

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2004

HOUSE BILL No. 2552

By Committee on Federal and State Affairs

1-22

12 AN ACT amending and supplementing the Kansas criminal code;
13 enacting the unborn victims of violence act, ~~concerning the crime~~
14 ~~of injury to a pregnant woman; amending~~ [concerning certain
15 crimes against a pregnant woman or a fetus; amending K.S.A.
16 21-3441 and] K.S.A. 2003 Supp. 21-3440 and repealing the ex-
17 isting section [sections].
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19 *Be it enacted by the Legislature of the State of Kansas:*

20 ~~New Section 1. (a) This act Sections 1 through 4, and amend-~~
21 ~~ments thereto~~, shall be known and may be cited as the unborn victims
22 of violence act.

23 ~~(b) As used in this section:~~

24 ~~(1) "Abortion" means an abortion as defined by K.S.A. 65-6701, and~~
25 ~~amendments thereto.~~

26 ~~(2) "Conception" means the fusion of a human spermatozoon with a~~
27 ~~human ovum.~~

28 ~~(3) "Unborn child" means a living fetus in utero at any stage of de-~~
29 ~~velopment or gestation from conception until live birth.~~

30 ~~(c) This section shall not apply to:~~

31 ~~(1) Any act committed by the mother of the unborn child;~~

32 ~~(2) any medical procedure, including abortion, performed by a phy-~~
33 ~~sician or other licensed medical professional at the request of the preg-~~
34 ~~nant woman or her legal guardian; or~~

35 ~~(3) the lawful dispensation or administration of lawfully prescribed~~
36 ~~medication.~~

37 ~~Sec. 2. As used in the Kansas criminal code, "person" and "human~~
38 ~~being" also mean an unborn child.~~

39 ~~Sec. 3. The provisions of this act shall be part of and supplemental~~
40 ~~to the Kansas criminal code.~~

41 ~~Sec. 4. The provisions of this act are declared to be severable and if~~
42 ~~any provision, word, phrase or clause of the act of the application thereof~~
43 ~~to any person shall be held invalid, such invalidity shall not affect the~~

1 validity of the remaining portions of this act.

2 ~~Sec. 5.~~ [Section 1.] K.S.A. 2003 Supp. 21-3440 is hereby
3 amended to read as follows: 21-3440. (a) Injury to a pregnant
4 woman is injury to a pregnant woman by a person other than the
5 pregnant woman in the commission of a felony or misdemeanor
6 causing the pregnant woman to suffer a miscarriage as a result of
7 that injury [or causing injury to the fetus resulting in serious defect
8 or disfigurement which exists at birth].

9 (b) As used in this section, ~~“miscarriage”~~ [(1) “Fetus” means
10 the live product of human conception in utero.

11 (2) “Miscarriage”] means the interruption of the normal de-
12 velopment of the fetus, other than by a live birth, resulting in the
13 complete expulsion or extraction from a pregnant woman of a
14 product of human conception.

15 (c) Injury to a pregnant woman in the commission of a felony
16 is a severity level ~~4~~ 3, person felony. Injury to a pregnant woman
17 in the commission of a violation of K.S.A. 21-3412, subsection (a)(1)
18 of K.S.A. 21-3413, ~~subsections (b)(1) and (b)(2) of K.S.A. 2003 Supp.~~
19 ~~21-3412a~~ or K.S.A. 21-3517, and amendments thereto, or a violation
20 of K.S.A. 2003 Supp. 21-3412a, and amendments thereto, punishable pur-
21 suant to subsection (b)(1) or (b)(2) of that statute, is a severity level ~~5~~
22 4, person felony. Injury to a pregnant woman in the commission
23 of a misdemeanor other than a violation of K.S.A. 21-3412, sub-
24 section (a)(1) of K.S.A. 21-3413 ~~subsections (b)(1) and (b)(2) of K.S.A.~~
25 ~~2003 Supp. 21-3412a~~ or K.S.A. 21-3517, and amendments thereto,
26 or a violation of K.S.A. 2003 Supp. 21-3412a, and amendments thereto,
27 punishable pursuant to subsection (b)(1) or (b)(2) of that statute, is a
28 class A person misdemeanor.

29 (d) The provisions of this section shall be part of and supple-
30 mental to the Kansas criminal code.

