

SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2253

As Amended by Senate Committee of the Whole

Brief*

HB 2253, as amended, would revise the general and late-term abortion statutes, the Woman's-Right-To-Know Act, and the state tax statutes. In addition, the bill would add a new statutory provision that would declare the life of each human being begins at fertilization, with all state laws to be interpreted and construed to protect the rights, privileges, and immunities of the unborn child, only subject to the *U.S. Constitution* and the judicial decisions and interpretations by the U.S. Supreme Court.

The bill would provide that nothing in the new provisions shall apply to an abortion that is necessary to preserve the life of the pregnant woman.

The bill would prohibit the use of public funding, tax credits, tax preferences, and state-provided public health care services from being used in any manner to facilitate abortions or in facilities where abortions are performed.

The bill also would prohibit any school district, its employees, agents, and education service providers from offering abortion services. The bill would restrict school districts from allowing an abortion services provider, its employees, agents, and volunteers, from offering, sponsoring or furnishing any course materials or instruction related to human sexuality or sexually transmitted diseases.

*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 bill would redefine one term currently used in statute, “medical emergency,” regarding a pregnant woman, and would add two new definitions for the terms “bodily function” and “fertilization” in the general abortion statutes. Additionally, a statute applying to late-term restrictions would be amended to include attempts to perform or induce an abortion.

Among the terms specified, the bill would define:

- “Medical emergency” regarding a pregnant woman would be mean “a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy without first determining gestational age to avert the death of the woman or for which a delay necessary to determine gestational age will credit serious risk of substantial and irreversible physical impairment of a major bodily function.” The concluding new language would state that “no condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible physical impairment of a major bodily function.”
- “Bodily function” would mean physical functions only. The term “bodily function” would not include mental or emotional functions.
- “Fertilization” would mean the fusion of a human spermatozoon with a human ovum.

The Secretary of the Department of Health and Environment (KDHE) would be required to provide information about Down Syndrome and other prenatally or postnatally diagnosed conditions and would be permitted to authorize and oversee certain activities, including the awarding of grants, contracts or cooperative agreements to

eligible entities. Information about counseling assistance for medically challenging pregnancies and perinatal hospice services would be required as an addition to a KDHE listing of websites for national perinatal assistance. The Secretary would be required to submit a report on or before January 12, 2015, that provides information to the Legislature and the Governor on the effectiveness of the grants, contracts and cooperative agreements.

The bill would amend the Woman's Right to Know Act to prescribe additional new language for signage to be posted in an office, clinic, or other facility in which abortions are performed. Additional new language would be required in certain printed materials to inform pregnant women about the development of an unborn child, legal responsibilities for the unborn child, a link to the KDHE website materials, and organizations to assist the pregnant woman.

The bill also would address the University of Kansas Hospital Authority. The bill would amend current law regarding abortions to allow for an abortion to be performed at the hospital in the case of a medical emergency as defined in the bill. In addition, the bill would allow any member of the physician faculty of the University of Kansas School of Medicine to perform abortions whenever an abortion is performed outside the scope of any member's employment and on property not controlled by the University of Kansas Hospital Authority.

Background

Proponents testifying in support of the bill included Representative Kinzer and representatives of the Kansas Catholic Conference and Kansans for Life.

Opponents testifying against the bill included representatives of the Trust Women Foundation, Inc.; the South Wind Women's Center, LLC; the Wichita Chapter of the National Organization for Women; the Kansas Chapter of the

National Organization for Women; the American Cancer Society; a medical doctor; and two private citizens.

Written only testimony in opposition to the bill included three private citizens, Planned Parenthood of Kansas and Mid-Missouri, the MainStream Coalition, the Commission on the Status of Women at the University of Kansas, and a certified birth doula.

The House Committee amended the bill to include a new provision that would permit the Secretary of the Department of Health and Environment to provide information about Down Syndrome and other prenatally or postnatally diagnosed conditions. Another amendment regarding counseling assistance was included for medically challenging pregnancies to receive information about perinatal hospice services that would add a listing of websites for national perinatal assistance.

The House Committee also included an amendment to require abortion providers to publish a link to the Department of Health and Environment's homepage that provides informed consent materials and to provide a statement regarding the agency's website informational availability. Another amendment clarified the application of "volunteer" and added the word "agent" to the bill as related to school districts and abortion providers.

The Senate Committee of the Whole made a technical amendment to new language prohibiting use of the Small Employer Healthcare tax credit for any amounts paid by an employer or amounts contributed to Health Savings Accounts for the purchase of an optional rider for coverage of an abortion. The Senate Committee of the Whole also deleted provisions for the Small Employer Healthcare tax credit that applied to health benefit plans established after December 31, 1999, but prior to January 1, 2005. (After six years, no credit is allowed.)

The fiscal note provided by the Division of the Budget for the bill, as introduced, could not determine if there would be any additional costs or revenue reductions resulting from the proposed legislation, based on responses from the Department of Health and Environment, the Board of Healing Arts, and the Kansas Department of Revenue. The Department of Health and Environment indicated that destroying current versions of printed materials and replacing with new editions would require \$28,650 in agency fee funds due to the proposed changes in the bill.