

**IN THE SECOND JUDICIAL DISTRICT
DISTRICT COURT, SHAWNEE COUNTY, KANSAS
DIVISION 7**

HODES & NAUSER, MDs, P.A.;
HERBERT C. HODES, M.D.; and
TRACI LYNN NAUSER, M.D.,

Plaintiffs,

v.

**DEREK SCHMIDT, in his official
capacity as Attorney General
of the State of Kansas; and STEPHEN M.
HOWE, in his official capacity as District
Attorney for Johnson County,**

Defendants.

Case No. _____

PETITION

(Pursuant to K.S.A. Chapter 60)

Plaintiffs, Herbert C. Hodes, M.D., Traci Lynn Nauser, M.D., and Hodes & Nauser, MDs, P.A. (collectively "Plaintiffs"), by and through their undersigned attorneys, bring this petition against above-named Defendants, their employees, agents, and successors in office ("Defendants") and in support thereof state the following:

I. PRELIMINARY STATEMENT

1. This lawsuit, seeking declaratory and injunctive relief, challenges Kansas Senate Bill 95 ("the Act"), which was signed into law on April 7, 2015, and is scheduled to take effect on July 1, 2015. A copy of the Act is annexed hereto as Exhibit 1.

2. The Act bans the most commonly used method of second-trimester abortion. A woman seeking an abortion affected by the Act would be unable to effectuate her choice without submitting to more complex and risky procedure that her physician may feel is not medically necessary, but which exposes her to medical risks.

3. Plaintiffs are board certified Kansas obstetrician-gynecologists who work together in a private medical practice and provide abortion services that will be affected by the Act. They bring these claims on behalf of themselves and their patients because they believe that enforcement of the Act will undermine their patients' rights to be free from unnecessary medical procedures and to make medical decisions, in conjunction with their physicians, that are in their best interests.

4. The Act violates the rights of Plaintiffs' patients guaranteed by the Kansas Constitution by infringing on their rights to bodily integrity, access to abortion and equal protection, and further violates Plaintiffs' rights to due process and equal protection.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction under K.S.A. § 20-301.

6. Plaintiffs' requests for declaratory and injunctive relief are authorized by K.S.A. §§ 60-1701, 60-1703 (declaratory relief) and K.S.A. §§ 60-901, 60-902 (injunctive relief).

7. Venue in this Court is proper under K.S.A. § 60-602(2) because Defendant Schmidt maintains his office in this district.

III. PARTIES

A. Plaintiffs

8. Plaintiff Herbert C. Hodes, M.D., is a board-certified Obstetrician-Gynecologist licensed to practice medicine in Kansas. For over 35 years, Dr. Hodes has been providing a full range of obstetrical and gynecological services, including family planning services, prenatal care,

delivery of babies, gynecological procedures and surgeries, screening for and treatment of sexually transmitted infections, treatment of menopausal symptoms, infertility treatments, and abortion services up to 21.6 weeks (dated from the woman's last menstrual period, or "LMP"). Dr. Hodes sues on his own behalf and on behalf of his patients seeking abortions.

9. Plaintiff Traci Lynn Nauser, M.D., is a board-certified obstetrician-gynecologist licensed to practice medicine in Kansas. For the past 16 years, like Dr. Hodes, she has been providing a full range of obstetrical and gynecological services, including abortion services up to 21.6 weeks LMP. Dr. Nauser sues on her own behalf and on behalf of her patients seeking abortions.

10. Plaintiff Hodes & Nauser, MDs, P.A., is the private medical practice owned and operated by Drs. Hodes and Nauser. The practice is located in Overland Park, Kansas, and advertises under the name "Center for Women's Health." Hodes and Nauser, MDs, P.A., sues on its own behalf and on behalf of its patients seeking abortions.

11. The Plaintiffs are aware of only two other licensed abortion facilities in Kansas: Comprehensive Health of Planned Parenthood Kansas and Mid-Missouri, located in Overland Park, and South Wind Women's Center, located in Wichita.