31 [Sec. 2. K.S.A. 21-3441 is hereby amended to read as follows:
32 21-3441. (a) Injury to a pregnant woman by vehicle is injury to a
33 pregnant woman by a person other than the pregnant woman in
34 the unlawful operation of a motor vehicle causing the pregnant
35 woman to suffer a miscarriage as a result of that injury or causing
36 injury to the fetus resulting in serious defect or disfigurement which exists
37 at birth.

38 [(b) As used in this section, ~~“miscarriage”~~:

39 [(1) “Fetus” means the live product of human conception in utero.

40 [(2) “Miscarriage” means the interruption of the normal devel-
41 opment of the fetus, other than by a live birth, resulting in the
42 complete expulsion or extraction from a pregnant woman of a
43 product of human conception.

1 **[(c) (1) Injury to a pregnant woman by vehicle while committing a violation of K.S.A. 8-1567 and amendments thereto is a severity level 5, person felony.]**

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4 **[(2) Injury to a pregnant woman by vehicle while committing a violation of law related to the operation of a motor vehicle other than K.S.A. 8-1567 and amendments thereto is a class A person misdemeanor.]**

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8 **[(d) The provisions of this section shall be part of and supplemental to the Kansas criminal code.]**

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10 **[New Sec. 3. (a) Causing injury or death to a fetus is causing, in the commission of a felony or misdemeanor by a person other than the pregnant woman, miscarriage of a fetus or injury to a fetus resulting in serious defect or disfigurement which exists at birth.]**

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14 **[(b) As used in this section:**

15 **[(1) “Fetus” means the live product of human conception in utero.]**

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17 **[(2) “Miscarriage” means the interruption of the normal development of a fetus, other than by a live birth, resulting in the complete expulsion or extraction from the pregnant woman of a product of human conception.]**

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21 **[(c) (1) Causing injury or death to a fetus in the commission of a felony is a severity level 4, person felony.]**

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23 **[(2) Causing injury or death to a fetus in the commission of a violation of K.S.A. 21-3412, subsection (a)(1) of K.S.A. 21-3413 or K.S.A. 21-3517, and amendments thereto, or a violation of K.S.A. 2003 Supp. 21-3412a, and amendments thereto, punishable pursuant to subsection (b)(1) or (b)(2) of that statute, is a severity level 5, person felony.]**

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28 **[(3) Causing injury or death to a fetus in the commission of a misdemeanor other than a violation of K.S.A. 21-3412, subsection (a)(1) of K.S.A. 21-3413 or K.S.A. 21-3517, and amendments thereto, or a violation of K.S.A. 2003 Supp. 21-3412a, and amendments thereto, punishable pursuant to subsection (b)(1) or (b)(2) of that statute, is a class A person misdemeanor.]**

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34 **[(d) The provisions of this section shall be part of and supplemental to the Kansas criminal code.]**

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37 **[New Sec. 4. (a) Causing injury or death to a fetus by vehicle is causing, in the unlawful operation of a vehicle by a person other than the pregnant woman, miscarriage of a fetus or injury to a fetus resulting in serious defect or disfigurement which exists at birth.]**

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41 **[(b) As used in this section:**

42 **[(1) “Fetus” means the live product of human conception in utero.]**

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1 **[(2) “Miscarriage” means the interruption of the normal de-**
2 **velopment of a fetus, other than by a live birth, resulting in the**
3 **complete expulsion or extraction from the pregnant woman of a**
4 **product of human conception.**

5 **[(c) (1) Causing injury or death to a fetus by vehicle while com-**
6 **mitting a violation of K.S.A. 8-1567 and amendments thereto is a**
7 **severity level 5, person felony.**

8 **[(2) Causing injury or death to a fetus by vehicle while com-**
9 **mitting a violation of law related to the operation of a motor ve-**
10 **hicle other than K.S.A. 8-1567, and amendments thereto, is a class**
11 **A person misdemeanor.**

12 **[(d) The provisions of this section shall be part of and supple-**
13 **mental to the Kansas criminal code.]**

14 **Sec. 6: [5.] [K.S.A. 21-3441 and] K.S.A. 2003 Supp. 21-3440 is**
15 **[are] hereby repealed.**

16 **Sec. 5: 7: [6.]** This act shall take effect and be in force from and after
17 its publication in the statute book.