

HOUSE BILL No. 2729

By Committee on Federal and State Affairs

Requested by Jeanne Gawdun on behalf of Kansans for Life

2-5

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

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

Section 1. K.S.A. 65-6709 is hereby amended to read as follows: 65-6709. 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, ~~which shall be provided on white paper in~~ *on a form provided by the Kansas department of health and environment that is a printed format in black ink with 12-point times new roman font and either provided on white paper in a hardcopy format or electronically transmitted to the woman*, of:

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

(A) The name of such physician;

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

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

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

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

(F) whether such physician has clinical privileges at any hospital located within 30 miles of the facility where the abortion is to be 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 (c) ~~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 use 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 use 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.

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

11 (i) In any civil or criminal proceeding or action brought under this
12 section, the court shall rule whether the anonymity of any woman to whom
13 a medication abortion has been provided, induced or attempted to be
14 provided or induced shall be preserved from public disclosure, if she does
15 not give her consent to such disclosure. The court, upon motion or sua
16 sponte, shall make such a ruling and, upon determining that the woman's
17 anonymity should be preserved, shall issue orders to the parties, witnesses
18 and counsel and shall direct the sealing of the record and exclusion of
19 individuals from courtrooms or hearing rooms to the extent necessary to
20 safeguard the woman's identity from public disclosure. Each such order
21 shall be accompanied by specific written findings explaining why the
22 anonymity of the woman should be preserved from public disclosure, why
23 the order is essential to that end, how the order is narrowly tailored to
24 serve that interest and why no reasonable less restrictive alternative exists.
25 In the absence of written consent of the woman to whom a medication
26 abortion has been provided, induced or attempted to be provided or
27 induced, any person, other than a public official, who brings an action
28 under this section shall do so under a pseudonym. This subsection shall not
29 be construed to conceal the identity of the plaintiff or witnesses from the
30 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.