AIM KS
ABORTION IS MURDER

POLICY MEMO

Please support HB2171 & SB174

THE
ABOLISH ABORTION KANSAS ACT

Background

- Current Kansas law defines an unborn child under Penal Code (PC) § 21-5419 as "a living individual organism of the species homo sapiens, in utero, at any stage of gestation from fertilization to birth" and as a "person" and "human being" in PCs § 21-5401, § 21-5402, § 21-5403, § 21-5404, § 21-5405, § 21-5406 and subsections (a) and (b) of § 21-5413.
- **The above Penal Codes classify intentionally killing an unborn child as murder.** PC § 21-5419 creates an exception that allows doctors, mothers and a girl's guardian(s) to intentionally, and with premeditation, murder an unborn child with immunity and impunity.
- The Kansas Republican Party (KRP) platform states, "Every innocent human life is sacred. Every human being, born or unborn, has an inalienable right to life which cannot be infringed. We believe life begins at conception and does not end until natural death. The Kansas Republican Party will lead our nation toward a culture that values life—the life of the elderly and sick, the life of the young, and the life of the unborn."
- The Abolish Abortion Kansas Act calls upon the KRP to fulfill its stated mission that "To ensure the right to life and equal protection of the laws, all preborn children should be protected with the same criminal and civil laws protecting the lives of born persons by repealing provisions that permit prenatal homicide and battery."

HB2171 & SB174 provide equal justice for preborn humans and fulfill the Kansas Republican platform, the Kansas Constitution, and U.S. Constitution.

Stop Denying Equal Protection to All Humans

- The KRP platform claims, "The judicial branch of our government must recognize that it is not a super-legislative body. The core mission of the judiciary is to protect the historically recognized constitutional rights of the people. We believe judges should be arbiters of conflict and not public policy makers."
- Alexander Hamilton wrote, "Whoever attentively considers the different departments of power must perceive, that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them" (Federalist Papers, No. 78).
- PC § 21-5419 exists because Kansas surrendered to the unconstitutional federal court ruling of *Roe v. Wade* (overturned in 2022 under *Dobbs v. Jackson Women's Health Organization*) and because Kansas Legislature continues to submit to the unconstitutional Kansas Supreme court ruling in *Hodes & Nauser v. Schmidt*.

Follow the Constitutions

- "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof…shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding" (U.S. Const., Art. VI, Clause 2).
- The 14th Amendment of the U.S. Constitution provides, "No state shall…deny to any person within its jurisdictions the equal protection of the laws."
- The Kansas Constitution upholds that "All men are possessed of equal and inalienable rights, among which are life, liberty, and the pursuit of happiness" (Bill of Rights, Section 1).
- Though no state should declare actions of the judiciary void for light or indefinite causes, we also must not abide by lawless court opinions that persuade others to also violate their oaths to protect the Constitution. **Will you uphold Constitutional**

law and equal justice for all human life by supporting HB2171 & SB174?

FREQUENTLY ASKED QUESTIONS

What about the Supremacy Clause of the U.S. Const.? It says, "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof… shall be the supreme Law of the Land…" (U.S. Const. Art VI, Clause 2.) *Roe* and *Hodes & Nauser* were not made "in pursuance of" the Constitution since they conflict with the equality clauses therein, so they are not the supreme law of the land. States are not bound by these unlawful court decisions.

Would HB2171/SB174 put abortive mothers in jail? This bill would criminalize the act of abortion. It simply removes prenatal homicide exceptions from our laws so that the same laws protecting people after they are born would protect people before they are born.

Will this bill punish post-abortive women and men from the past? No. The U.S. Constitution prohibits ex post facto (retroactive) laws. "No Bill of Attainder or ex post facto Law shall be passed" (Article 1, Section 9, Clause 3). HB2171/SB174 is therefore not retroactive and does not apply to abortions before the bill's effective date. The bill also does not apply to natural miscarriages, emergency medical treatment for ectopic pregnancies, persons granted immunity by prosecutors, or persons subject to duress or mistake of fact.

Does HB2171/SB174 promote lawlessness? Absolutely not. To the contrary, lawlessness is the situation we have right now. As John Adams wrote, we are to be "a government of laws and not of men." HB2171/SB174 promotes a return to the law—the Constitution—and an end to following an opinion of men which violates it. The law is king, not the Court; and the Court is subject to—not master of—that law

If abortion is treated as murder, will women coerced into an abortion go to jail? Treating abortion as murder would be one of the best ways to protect women in peril. An investigation into an abortion could reveal the abuse and conspiracy to commit prenatal murder by a human trafficker, pimp, or an abusive partner. If due process proved the women did not have guilty intent (mens rea), then the full charges would rest upon those who forced her into the situation, thereby seeking justice for the woman and the preborn child. Currently, because it is legal for women to commit abortion, there is no legal pressure that could be applied to her to give up the conspirator nor would there even be an investigation because of the immunity and impunity granted to pregnant women. Our current pro-life laws allow abusers to use exemption laws meant for women as a shield for themselves as well.

WHAT ABOUT THE CURRENT PRO-LIFE STRATEGY?

What is wrong with incrementalism? 19th-century abolitionists taught that gradualism prolonged slavery. *The Liberator* printed in 1857, "For half a century after the independence of America was declared, it was every where common to admit that slavery was wrong in the abstract, and ought to be got rid of by a very gradual process, 'half way between now and never.'" English abolitionist William Wilberforce wrote in *A Letter on the Abolition of the Slave Trade*: "The gradual abolitionists have been, in fact, the only real stay of that system of wickedness and cruelty which we wish to abolish; though that assertion is unquestionably true; it is trying beyond expression that they should be the real maintainers of the slave trade."

***Has* incrementalism prolonged the abortion industry?** The new abortion frontier is medicated abortions. The Guttmacher Institute reports that 63% of abortions in 2023 was by the pill. While pro-life laws have eliminated surgical clinics in several states, they have failed to keep up with the rapidly changing abortion industry. A report published by Foundation to Abolish Abortion found that at least 71,100 telehealth abortions occurred in "ban" states in 2024. And this number doesn't include self-managed abortions with women ordering abortion pills online from places such as Aid Access. It has never been easier to murder a preborn human than it is today.

Aren't more states abortion-free since the pro-life Dobbs decision? There is no abortion-free state. Every state allows surgical abortion in some circumstances and allows for medication abortion in all circumstances. In addition, eight states have enshrined abortion rights into their constitutions. Prior to *Dobbs v. Jackson Women's Health Organization*, no state constitution had enshrined abortion rights. Justice for preborn humans is at a worse place today than it was during *Roe*.

What is your duty as a Civil Magistrate? "Justice, and only justice, shall you pursue" (Deut. 16:20). As a lawmaker, you are to establish justice in the courts (Amos 5:15), rescue those being led away to death (Prov. 24:11), correct oppression and bring justice to the fatherless (Isaiah 1:17). God declares, "Cursed be anyone who perverts the justice due to the sojourner, the fatherless, and the widow" (Deut. 27:19). There is no one more fatherless than a child being delivered over to death by abortion. It is time to obey God and the Constitution and totally abolish abortion. "It is a fearful thing to fall into the hands of the living God" (Heb. 10:31).

"Murdering anyone should be illegal for everyone."
– Bradley Pierce, constitutional attorney
Foundation to Abolish Abortion, www.faa.life