

## HOUSE BILL No. 2729

By Committee on Federal and State Affairs

Requested by Jeanne Gawdun on behalf of Kansans for Life

2-5

1 AN ACT concerning abortion; relating to the woman's-right-to-know act;  
2 requiring the Kansas department of health and environment to provide  
3 certain forms and notices to physicians; amending K.S.A. 65-6709 and  
4 K.S.A. 2025 Supp. 65-6716 and repealing the existing sections.  
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 65-6709 is hereby amended to read as follows: 65-  
8 6709. No abortion shall be performed or induced without the voluntary  
9 and informed consent of the woman upon whom the abortion is to be  
10 performed or induced. Except in the case of a medical emergency, consent  
11 to an abortion is voluntary and informed only if:

12 (a) At least 24 hours before the abortion the physician who is to  
13 perform the abortion or the referring physician has informed the woman in  
14 writing, ~~which shall be provided on white paper in on a form provided by~~  
15 ~~the Kansas department of health and environment that is a printed format~~  
16 in black ink with 12-point times new roman font and either provided on  
17 white paper in a hardcopy format or electronically transmitted to the  
18 woman, of:

19 (1) The following information concerning the physician who will  
20 perform the abortion;:

21 (A) The name of such physician;

22 (B) the year in which such physician received a medical doctor's  
23 degree;

24 (C) the date on which such physician's employment commenced at  
25 the facility where the abortion is to be performed;

26 (D) whether any disciplinary action has been taken against such  
27 physician by the state board of healing arts by marking either a box  
28 indicating "yes" or a box indicating "no" and if the box indicating "yes" is  
29 marked, then provide the website addresses to the board documentation for  
30 each disciplinary action;

31 (E) whether such physician has malpractice insurance by marking  
32 either a box indicating "yes" or a box indicating "no";

33 (F) whether such physician has clinical privileges at any hospital  
34 located within 30 miles of the facility where the abortion is to be  
35 performed by marking either a box indicating "yes" or a box indicating

1 "no" and if the box indicating "yes" is marked, then provide the name of  
2 each such hospital and the date such privileges were issued;

3 (G) the name of any hospital where such physician has lost clinical  
4 privileges; and

5 (H) whether such physician is a resident of this state by marking  
6 either a box indicating "yes" or a box indicating "no";

7 (2) a description of the proposed abortion method;

8 (3) a description of risks related to the proposed abortion method,  
9 including risk of premature birth in future pregnancies, risk of breast  
10 cancer and risks to the woman's reproductive health and alternatives to the  
11 abortion that a reasonable patient would consider material to the decision  
12 of whether or not to undergo the abortion;

13 (4) the probable gestational age of the unborn child at the time the  
14 abortion is to be performed and that Kansas law requires the following:  
15 "No person shall perform or induce an abortion when the unborn child is  
16 viable unless such person is a physician and has a documented referral  
17 from another physician not financially associated with the physician  
18 performing or inducing the abortion and both physicians determine that:  
19 (1) The abortion is necessary to preserve the life of the pregnant woman;  
20 or (2) a continuation of the pregnancy will cause a substantial and  
21 irreversible physical impairment of a major bodily function of the pregnant  
22 woman." If the child is born alive, the attending physician has the legal  
23 obligation to take all reasonable steps necessary to maintain the life and  
24 health of the child;

25 (5) the probable anatomical and physiological characteristics of the  
26 unborn child at the time the abortion is to be performed;

27 (6) the contact information for counseling assistance for medically  
28 challenging pregnancies, the contact information for perinatal hospice  
29 services and a listing of websites for national perinatal assistance,  
30 including information regarding which entities provide such services free  
31 of charge;

32 (7) the medical risks associated with carrying an unborn child to  
33 term; and

34 (8) any need for anti-Rh immune globulin therapy, if she is Rh  
35 negative, the likely consequences of refusing such therapy and the cost of  
36 the therapy.