B. Defendants

12. Defendant Derek Schmidt is the Attorney General of Kansas. He is responsible for defending Kansas laws against constitutional challenge. K.S.A. § 75-702. In addition, the Act authorizes the Attorney General to seek injunctive relief against any person who performs or attempts to perform an abortion procedure in violation of the Act. S.B. 95, § 4. Defendant Schmidt is sued in his official capacity, as are his agents and successors.

13. Defendant Stephen M. Howe is the District Attorney for Johnson County, which

includes Overland Park. Defendant Howe is empowered to prosecute criminal offenses committed in Johnson County, and, in addition, the Act authorizes “any district attorney” with “appropriate jurisdiction” to seek injunctive relief against any person who performs or attempts to perform an abortion procedure in violation of the Act. S.B. 95, § 4. District Attorney Howe is sued in his official capacity, as are his agents and successors.

IV. STATUTORY FRAMEWORK AND RELEVANT FACTS

A. Senate Bill 95

14. Senate Bill 95 prohibits the performance on a living fetus of an abortion procedure described in the Act as “dismemberment abortion.” Although “dismemberment abortion” is not a medical term, the definition in the Act makes clear that it prohibits a procedure referred to by physicians as Dilation and Evacuation or “D & E.” D & E procedures are performed beginning at approximately 15 weeks of pregnancy, and D & E is the most commonly used method of abortion in the second trimester.

15. The Act defines “dismemberment abortion” as a procedure done:

with the purpose of causing the death of an unborn child, knowingly dismembering a living unborn child and extracting such unborn child one piece at a time from the uterus through the use of clamps, grasping forceps, tongs, scissors or similar instruments that, through the convergence of two rigid levers, slice, crush or grasp a portion of the unborn child’s body in order to cut or rip it off.

SB 95, §§ 2(b)(1).

16. Procedures in which the physician uses only suction, but not instruments such as those described in Act, and procedures in which fetal demise is caused through the use of suction, followed by the subsequent use of other instruments, are not included in the ban. *Id.* § 2(b)(2).

17. Exceptions to the ban are permitted only when: “the dismemberment abortion is necessary to preserve the life of the pregnant woman;” or “continuation of the pregnancy will cause

a substantial and irreversible impairment of a major bodily function of the pregnant woman.” *Id.* § 3(a).

18. Violation of the ban subjects physicians to criminal prosecution, including Class A misdemeanor penalties for a first conviction and severity level 10, person felony penalties for subsequent convictions. *Id.* § 6. The ban targets only physicians for criminal penalties; other staff and the woman on whom the prohibited procedure is performed are exempt from liability. *Id.* § 3(b).

19. The Act authorizes the Attorney General or any District or County Attorney with appropriate jurisdiction to “bring a cause of action for injunctive relief against a person who has performed or attempted to perform” an abortion in violation of the Act. *Id.* § 4.

20. In addition, the Act creates a cause of action for damages against a person who violates the ban, which can be maintained by the woman who obtains an abortion in violation of the Act, her husband, or the parents of a minor. *Id.* § 5(a). Damages can be obtained for physical and psychological injuries, plus statutory damages amounting to three times the cost of the procedure. *Id.* § 5(b). A plaintiff obtaining a favorable judgment in an action authorized by the Act may obtain attorneys’ fees. *Id.* § 5(d)(1). A physician who successfully defends against a claim may only obtain attorneys’ fees if “the court finds the plaintiff’s action was frivolous and brought in bad faith.” *Id.* § 5(d)(2).

