

HOUSE BILL No. 2789

By Committee on Federal and State Affairs

Requested by Curtis Knapp

3-3

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. 21-5419 and 60-1901 and repealing the
6 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

1 due process protections; and

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

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5 counsel or procure a mother to abort her child should be repealed.

6 Now, therefore:

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

8 Section 1. K.S.A. 21-5419 is hereby amended to read as follows: 21-
9 5419. (a) As used in this section:

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

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

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

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

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

25 (3) ~~the lawful dispensation or administration of lawfully prescribed~~
26 ~~medication~~ a spontaneous miscarriage.

27 (c) As used in K.S.A. 21-5401, 21-5402, 21-5403, 21-5404, 21-5405,
28 21-5406 and ~~subsections (a) and (b) of 21-5413(a) and (b), and~~
29 amendments thereto, "person" and "human being" also mean an unborn
30 child.

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

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

37 (f) This section shall be known as Alexa's law, and the amendments
38 to this section by this act shall be known as the abolish abortion Kansas
39 act.

40 Sec. 2. K.S.A. 60-1901 is hereby amended to read as follows: 60-
41 1901. (a) If the death of a person is caused by the wrongful act or omission
42 of another, an action may be maintained for the damages resulting
43 therefrom if the former might have maintained the action had such person

1 lived, in accordance with the provisions of this article, against the
2 wrongdoer, or such wrongdoer's personal representative if such wrongdoer
3 is deceased.

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

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

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

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

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

20 (3) ~~the lawful dispensation or administration of lawfully prescribed~~
21 ~~medication; or~~

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

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

28 New Sec. 3. The amendments to K.S.A. 21-5419 and 60-1901 by this
29 act shall only apply prospectively and shall not apply to any conduct
30 committed prior to July 1, 2026.

31 Sec. 4. K.S.A. 21-5419 and 60-1901 are hereby repealed.

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