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

40 (1) Medical assistance benefits may be available for prenatal care,  
41 childbirth and neonatal care, and that more detailed information on the  
42 availability of such assistance is contained in the printed materials given to  
43 her and described in K.S.A. 65-6710, and amendments thereto;

1       (2) the informational materials in K.S.A. 65-6710, and amendments  
2 thereto, are available in printed form and online, and describe the unborn  
3 child, list agencies~~which~~ that offer alternatives to abortion with a special  
4 section listing adoption services and list providers of free ultrasound  
5 services;

6       (3) the father of the unborn child is liable to assist in the support of  
7 her child, even in instances where he has offered to pay for the abortion  
8 except that in the case of rape this information may be omitted;

9       (4) the woman is free to withhold or withdraw her consent to the  
10 abortion at any time prior to invasion of the uterus without affecting her  
11 right to future care or treatment and without the loss of any state or  
12 federally-funded benefits to which she might otherwise be entitled;

13       (5) the abortion will terminate the life of a whole, separate, unique,  
14 living human being; and

15       (6) by no later than 20 weeks from fertilization, the unborn child has  
16 the physical structures necessary to experience pain. There is evidence that  
17 by 20 weeks from fertilization unborn children seek to evade certain  
18 stimuli in a manner that in an infant or an adult would be interpreted to be  
19 a response to pain. Anesthesia is routinely administered to unborn children  
20 who are 20 weeks from fertilization or older who undergo prenatal surgery.

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

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

32       (e) The woman certifies in writing on a form provided by the  
33 department, prior to the abortion, that the information required to be  
34 provided under subsections (a), (b) and (d) has been provided and that she  
35 has met with the physician who is to perform the abortion on an individual  
36 basis as provided under subsection (c). All physicians who perform  
37 abortions shall report the total number of certifications received monthly  
38 to the department. The total number of certifications shall be reported by  
39 the physician as part of the written report made by the physician to the  
40 secretary of health and environment under K.S.A. 65-445, and  
41 amendments thereto. The department shall make the number of  
42 certifications received available on an annual basis.

43       (f) Prior to the performance of the abortion, the physician who is to

1 perform the abortion or the physician's agent receives a copy of the written  
2 certification prescribed by subsection (e) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (j) The physician's certification required by subsections (h) and (i)

1 together with the pregnant woman's signed acceptance or rejection of such  
2 offer shall be placed in the woman's medical file in the physician's office  
3 and kept for 10 years. However, in the case of a minor, the physician shall  
4 keep a copy of the certification and the signed acceptance or rejection in  
5 the minor's medical file for five years past the minor's majority, but in no  
6 event less than 10 years.

7 (k) Any private office, freestanding surgical outpatient clinic or other  
8 facility or clinic in which abortions are performed shall conspicuously post  
9 a sign in a location so as to be clearly visible to patients. The sign required  
10 pursuant to this subsection shall be printed with lettering that is legible and  
11 shall be at least three quarters of an inch boldfaced type. The sign shall  
12 include the address for the pregnancy resources website published and  
13 maintained by the department of health and environment, and the  
14 following text:

15 *Notice from the Kansas Department of Health and Environment:* It is  
16 against the law for anyone, regardless of their relationship to you, to force  
17 you to have an abortion. By law, ~~we~~ this office cannot perform an abortion  
18 on you unless ~~we have~~ it has obtained your freely given and voluntary  
19 consent. It is against the law to perform an abortion on you against your  
20 will. You have the right to contact any local or state law enforcement  
21 agency to receive protection from any actual or threatened physical abuse  
22 or violence. You have the right to change your mind at any time prior to  
23 the actual abortion and request that the abortion procedure cease. It is  
24 unlawful for anyone to make you have an abortion against your will, even  
25 if you are a minor. The father of your child must provide support for the  
26 child, even if he has offered to pay for an abortion. If you decide not to  
27 have an abortion, you may qualify for financial help for pregnancy,  
28 childbirth and newborn care. If you qualify, medicaid will pay or help pay  
29 the cost of doctor, clinic, hospital and other related medical expenses,  
30 including childbirth delivery services and care for your newborn baby.  
31 Many agencies are willing to provide assistance so that you may carry  
32 your child to term, and to assist you after your child's birth.

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

37 (l) Any private office, freestanding surgical outpatient clinic or other  
38 facility or clinic in which abortions are performed that has a website shall  
39 publish an easily identifiable link on the homepage of such website that  
40 directly links to the department of health and environment's website that  
41 provides informed consent materials under the woman's-right-to-know act.  
42 Such link shall read: "The Kansas Department of Health and Environment  
43 maintains a website containing information about the development of the

1      unborn child, as well as video of sonogram images of the unborn child at  
2      various stages of development. The Kansas Department of Health and  
3      Environment's website can be reached by clicking [here](#)."

