

February 15, 2023

The Honorable Beverly Gossage, Chairperson
Senate Committee on Public Health and Welfare
300 SW 10th Avenue, Room 142-S
Topeka, Kansas 66612

Dear Senator Gossage:

SUBJECT: Fiscal Note for SB 175 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 175 is respectfully submitted to your committee.

SB 175 would create the new crimes of “unlawful performance of an abortion” and “unlawful destruction of a fertilized embryo.” An unlawful performance of an abortion would be defined as knowingly performing an abortion, regardless of the gestational age of the unborn child. An unlawful destruction of a fertilized embryo would be defined as the act of performing an unlawful abortion as part of the process of artificial insemination. The bill would amend various statutes to include these definitions and would make further definitions for abortion, fertilization, and unborn child, all which would be amended throughout various statutes to match definitions in the bill. The bill would allow for punitive and exemplary damages in a wrongful death suit. The bill would amend the definition of “unborn child” under KSA 60-1901 and “abortion” under KSA 60-1906 to mean the same as defined within the bill. Additionally, the bill would remove provisions related to the taxation of abortion services under the Kansas Income Tax Act and the Kansas Retailers’ Sales Tax Act.

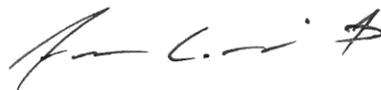
Both unlawful performance of an abortion and unlawful destruction of a fertilized embryo or an attempt, conspiracy, or criminal solicitation to commit either would be a severity level 1, person felony. The bill would specify that under Article 2, Section 27 of the Kansas Constitution, any judge of Kansas who purposes to enjoin, stay, overrule, or void any provision of the Act would be subject to impeachment and removal. KSA 65-6732 would be amended to prohibit court opinions interpreting the U.S. Constitution and provisions in the Kansas Constitution that could limit the rights of an unborn child. The bill would state that all rulings of any district or appellate court of Kansas, rules and regulations, and executive orders would be treated as void and would have no effect if they would deprive an unborn child of the right to life.

The Office of Judicial Administration states enactment of SB 175 could increase the number of cases filed in district court because it creates new crimes related to abortion, which could result in more time spent by court employees and judges processing and deciding these cases. The Office estimates enactment of the bill could result in the collection of docket fees and fines assessed in those cases filed under the bill's provisions. According to the Office, a fiscal effect cannot be estimated.

The Kansas State Board of Healing Arts states the bill could potentially result in additional complaints, investigations, and litigation, but the agency anticipates handling the increased workload within existing resources. The Office of the Attorney General states the measure could be challenged on Constitutional grounds in state court. The litigation could be ongoing and would likely reach the appellate level but could be handled within existing resources.

According to the Kansas Department of Health and Environment, the University of Kansas Medical Center, and the Kansas Department of Revenue, enactment of SB 175 would not result in a fiscal effect on the operations of any of the respective agencies. Any fiscal effect associated with SB 175 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Amy Penrod, Department of Health & Environment
Susan Gile, Board of Healing Arts
Lynn Robinson, Department of Revenue
Vicki Jacobsen, Judiciary
John Milburn, Office of the Attorney General
Jeff Dewitt, University of Kansas