21. Pre-existing Kansas laws already circumscribe access to abortion, including abortions after the first trimester. Abortions are generally prohibited after viability. K.S.A. § 65-6703(a). In addition, it is illegal to perform an abortion after 22 weeks LMP unless two physicians certify that the woman’s life is endangered or she faces substantial and irreversible impairment of her physical health. K.S.A. §§ 65-6724(a), 65-6723(f). Kansas Statutes § 65-6721, which

prohibits the performance of “partial-birth abortions,” makes it illegal to perform a variation of the D & E procedure known as “intact D & E” on a living fetus. In addition, the state imposes a 24 hour delay on women seeking abortions following receipt of state-mandated information. K.S.A. § 65-6709. Women reliant on Medicaid can only obtain coverage for abortion if the pregnancy is life-threatening or is the result of rape or incest. *State ex rel. Kline v. Sebelius*, No. 05-C-1050, 2006 WL 237113, at *6 (Kan. Dist. Ct. Jan. 24, 2006). The insurance plan for government employees only covers abortion if the pregnancy threatens the woman’s life. Kan. Dep’t of Health & Env’t, State Employee Health Plan, 39 (2015), available at <http://www.kdheks.gov/hcf/sehp/BenefitDescriptions/2015-Aetna-Plan-A.pdf>. Private insurance policies cannot cover abortions not necessary to preserve a woman’s life except through a separate and optional rider, and insurance provided in any exchange ban established pursuant to the Affordable Care Act cannot cover “elective” abortions, even through a rider. K.S.A. § 40-2,190. State agencies and employees are prohibited from providing abortion services, *id.* § 65-6733, and abortions can be performed on University of Kansas properties only in a medical emergency. *Id.* § 76-3308(i).

22. The Act’s ban on D & E procedures is unprecedented. The Act was the first of its kind passed in the United States. Kansas is one of only two states to enact such a restriction into law, and the Kansas Act will, if not enjoined, be the first to take effect.

23. The Kansas Legislature passed the Act even though the United States Supreme Court has prohibited states from banning the most common second trimester procedure. A ban that does not preserve access to a safe and commonly-used method of second-trimester abortion constitutes an unconstitutional undue burden on the right to abortion. The Legislature adopted the

ban without making any factual findings or undertaking a meaningful review of the medical evidence.

B. Abortion Services Affected by the Act

24. In the first trimester of pregnancy, abortions are performed using medical or surgical means. Medication abortions, which are provided up to 70 days LMP, involve the ingestion of two medications one to two days apart. Surgical abortions in the first trimester are performed using a suction device to empty the uterus. In general, prior to any surgical abortion at any stage of pregnancy, physicians dilate the woman's cervix to allow passage of instruments.

25. Starting around 15 weeks LMP, physicians performing abortions may use forceps or other instruments to remove the products of conception from the uterus, often in combination with suction. Usually disarticulation of the fetus occurs as the physician brings fetal parts through the cervix. This procedure is known as a Dilation and Evacuation or D & E procedure. Because of its impressive safety record, D & E procedures are the most commonly used method of abortion after 14 weeks, accounting for 95% of all second-trimester abortions nationally.

26. There is no means by which Plaintiffs can continue to provide D & E procedures and comply with the Act without altering their practice in a way that increases the complexity and risk of the abortion.

27. Prior to 18 weeks, it is not accepted medical practice to induce demise by any means prior to a D & E procedure and there are virtually no studies addressing its safety.

28. Some physicians, beginning around 18 to 20 weeks LMP, do induce fetal demise, but research to date has not shown medical benefit or improvement of safety from the addition of demise to the standard D & E procedure. According to the American College of Obstetricians and Gynecologists, "No evidence currently supports the use of induced fetal demise to increase the

safety of second trimester medical or surgical abortion.” American College of Obstetricians and Gynecologists, Second Trimester Practice Bulletin (No. 135, June 2013).

29. One means of inducing demise prior to a D & E procedure is transection of the umbilical cord. It is not always possible to accomplish this, however, and therefore physicians cannot rely solely on this procedure as a means of providing D & E procedures that do not violate the Act. As with other methods of inducing demise, there is no established medical benefit from performing umbilical cord transection. Adding transection to a D & E makes the procedure more complex and increases risks.

30. Physicians who induce demise most often use an injection of digoxin, a medication that is also used to treat certain heart conditions. The digoxin is given through either a transabdominal or transvaginal injection. Digoxin is usually administered 1–2 days before the D & E procedure in conjunction with dilation.