4      (m) For purposes of this section:

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

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

11     Sec. 2. K.S.A. 2025 Supp. 65-6716 is hereby amended to read as  
12     follows: 65-6716. (a) As used in this section:

13     (1) "Abortion" means the same as defined in K.S.A. 65-6701, and  
14     amendments thereto.

15     (2) "Medication abortion" means the use or prescription of any drug  
16     for the purpose of inducing an abortion.

17     (3) "Medical emergency" means the same as defined in K.S.A. 65-  
18     6701, and amendments thereto.

19     (b) (1) Any private office, freestanding surgical outpatient clinic,  
20     hospital or other medical care facility or clinic or any pharmacy where  
21     mifepristone is prescribed, dispensed or administered for the purpose of  
22     inducing a medication abortion shall post a conspicuous sign that is clearly  
23     visible to patients and customers, that is printed with lettering that is  
24     legible and at least  $\frac{3}{4}$  of an inch boldfaced type and that reads:

25     *"NOTICE FROM THE KANSAS DEPARTMENT OF HEALTH AND  
26     ENVIRONMENT TO PATIENTS HAVING MEDICATION ABORTIONS  
27     THAT USE MIFEPRISTONE:* Mifepristone, also known as RU-486 or  
28     mifeprex, alone is not always effective in ending a pregnancy. It may be  
29     possible to reverse its intended effect if the second pill or tablet has not  
30     been taken or administered. If you change your mind and wish to try to  
31     continue the pregnancy, you can get immediate help by accessing available  
32     resources."

33     The notice shall also include information about the department of  
34     health and environment website, required to be maintained under K.S.A.  
35     65-6710, and amendments thereto, and other relevant telephone and  
36     internet resources containing information on where the patient can obtain  
37     timely assistance to attempt to reverse the medication abortion.

38     (2) (A) Any private office or freestanding surgical outpatient clinic  
39     where mifepristone is prescribed, dispensed or administered for the  
40     purpose of inducing a medication abortion shall post the sign required by  
41     paragraph (1) in each patient waiting room and patient consultation room  
42     used by patients seeking medication abortions.

43     (B) A hospital or other medical care facility or clinic where

1 mifepristone is prescribed, dispensed or administered for the purpose of  
2 inducing a medication abortion that is not a private office or freestanding  
3 surgical outpatient clinic shall post the sign required by paragraph (1) in  
4 each patient admission area used by patients seeking medication abortions  
5 that use mifepristone.

6 (C) A pharmacy where mifepristone is prescribed, dispensed or  
7 administered for the purpose of inducing a medication abortion shall post  
8 the sign required by paragraph (1) in the area inside the premises where  
9 customers are provided prescription medications and on the exterior of the  
10 premises in the area where customers are provided prescription  
11 medications via a drive-through window.

12 (c) (1) Except in the case of a medical emergency, no physician shall  
13 provide, induce or attempt to provide or induce a medication abortion that  
14 uses mifepristone without informing the woman, in writing *using a form*  
15 *provided by the Kansas department of health and environment*, in the  
16 manner prescribed by K.S.A. 65-6709, and amendments thereto, and also  
17 either by telephone or in person, at least 24 hours prior to the medication  
18 abortion:

19 (A) That it may be possible to reverse the intended effects of a  
20 medication abortion that uses mifepristone, if the woman changes her  
21 mind, but that time is of the essence; and

22 (B) information on reversing the effects of a medication abortion that  
23 uses mifepristone is available on the department of health and  
24 environment's website, required to be maintained under K.S.A. 65-6710,  
25 and amendments thereto, and other relevant telephone and internet  
26 resources containing information on where the patient can obtain timely  
27 assistance to attempt to reverse the medication abortion.

28 (2) After a physician dispenses or provides an initial administration  
29 of mifepristone to a patient for the purposes of performing a medication  
30 abortion, the physician or an agent of the physician shall provide a legible,  
31 written notice to the patient that includes the same information as required  
32 under subsection (b)(1).

