

SENATE BILL No. 142

AN ACT concerning abortion; relating to civil actions related to the performance of abortions; amending K.S.A. 60-1901 and repealing the existing section.

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

New Section 1. (a) No civil action may be commenced in any court for a claim of wrongful life or wrongful birth, and no damages may be recovered in any civil action for any physical condition of a minor that existed at the time of such minor's birth if the damages sought arise out of a claim that a person's action or omission contributed to such minor's mother not obtaining an abortion.

(b) Nothing in this section shall be deemed to create any new cause of action, nor preclude any otherwise proper cause of action based on a claim that, but for a person's wrongful action or omission, the death or physical injury of the mother would not have occurred, or the handicap, disease or disability of an individual prior to birth would have been prevented, cured or ameliorated in a manner that preserved the health and life of such individual.

(c) 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 can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

(d) As used in this section:

(1) "Abortion" has the same meaning as such term is defined in K.S.A. 65-6701, and amendments thereto.

(2) "Claim of wrongful birth" means a cause of action brought by a parent, legal guardian or other individual legally required to provide for the support of a minor, which seeks damages, whether economic or non-economic, as a result of a physical condition of such minor that existed at the time of such minor's birth, and which is based on a claim that a person's action or omission contributed to such minor's mother not obtaining an abortion.

(3) "Claim of wrongful life" means a cause of action brought by, or on behalf of, a minor, which seeks damages, whether economic or non-economic, for such minor as a result of a physical condition of such minor that existed at the time of such minor's birth, and which is based on a claim that a person's action or omission contributed to such minor's mother not obtaining an abortion.

Sec. 2. K.S.A. 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 ~~he or she~~ *such person* lived, in accordance with the provisions of this article, against the wrongdoer, or ~~his or her~~ *such wrongdoer's* personal representative if ~~he or she~~ *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 of an unborn child by means of:*

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

(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.*

(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 can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.*

Sec. 3. K.S.A. 60-1901 is hereby repealed.

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

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.