

SENATE BILL No. 174

By Committee on Public Health and Welfare

2-4

1 AN ACT concerning abortion; creating the abolish abortion Kansas act;
2 making all abortions subject to criminal prosecution for violation of
3 Alexa's law; removing certain exceptions to wrongful death cause of
4 action for the death of an unborn child when such death is caused by an
5 abortion; amending K.S.A. 21-5206 and 21-5419 and K.S.A. 2024
6 Supp. 60-1901 and repealing the existing sections.

7
8 WHEREAS, Section 1 of the bill of rights of the constitution of the
9 state of Kansas provides, "All men are possessed of equal and inalienable
10 natural rights, among which are life, liberty, and the pursuit of happiness";
11 and

12 WHEREAS, This provision declaring an inalienable and equal right to
13 life has been turned on its head by the erroneous interpretation of the
14 Supreme Court of this state, which held in 2019 that the provision protects
15 a woman's "right to decide whether to continue a pregnancy." Hodes &
16 Nauser, MDS, P.A. v. Schmidt, 309 Kan. 610 (2019); and

17 WHEREAS, Such an interpretation—finding a right to commit prenatal
18 homicide—is not only foreign and contrary to the plain language of the
19 constitution of the state of Kansas, it also violates the Fourteenth
20 Amendment of the Constitution of the United States, which requires that
21 "[n]o state...shall deny to any person within its jurisdiction the equal
22 protection of the laws"; and

23 WHEREAS, The Constitution of the United States provides, "This
24 Constitution, and the Laws of the United States which shall be made in
25 Pursuance thereof...shall be the supreme Law of the Land; and the Judges
26 in every State shall be bound thereby, any Thing in the Constitution or
27 Laws of any State to the Contrary notwithstanding." Art. VI, Clause 2; and

28 WHEREAS, Innocent human life, created in the image of God, should
29 therefore be equally protected under the laws from fertilization through
30 natural death; and

31 WHEREAS, To ensure the right to life and equal protection of the laws,
32 all preborn children should be protected with the same criminal and civil
33 laws protecting the lives of born persons by repealing provisions that
34 permit prenatal homicide and battery; and

35 WHEREAS, All persons potentially subject to such laws are entitled to
36 due process protections; and

1 WHEREAS, Pregnant mothers should be protected from being
2 pressured to abort their children; and

3 WHEREAS, Provisions that may allow a person to aid, advise, hire,
4 counsel or procure a mother to abort her child should be repealed.

5 Now, therefore:

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

7 Section 1. K.S.A. 21-5206 is hereby amended to read as follows: 21-
8 5206. (a) *Except as provided in subsections (b) and (c), a person is not*
9 *guilty of a crime other than murder or voluntary manslaughter by reason of*
10 *conduct*~~which~~ *that such person performs under the compulsion or threat*
11 *of the imminent infliction of death or great bodily harm, if such person*
12 *reasonably believes that death or great bodily harm will be inflicted upon*
13 *such person or upon such person's spouse, parent, child, brother or sister if*
14 *such person does not perform such conduct.*

15 (b) The defense provided by this section is not available to a person
16 who intentionally or recklessly places such person's self in a situation in
17 which such person will be subjected to compulsion or threat.

18 (c) *The defense provided by this section is available to a person who*
19 *is charged with murder or voluntary manslaughter if the victim was an*
20 *unborn child, as defined in K.S.A. 21-5419, and amendments thereto, and*
21 *the defendant is the mother of such unborn child and the defendant is the*
22 *person threatened with imminent infliction of death or great bodily harm.*

23 Sec. 2. K.S.A. 21-5419 is hereby amended to read as follows: 21-
24 5419. (a) As used in this section:

25 (1) ~~"Abortion" means an abortion as defined by K.S.A. 65-6701, and~~
26 ~~amendments thereto~~ *"Fertilization" means the fusion of a human*
27 *spermatozoon with a human ovum; and*

28 (2) "unborn child" means a living individual organism of the species
29 homo sapiens, in utero, at any stage of gestation from fertilization to birth.