33 (d) When a medical emergency compels the performance of a  
34 medication abortion that uses mifepristone, the physician shall inform the  
35 woman, prior to the medication abortion, if possible, of the medical  
36 indications supporting the physician's judgment that an abortion is  
37 necessary to avert the woman's death or that a 24-hour delay would create  
38 serious risk of substantial and irreversible impairment of a major bodily  
39 function, excluding psychological or emotional conditions.

40 (e) Within 90 days after the effective date of this section, the  
41 department of health and environment shall cause to be published, in  
42 English and in each language that is the primary language of 2% or more  
43 of the state's population, in print and on the website required to be

1 maintained under K.S.A. 65-6710, and amendments thereto,  
2 comprehensible materials designed to inform women of the possibility of  
3 reversing the effects of a medication abortion that uses mifepristone and  
4 information on resources available to reverse the effects of a medication  
5 abortion that uses mifepristone. The website shall also include other  
6 relevant telephone and internet resources containing information on where  
7 the patient can obtain timely assistance to attempt to reverse the  
8 medication abortion.

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

13 (g) The department of health and environment shall assess a fine of  
14 \$10,000 to any private office, freestanding surgical outpatient clinic,  
15 hospital or other clinic or facility that fails to post a sign required by  
16 subsection (b). Each day that a medication abortion that uses mifepristone,  
17 other than a medication abortion that is necessary to prevent the death of  
18 the pregnant woman, is performed in any private office, freestanding  
19 surgical outpatient clinic, hospital or other facility or clinic when the  
20 required sign is not posted during a portion of that day's business hours  
21 when patients or prospective patients are present shall be a separate  
22 violation. The department of health and environment shall remit all  
23 moneys received from fines under this subsection to the state treasurer in  
24 accordance with the provisions of K.S.A. 75-4215, and amendments  
25 thereto. Upon receipt of each such remittance, the state treasurer shall  
26 deposit the entire amount into the state treasury to the credit of the state  
27 general fund.

28 (h) (1) If a physician provides a medication abortion using  
29 mifepristone in violation of this section, the following individuals may  
30 bring a civil action in a court of competent jurisdiction against the  
31 physician for actual damages, exemplary and punitive damages and any  
32 other appropriate relief:

33 (A) A woman to whom such medication abortion has been provided;  
34 (B) the father of the unborn child who was subject to such medication  
35 abortion; or

36 (C) any grandparent of the unborn child who was subject to such  
37 medication abortion, if the woman was not 18 years of age or older at the  
38 time the medication abortion was performed or if the woman died as a  
39 result of the medication abortion.

40 (2) Notwithstanding any other provision of law, any action  
41 commenced in accordance with this subsection shall be filed within two  
42 years after the later of:

43 (A) The date of the discovery of the violation under this section; or

1 (B) the conclusion of a related criminal case.

2 (3) In any action brought under this section, the court shall award  
3 reasonable attorney fees and costs to:

4 (A) A prevailing plaintiff; or

5 (B) a prevailing defendant upon a finding that the action was  
6 frivolous and brought in bad faith.

(4) Except for the woman to whom the medication abortion was provided, no action may be brought by any person whose criminal conduct resulted in the pregnancy, and any such person shall not be awarded any damages in any action brought pursuant to this section.

(i) In any civil or criminal proceeding or action brought under this section, the court shall rule whether the anonymity of any woman to whom a medication abortion has been provided, induced or attempted to be provided or induced shall be preserved from public disclosure, if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that the woman's anonymity should be preserved, shall issue orders to the parties, witnesses and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest and why no reasonable less restrictive alternative exists.

In the absence of written consent of the woman to whom a medication abortion has been provided, induced or attempted to be provided or induced, any person, other than a public official, who brings an action under this section shall do so under a pseudonym. This subsection shall not be construed to conceal the identity of the plaintiff or witnesses from the defendant.

31 (j) If any provision of this section, or any application thereof to any  
32 person or circumstance, is held invalid by court order, then such invalidity  
33 shall not affect the remainder of this section and any application thereof to  
34 any person or circumstance that can be given effect without such invalid  
35 provision or application, and to this end, the provisions of this section are  
36 declared to be severable.

37 (k) The provisions of this section shall be a part of and supplemental  
38 to the woman's-right-to-know act.

39 Sec. 3. K.S.A. 65-6709 and K.S.A. 2025 Supp. 65-6716 are hereby  
40 repealed.

41 Sec. 4. This act shall take effect and be in force from and after its  
42 publication in the statute book.