31. Published data looking at digoxin after 18 or 20 weeks find no clear medical benefit, but there is an increased risks of nausea, vomiting, infection, and extramural delivery. The injection procedure itself carries risks and is not always successful. Digoxin is not available for every patient because of medical contraindications and allergies.

32. If fetal demise is not induced in the expected time period after the first digoxin injection, a second injection will be necessary. However, there is virtually no published information on multiple doses of digoxin to induce demise. Physicians who generally use digoxin also do not wait for demise to occur in every case because of the increased risks to patients where digoxin is not effective after 24 hours. Because transection is not a reliable means of inducing demise, to access D & E, every patient will be forced to risk the possibility of undergoing an invasive injection to induce demise.

33. Some physicians, including Plaintiffs Dr. Hodes and Dr. Nauser, feel that causing fetal demise offers no benefit to the patient, but does expose her to some medical risks. They therefore do not induce demise prior to performing a D & E procedure.

34. Other than the D & E procedure, there are no other feasible alternatives for women seeking abortions to effectuate their decisions. Induction of labor is not the standard of care for abortions and accounts for only about 5% of second trimester procedures. Induction procedures must be performed in a hospital and can take two to three days. In addition to the expense associated with an inpatient versus an outpatient procedure, many hospitals restrict the circumstances under which abortions may be performed, and therefore would not make services available to most women. These barriers are in addition to the fact that induction subjects women to the pain and anxiety of labor, compared to a brief outpatient procedure.

C. Impact of the Ban

35. If the Act is allowed to take effect, Plaintiffs' patients will be forced to forgo a D & E abortion if they do not wish to undergo a demise procedure, or to submit to an unnecessary procedure that their physician feels is medically unnecessary, in order to effectuate their right to access abortion.

36. Demise prior to a D & E procedure before 18 weeks is not the standard of care. Because it offers no apparent medical benefit during this gestational period, induction of demise prior to 18 weeks is virtually unstudied. Enforcement of the Act would therefore put Plaintiffs and their patients in the untenable position of changing their practices to include fetal demise procedures that are not only unnecessary, but whose efficacy and safety are unknown.

37. In order to avoid the criminal liability imposed by the Act and continue providing D & E procedures, Plaintiffs must induce demise for every patient and thereby subject them to a

more complex and risky procedure, which may include an invasive injection that involves pain, bodily intrusion, and some risks, with no established medical benefits. It will also require some women to extend the procedure by at least one additional day in order to ensure that demise has occurred prior to the procedure.

38. The Act is an affront both to patients' right to be free from unnecessary medical procedures and physicians' ability to act in what they believe is the best interests of their patients and in accordance with their ethical obligations.

39. Pregnant women who are not seeking abortions are not required to undergo unnecessary medical procedures in order to obtain the pregnancy care they require. So too, no other person, male or female, is forced to undergo an unnecessary medical procedure in order to obtain the health care they desire. Only pregnant women, and specifically those seeking abortions, are singled out in this way.

40. Similarly, only physicians providing abortions face a legislative mandate that, on pain of criminal penalties and civil liability, they provide an unnecessary procedure that they do not believe is in their patient's best interests before they can provide safe and legal health care. Requiring physicians to make the choice between providing D & E abortions according to their best medical judgment or deviating from that judgment in order to meet the requirements of the Act furthers no legitimate state interest.

41. The totality of the circumstances related to the passage of the Act and its practical consequences reveal an improper legislative purpose to make abortion more difficult to access in Kansas.

42. The Act also imposes unnecessary, unreasonable, and unduly burdensome regulations on Plaintiffs' practice.

V. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF **(Fundamental Right to Terminate a Pregnancy)**

43. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 42 above.

44. The Act violates Sections 1 and 2 of the Bill of Rights of the Kansas Constitution by infringing on the fundamental right of Plaintiffs' patients to terminate a pregnancy including by banning the most common method of abortion in the second trimester and by requiring women seeking D & E procedures to undergo more complex and risky procedures.

SECOND CLAIM FOR RELIEF **(Improper Purpose)**

45. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 44 above.

