

SENATE BILL No. 5

By Senator Steffen

12-29

1 AN ACT concerning health and healthcare; related to the Kansas
2 telemedicine act; prohibiting the prescribing of medications intended to
3 induce an abortion via telemedicine; restricting the power of the
4 governor during a state of emergency to alter such abortion
5 prohibitions; amending K.S.A. 40-2,215 and K.S.A. 2022 Supp. 48-925
6 and repealing the existing sections.

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

9 Section 1. K.S.A. 40-2,215 is hereby amended to read as follows: 40-
10 2,215. (a) Nothing in the Kansas telemedicine act shall be construed to
11 authorize the delivery of any abortion procedure via telemedicine.

12 (b) *As used in this section, "abortion procedure" includes the*
13 *prescribing of drugs intended to induce an abortion.*

14 (c) *The provisions of this section shall not be altered or suspended*
15 *during any state of disaster emergency declared by the governor pursuant*
16 *to K.S.A. 48-924, and amendments thereto.*

17 Sec. 2. K.S.A. 2022 Supp. 48-925 is hereby amended to read as
18 follows: 48-925. (a) During any state of disaster emergency declared under
19 K.S.A. 48-924, and amendments thereto, the governor shall be
20 commander-in-chief of the organized and unorganized militia and of all
21 other forces available for emergency duty. To the greatest extent
22 practicable, the governor shall delegate or assign command authority by
23 prior arrangement, embodied in appropriate executive orders or in rules
24 and regulations of the adjutant general, but nothing shall restrict the
25 authority of the governor to do so by executive orders issued at the time of
26 a disaster.

27 (b) Under the provisions of this act and for the implementation of this
28 act, the governor may issue executive orders to exercise the powers
29 conferred by subsection (c) that have the force and effect of law during the
30 period of a state of disaster emergency declared under K.S.A. 48-924(b),
31 and amendments thereto, or as provided in K.S.A. 2022 Supp. 48-924b,
32 and amendments thereto. The chairperson of the legislative coordinating
33 council shall call a meeting of the council to occur within 24 hours of the
34 issuance of an executive order issued pursuant to this section for the
35 purposes of reviewing such order. Such executive orders shall be null and
36 void after the period of a state of disaster emergency has ended. Such

1 executive orders may be revoked at any time by concurrent resolution of
2 the legislature or, when the legislature is not in session or is adjourned
3 during session for three or more days, such orders may be revoked by the
4 legislative coordinating council with the affirmative vote of five members
5 thereof.

6 (c) Except as provided in K.S.A. 2022 Supp. 48-924b, and
7 amendments thereto, during a state of disaster emergency declared under
8 K.S.A. 48-924, and amendments thereto, in addition to any other powers
9 conferred upon the governor by law and subject to the provisions of
10 subsection (d), the governor may:

11 (1) Suspend the provisions of any regulatory statute prescribing the
12 procedures for conduct of state business, or the orders or rules and
13 regulations of any state agency which implements such statute, if strict
14 compliance with the provisions of such statute, order or rule and regulation
15 would prevent, hinder or delay in any way necessary action in coping with
16 the disaster;

17 (2) utilize all available resources of the state government and of each
18 political subdivision as reasonably necessary to cope with the disaster;

19 (3) transfer the supervision, personnel or functions of state
20 departments and agencies or units thereof for the purpose of performing or
21 facilitating emergency management activities;

22 (4) subject to any applicable requirements for compensation under
23 K.S.A. 48-933, and amendments thereto, commandeer or utilize any
24 private property if the governor finds such action necessary to cope with
25 the disaster;

26 (5) direct and compel the evacuation of all or part of the population
27 from any area of the state stricken or threatened by a disaster, if the
28 governor deems this action necessary for the preservation of life or other
29 disaster mitigation, response or recovery;

30 (6) prescribe routes, modes of transportation and destinations in
31 connection with such evacuation;

32 (7) control ingress and egress of persons and animals to and from a
33 disaster area, the movement of persons and animals within the area and the
34 occupancy by persons and animals of premises therein;

35 (8) suspend or limit the sale, dispensing or transportation of alcoholic
36 beverages, explosives and combustibles;

37 (9) make provision for the availability and use of temporary
38 emergency housing;

39 (10) require and direct the cooperation and assistance of state and
40 local governmental agencies and officials; and

41 (11) perform and exercise such other functions, powers and duties in
42 conformity with the constitution and the bill of rights of the state of
43 Kansas and with the statutes of the state of Kansas, except any regulatory

1 statute specifically suspended under the authority of subsection (c)(1), as
2 are necessary to promote and secure the safety and protection of the
3 civilian population.

