Session of 2025

HOUSE BILL No. 2171

By Representatives Poetter Parshall, Fairchild and Schwertfeger

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

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

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

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

WHEREAS, The Constitution of the United States provides, "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." Art. VI, Clause 2; and

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

WHEREAS, 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; and

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

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

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Provisions that may allow a person to aid, advise, hire, counsel or procure a mother to abort her child should be repealed.

Now, therefore:

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

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

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

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

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

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

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

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

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

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

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

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

child.

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

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

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

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

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

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

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

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

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

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

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

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

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

conduct committed prior to July 1, 2025.

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

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