46. The Act violates Section 1 of the Bill of Rights of the Kansas Constitution because it was enacted with the improper purpose of unconstitutionally burdening women's right to obtain pregnancy termination services.

THIRD CLAIM FOR RELIEF **(Bodily Integrity of Abortion Patients)**

47. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 46 above.

48. The Act violates Sections 1 and 2 of the Bill of Rights of the Kansas Constitution by infringing on the fundamental right of bodily integrity of Plaintiffs' patients, including by forcing women to undergo an unnecessary procedure that their physician does not believe is in their medical interests in order to effectuate their right to abortion.

FOURTH CLAIM FOR RELIEF
(Denial of Equal Protection to Abortion Patients)

49. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 48 above.

50. The Act violates Section 1 of the Bill of Rights of the Kansas Constitution by denying equal protection of the laws to Plaintiffs' patients by imposing burdens on women seeking abortions that are not imposed on other pregnant women.

FIFTH CLAIM FOR RELIEF
(Denial of Equal Protection to Women - Sex Discrimination)

51. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 50 above.

52. The Act violates Section 1 the Bill of Rights of the Kansas Constitution by denying equal protection of the laws to Plaintiffs' patients because it singles out a medical procedure sought only by women, and, based on pregnancy status, imposes burdens not imposed on health care procedures sought by men.

SIXTH CLAIM FOR RELIEF
(Denial of Equal Protection to Abortion Providers)

53. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 52 above.

54. The Act violates Section 1 of the Bill of Rights of the Kansas Constitution by denying equal protection of the laws to Plaintiffs, by denying only physicians performing abortions the ability to provide care that they believe is in their patients' best interests, and by requiring the provision of unnecessary medical procedures in order to provide abortion services.

SEVENTH CLAIM FOR RELIEF
(Denial of Due Process to Abortion Providers)

55. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 54 above.

56. The Act violates Sections 1 and 2 of the Bill of Rights of the Kansas Constitution by denying due process protection of the laws to Plaintiffs by requiring that they forego the provision of abortion services beginning at 15 weeks, or to provide care that they believe is not in their patients' best interests.

EIGHTH CLAIM FOR RELIEF
(Denial of Right to Be Free of Unreasonable and Oppressive Regulation)

57. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 56 above.

58. The Act violates Sections 1, 2 and 17 of the Bill of Rights of the Kansas Constitution Bill by subjecting Plaintiffs to oppressive and unreasonable regulation and government interference that would significantly impair the operation of their medical practice.

VI. REQUEST FOR RELIEF

WHEREFORE Plaintiffs request that the Court:

- A. Issue a Declaratory Judgment that the Act is unconstitutional and therefore unenforceable;
- B. Grant a Temporary Injunction without bond, and a Permanent Injunction restraining Defendants, their agents, and their successors in office from enforcing the Act;
- C. Grant such other and further relief as this Court deems just, proper, and equitable; including an award of costs and attorney's fees to Plaintiffs.

Respectfully submitted, this 1st day of June, 2015.


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COUNSEL FOR PLAINTIFFS

Exhibit 1

SENATE BILL No. 95

AN ACT concerning abortion; creating the Kansas unborn child protection from dismemberment abortion act.

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

Section 1. The provisions of sections 1 through 9, and amendments thereto, shall be known and may be cited as the Kansas unborn child protection from dismemberment abortion act.

Sec. 2. As used in sections 1 through 9, and amendments thereto:

(a) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

(b) (1) "Dismemberment abortion" means, with the purpose of causing the death of an unborn child, knowingly dismembering a living unborn child and extracting such unborn child one piece at a time from the uterus through the use of clamps, grasping forceps, tongs, scissors or similar instruments that, through the convergence of two rigid levers, slice, crush or grasp a portion of the unborn child's body in order to cut or rip it off.

(2) The term "dismemberment abortion" does not include an abortion which uses suction to dismember the body of the unborn child by sucking fetal parts into a collection container, although it does include an abortion in which a dismemberment abortion, as defined in subsection (b)(1), is used to cause the death of an unborn child but suction is subsequently used to extract fetal parts after the death of the unborn child.

