

SENATE BILL No. 528

By Committee on Federal and State Affairs

2-21

1 AN ACT concerning abortion; establishing the Kansas ultrasound act;
2 requiring that an obstetric ultrasound be performed on a woman prior to
3 having an abortion; allowing a woman to avert her eyes from such
4 images; establishing civil and criminal penalties for violations of the
5 act; providing an emergency exception to the requirements of the act.
6

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

8 Section 1. As used in sections 1 through 7, and amendments thereto:

9 (a) "Abortion" means the same as defined in K.S.A 65-6701, and
10 amendments thereto;

11 (b) "act" means the Kansas ultrasound act;

12 (c) "medical emergency" means the same as defined in K.S.A. 65-
13 6701, and amendments thereto;

14 (d) "qualified technician" means a registered diagnostic medical
15 sonographer who is certified in obstetrics and gynecology by the American
16 registry for diagnostic medical sonography or a nurse midwife or advance
17 practice nurse practitioner in obstetrics with certification in obstetrical
18 ultrasonography;

19 (e) "reasonable medical judgment" means a medical judgment that
20 would be made by a reasonably prudent physician knowledgeable
21 concerning the case and the treatment possibilities with respect to the
22 medical conditions involved; and

23 (f) "woman" means a pregnant female human being regardless of age.

24 Sec. 2 (a) Any abortion provider who performs any abortion shall
25 comply with the requirements of this act.

26 (b) Prior to a woman giving informed consent to having any part of
27 an abortion performed or induced, and prior to the administration of any
28 anesthesia or medication in preparation for the abortion on the woman, the
29 physician who is to perform the abortion or a qualified technician shall:

30 (1) Perform an obstetric ultrasound on the pregnant woman using
31 whichever method the physician and patient agree is best under the
32 circumstance;

33 (2) provide a simultaneous verbal explanation of what the ultrasound
34 is depicting, which shall include the presence and location of the unborn
35 child within the uterus and the number of unborn children depicted. If the
36 ultrasound image indicates that fetal demise has occurred, a woman shall

1 be informed of that fact;

2 (3) display the ultrasound images so that the pregnant woman may
3 view them;

4 (4) provide a medical description of the ultrasound images, which
5 shall include the dimensions of the embryo or fetus and the presence of
6 external members and internal organs, if present and viewable; and

7 (5) offer a sonogram picture of her unborn child if she chooses at no
8 additional cost.

9 (c) Nothing in this section shall be construed to prevent a pregnant
10 woman from averting her eyes or looking away from the ultrasound
11 images required to be provided to and reviewed with her. Neither the
12 physician nor the pregnant woman shall be subject to any penalty if she
13 declines to look at the presented ultrasound images.

14 Sec. 3. (a) The provisions of section 2, and amendments thereto, shall
15 not apply to an abortion provider or facility in the case of a medical
16 emergency.

17 (b) Upon a determination by an abortion provider that a medical
18 emergency exists with respect to a pregnant woman, the abortion provider
19 shall certify the specific medical condition that constitutes the emergency.

20 Sec. 4. (a) Any person who knowingly or recklessly performs or
21 attempts to perform an abortion in violation of this act shall be guilty of a
22 severity level 9, nonperson felony.

23 (b) No penalty may be assessed against the female upon whom the
24 abortion is performed or attempted to be performed.

25 Sec. 5. (a) A woman upon whom an abortion is performed in
26 violation of this act, the father who is married to the woman at the time of
27 the abortion and the parents or custodial guardian of the woman who has
28 not attained the age of 18 years at the time of the abortion may bring a
29 civil action to obtain appropriate relief as provided in subsection (b).

30 (b) Such relief includes:

31 (1) Money damages for all injuries, psychological and physical,
32 caused by the violation of this act;

33 (2) statutory damages equal to three times the cost of the abortion;
34 and

35 (3) reasonable attorney fees.

36 Sec. 6. (a) In every civil action or criminal proceeding brought under
37 this act, the court shall rule whether the anonymity of any female upon
38 whom an abortion has been performed or attempted to be performed shall
39 be preserved from public disclosure if she does not give her consent to
40 such disclosure. The court, upon motion or sua sponte, shall make such a
41 ruling and, upon determining that the woman's anonymity should be
42 preserved, issue orders to the parties, witnesses and counsel and direct the
43 sealing of the record and exclusion of individuals from courtrooms or

1 hearing rooms to the extent necessary to safeguard the woman's identity
2 from public disclosure.

3 (b) Each such order by the court shall be accompanied by specific
4 written findings explaining why the anonymity of the woman should be
5 preserved from public disclosure, why the order is essential to that end,
6 how the order is narrowly tailored to serve that interest and why no
7 reasonable less restrictive alternative exists. In the absence of written
8 consent of the woman upon whom an abortion has been performed or
9 attempted to be performed, anyone, other than a public official, who brings
10 an action under section 5, and amendments thereto, shall do so under a
11 pseudonym.

12 (c) This section may not be construed to conceal the identity of the
13 plaintiff or witnesses from the defendant.

14 Sec. 7. The provisions of this act are severable. If any portion of the
15 act is declared unconstitutional or invalid, or the application of any portion
16 of the act to any person or circumstance is held unconstitutional or invalid,
17 the invalidity shall not affect other portions of the act that can be given
18 effect without the invalid portion or application, and the applicability of
19 such other portions of the act to any person or circumstance shall remain
20 valid and enforceable.

21 Sec. 8. This act shall take effect and be in force from and after its
22 publication in the statute book.