4 (d) The governor shall not have the power or authority under the
5 provisions of the Kansas emergency management act or any other law to:

6 (1) Limit or otherwise restrict the sale, purchase, transfer, ownership,
7 storage, carrying or transporting of firearms or ammunition, or any
8 component or combination thereof, including any components or
9 combination thereof used in the manufacture of firearms or ammunition, or
10 seize or authorize the seizure of any firearms or ammunition, or any
11 component or combination thereto, except as otherwise permitted by state
12 or federal law pursuant to subsection (c)(8) or any other executive
13 authority;

14 (2) alter or modify any provisions of the election laws of the state
15 including, but not limited to, the method by which elections are conducted
16 or the timing of such elections;~~or~~

17 (3) prohibit attending or conducting any religious service or worship
18 service in a church, synagogue or place of worship; *or*

19 (4) *alter or modify the provisions of K.S.A. 40-2,215, and*
20 *amendments thereto, prohibiting abortions via telemedicine.*

21 (e) The governor shall exercise the powers conferred by subsection
22 (c) by issuance of executive orders under subsection (b). Each executive
23 order issued pursuant to the authority granted by subsection (b) shall
24 specify the provision or provisions of subsection (c) by specific reference
25 to each paragraph of subsection (c) that confers the power under which the
26 executive order was issued. The adjutant general, subject to the direction
27 of the governor, shall administer such executive orders.

28 (f) (1) Any party aggrieved by an executive order issued pursuant to
29 this section that has the effect of substantially burdening or inhibiting the
30 gathering or movement of individuals or the operation of any religious,
31 civic, business or commercial activity, whether for-profit or not-for-profit,
32 may file a civil action in the district court of the county in which such
33 party resides or in the district court of Shawnee county, Kansas, within 30
34 days after the issuance of such executive order. Notwithstanding any order
35 issued pursuant to K.S.A. 2022 Supp. 20-172(a), and amendments thereto,
36 the court shall conduct a hearing within 72 hours after receipt of a petition
37 in any such action. The court shall grant the request for relief unless the
38 court finds such executive order is narrowly tailored to respond to the state
39 of disaster emergency and uses the least restrictive means to achieve such
40 purpose. The court shall issue an order on such petition within seven days
41 after the hearing is conducted. If the court does not issue an order on such
42 petition within seven days, the relief requested in the petition shall be
43 granted.

1 (2) Relief under this section shall not include a stay or injunction
2 concerning the contested executive order that applies beyond the county in
3 which the petition was filed.

4 (3) The supreme court may adopt emergency rules of procedure to
5 facilitate the efficient adjudication of any hearing requested under this
6 subsection, including, but not limited to, rules for consolidation of similar
7 hearings.

8 (g) (1) The board of county commissioners of any county may issue
9 an order relating to public health that includes provisions that are less
10 stringent than the provisions of an executive order effective statewide
11 issued by the governor. Any board of county commissioners issuing such
12 an order must make the following findings and include such findings in the
13 order:

14 (A) The board has consulted with the local health officer or other
15 local health officials regarding the governor's executive order;

16 (B) following such consultation, implementation of the full scope of
17 the provisions in the governor's executive order are not necessary to
18 protect the public health and safety of the county; and

19 (C) all other relevant findings to support the board's decision.

20 (2) If the board of county commissioners of a county issues an order
21 pursuant to paragraph (1), such order shall operate in the county in lieu of
22 the governor's executive order.

23 Sec. 3. K.S.A. 40-2,215 and K.S.A. 2022 Supp. 48-925 are hereby
24 repealed.

25 Sec. 4. This act shall take effect and be in force from and after its
26 publication in the statute book.