threat to the public;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- The definition of what constitutes the viability of a fetus would be changed to match the definition used in another section of law;
- Except in the case of a medical emergency, a copy of the written referral and the physician's written determination would be required to be provided to the pregnant woman at least 30 minutes prior to the time scheduled for the abortion procedure;
- The husband of the pregnant woman who has a late-term abortion or the parents or guardians of the woman, if she is under the age of 18, could file a civil action against the physician performing a late-term abortion. The prosecution of criminal violations against a physician or physicians could be brought by the Attorney General, a district attorney, or a county attorney;
- At least 24 hours prior to an abortion, in addition to information currently required to be provided, the woman must be informed that the abortion will terminate the life of a whole, separate, unique, living human being, and new language that continuing the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant women is added as one of two requisites for an abortion;
- A definition of partial birth abortion would be added to conform with a federal definition and language in conformance with federal law would be added as to when partial birth abortions may be performed, and written documentation would be required, based upon a medical judgement that would be made by a reasonable prudent physician who is knowledgeable in the field and the case as well as treatment possibilities of the case; and
- Physician protection from tort actions involving abortion reporting would be repealed.

Background

Proponents for the bill included the sponsor, Representative Lance Kinzer, representatives from the Kansas Catholic Conference, Kansans for Life, Concerned Women for America of Kansas, and an individual citizen. Opponents included representatives of the Women's Health Care Services, ProKanDo, and Planned Parenthood of Kansas and Mid-Missouri.

The House floor amendment inserted additional language regarding information to be provided at least 24 hours in advance of an abortion, and documentation to be provided by both physicians involved with a late-term abortion.

The Kansas Department of Health and Environment estimates increased State General Fund expenditures of \$104,700 in FY 2010 for altering the online reporting system, medical consultation regarding the interpretation of new reporting requirements, and costs for an attorney to write rules and regulations and establish procedures.