(c) "Knowingly" shall have the same meaning attributed to such term in K.S.A. 2014 Supp. 21-5202, and amendments thereto.

(d) "Medical emergency" means 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 to avert the death of the woman or for which a delay necessary to comply with the applicable statutory requirements will create serious risk of substantial and irreversible physical impairment of a major bodily function. 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.

Sec. 3. (a) No person shall perform, or attempt to perform, a dismemberment abortion on an unborn child unless: (1) The dismemberment abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible physical impairment of a major bodily function of the pregnant woman. No condition shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct that would result in her death or in substantial and irreversible physical impairment of a major bodily function.

(b) No woman upon whom an abortion is performed or attempted to be performed shall be liable for performing or attempting to perform a dismemberment abortion. No nurse, technician, secretary, receptionist or other employee or agent who is not a physician, but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician, but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician shall be liable for performing or attempting to perform a dismemberment abortion.

Sec. 4. The attorney general or any district or county attorney with appropriate jurisdiction may bring a cause of action for injunctive relief against a person who has performed or attempted to perform a dismemberment abortion in violation of section 3, and amendments thereto. Any injunctive relief ordered pursuant to an action filed under this section shall prohibit the defendant from performing or attempting to perform any dismemberment abortions in violation of section 3, and amendments thereto.

Sec. 5. (a) A cause of action for civil damages against a person who has performed a dismemberment abortion in violation of section 3, and

amendments thereto, may be maintained by the following persons, unless, in a case where the plaintiff is not the woman upon whom the abortion was performed, the pregnancy resulted from the plaintiff's criminal conduct:

(1) A woman upon whom a dismemberment abortion has been performed in violation of section 3, and amendments thereto;

(2) the father of the unborn child, if married to the woman at the time the dismemberment abortion was performed; or

(3) the parents or custodial guardians of the woman, if the woman has not attained the age of 18 years at the time of the abortion or has died as a result of the abortion.

(b) Damages awarded in such an action shall include:

(1) Money damages for all injuries, psychological and physical, occasioned by the dismemberment abortion;

(2) statutory damages equal to three times the cost of the dismemberment abortion;

(3) injunctive relief; and

(4) reasonable attorney fees awarded in accordance with subsection

(d).

(d) (1) If judgment is rendered in favor of the plaintiff in an action brought under section 4, and amendments thereto, or this section, the court shall award reasonable attorney fees to the plaintiff in addition to any other relief that is awarded.

(2) If judgment is rendered in favor of the defendant in an action brought under section 4, and amendments thereto, or this section, and the court finds that the plaintiff's action was frivolous and brought in bad faith, the court shall award reasonable attorney fees to the defendant in addition to any other relief that is awarded.

(3) No attorney fees shall be assessed against the woman upon whom a dismemberment abortion was performed or attempted to be performed except in accordance with paragraph (2).

Sec. 6. Upon a first conviction of a violation of section 3, and amendments thereto, a person shall be guilty of a class A person misdemeanor. Upon a second or subsequent conviction of a violation of section 3, and amendments thereto, a person shall be guilty of a severity level 10, person felony.

Sec. 7. In every civil, criminal or administrative proceeding or action arising out of a violation of K.S.A. 65-6703, 65-6721, K.S.A. 2014 Supp. 65-6724 or section 3, and amendments thereto, the court shall rule whether the anonymity of any woman upon whom an unlawful abortion has been performed or attempted to be performed shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that such woman's anonymity should be preserved, shall issue orders to the parties, witnesses and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman upon whom an unlawful abortion has been performed or attempted to be performed, anyone other than a public official who brings an action arising out of a violation of K.S.A. 65-6703, 65-6721, K.S.A. 2014 Supp. 65-6724 or section 3, and amendments thereto, shall do so under a pseudonym. This section shall not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.

Sec. 8. Nothing in sections 1 through 9, and amendments thereto, shall be construed as creating or recognizing a right to abortion, nor a right to a particular method of abortion.

Sec. 9. If any provision or clause of this act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.