30 (b) This section shall not apply to *the unintentional death of an*
31 *unborn child when such death results from:*

32 (1) ~~Any act committed by the mother of the unborn child~~
33 ~~undertaking of life-saving procedures on a pregnant woman when such~~
34 ~~procedures are accompanied by reasonable steps, if available, to save the~~
35 ~~life of her unborn child; or~~

36 (2) ~~any medical procedure, including abortion, performed by a~~
37 ~~physician or other licensed medical professional at the request of the~~
38 ~~pregnant woman or her legal guardian; or~~

39 (3) ~~the lawful dispensation or administration of lawfully prescribed~~
40 ~~medication~~ *a spontaneous miscarriage.*

41 (c) As used in K.S.A. 21-5401, 21-5402, 21-5403, 21-5404, 21-5405,
42 21-5406 and ~~subsections (a) and (b) of 21-5413(a) and (b), and~~
43 ~~amendments thereto,~~ "person" and "human being" also mean an unborn

1 child.

2 (d) *Enforcement pursuant to this section shall be subject to the same*
3 *presumptions, defenses, justifications, immunities, clemencies and other*
4 *due process protections that would apply if the victim were a person who*
5 *had been born alive.*

6 (e) *If any provision of state law conflicts with this section, the*
7 *provisions of this section shall prevail.*

8 (f) *This section shall be known as Alexa's law, and the amendments*
9 *to this section by this act shall be known as the abolish abortion Kansas*
10 *act.*

11 Sec. 3. K.S.A. 2024 Supp. 60-1901 is hereby amended to read as
12 follows: 60-1901. (a) If the death of a person is caused by the wrongful act
13 or omission of another, an action may be maintained for the damages
14 resulting therefrom if the former might have maintained the action had
15 such person lived, in accordance with the provisions of this article, against
16 the wrongdoer, or such wrongdoer's personal representative if such
17 wrongdoer is deceased.

18 (b) As used in article 19 of chapter 60 of the Kansas Statutes
19 Annotated, and amendments thereto, ~~the term~~ "person" includes an unborn
20 child.

21 (c) As used in this section, ~~the term~~ "unborn child" means a living
22 individual organism of the species homo sapiens, in utero, at any stage of
23 gestation from fertilization to birth.

24 (d) The provisions of this section shall not apply to a wrongful death
25 action if the death is *the unintentional death* of an unborn child ~~by means~~
26 ~~of and such death results from:~~

27 (1) ~~Any act committed by the mother of the unborn child~~*The*
28 *undertaking of life-saving procedures on a pregnant woman when such*
29 *procedures are accompanied by reasonable steps, if available, to save the*
30 *life of her unborn child; or*

31 (2) ~~any lawful medical procedure performed by a physician or other~~
32 ~~licensed medical professional at the request of the pregnant woman or her~~
33 ~~legal guardian;~~

34 (3) ~~the lawful dispensation or administration of lawfully prescribed~~
35 ~~medication; or~~

36 (4) ~~a legal abortion~~*a spontaneous miscarriage.*

37 (e) If any provision or clause of this act or application thereof to any
38 person or circumstance is held invalid, such invalidity shall not affect other
39 provisions or applications of the act ~~which~~ *that* can be given effect without
40 the invalid provision or application, and to this end the provisions of this
41 act are declared to be severable.

42 New Sec. 4. The amendments to K.S.A. 21-5206, 21-5419 and 60-
43 1901 by this act shall only apply prospectively and shall not apply to any

1 conduct committed prior to July 1, 2025.

2 Sec. 5. K.S.A. 21-5206 and 21-5419 and K.S.A. 2024 Supp. 60-1901
3 are hereby repealed.

4 Sec. 6. This act shall take effect and be in force from and after its
5 publication in the statute book.