

## Substitute for SENATE BILL No. 85

By Committee on Federal and State Affairs

3-8

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1 AN ACT concerning healthcare; relating to withholding cardio-pulmonary  
2 resuscitation from unemancipated minors; information requirements;  
3 refusal of consent, exceptions; dispute resolution.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) This section shall be known and may be cited as  
7 Simon's law.

8 (b) A do-not-resuscitate order or similar physician's order shall not be  
9 instituted, either orally or in writing, unless at least one parent or legal  
10 guardian of a patient or resident who is an unemancipated minor or  
11 prospective patient or resident who is an unemancipated minor has first  
12 been informed of the physician's intent to institute such an order and a  
13 reasonable attempt has been made to inform the other parent if the other  
14 parent is reasonably available and has custodial or visitation rights. Such  
15 information must be provided both orally and in writing unless, in  
16 reasonable medical judgment, the urgency of the decision requires reliance  
17 on only providing the information orally. The provision of such  
18 information must be contemporaneously recorded in the patient's medical  
19 record, specifying by whom and to whom the information was given, the  
20 date and time of its provision, and whether it was provided in writing as  
21 well. When only one parent has been informed, the nature of reasonable  
22 attempts to inform the other parent or the reason why such attempts were  
23 not made must also be contemporaneously recorded in the patient's  
24 medical record.

25 (c) Either parent of an unemancipated minor or the unemancipated  
26 minor's guardian may refuse consent for a do-not-resuscitate order or  
27 similar physician's order for the unemancipated minor, either in writing or  
28 orally. Any such refusal of consent must be contemporaneously recorded  
29 in the patient's medical record. No do-not-resuscitate order or similar  
30 physician's order shall be instituted either orally or in writing if there has  
31 been such a refusal of consent except in accordance with a court order  
32 issued pursuant to subsection (d).

33 (d) If the parents of a minor patient are unable to agree on whether to  
34 institute or revoke a do-not-resuscitate order or similar physician's order,  
35 either parent may institute a proceeding under subsection (e) to resolve the  
36 conflict based on a presumption in favor of the provision of cardio-

1 pulmonary resuscitation. Pending the final determination of such  
2 proceedings, including any appeals, a do-not-resuscitate order or similar  
3 physician's order shall not be implemented.

4 (e) A parent or guardian may petition a district court of the county in  
5 which the patient resides or in which the patient is receiving treatment for  
6 an order enjoining a violation or threatened violation of this section or to  
7 resolve a conflict. Upon receiving such a petition, the district court shall  
8 issue an order fixing the date, time and place of a hearing on the petition  
9 and order that notice of the hearing shall be given to such persons as the  
10 court shall direct. A preliminary hearing may be held without notice if the  
11 court determines that holding that hearing without notice is necessary to  
12 prevent imminent danger to the child's life. In the court's discretion, a  
13 hearing may be conducted in a courtroom, a treatment facility or at some  
14 other suitable place.

15 (f) Upon the request of a patient or resident or a prospective patient or  
16 resident, a healthcare facility, nursing home or physician shall disclose in  
17 writing any policies relating to a patient or resident or the services a  
18 patient or resident may receive involving resuscitation or life-sustaining  
19 measures, including any policies related to treatments deemed non-  
20 beneficial, ineffective, futile or inappropriate, within the healthcare facility  
21 or agency. Nothing in this section shall require a healthcare facility,  
22 nursing home or physician to have a written policy relating to or involving  
23 resuscitation, life-sustaining or non-beneficial treatment for  
24 unemancipated minor patients or adult patients, residents or wards.

25 (g) Nothing in this section may be construed to alter or supersede the  
26 provisions of K.S.A. 65-2891, and amendments thereto, relating to  
27 emergency care by health care providers.

28 Sec. 2. This act shall take effect and be in force from and after its  
29 publication in the statute book.