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Opposing HCR 5004
House Federal and State Affairs Committee
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Planned Parenthood Great Plains Votes, the advocacy and political arm of Planned Parenthood in Kansas, strongly opposes HCR 5004. HCR 5004 proposes to amend the Equal Rights clause of the Kansas Constitution to grant fundamental constitutional rights to fertilized eggs, giving them the same legal rights and constitutional protections as people living in the state—without exception. The goal of this amendment is to effectively outlaw abortion in the state of Kansas. This bill could also prohibit doctors from offering in-vitro fertilization and other assisted reproductive services; ban many forms of birth control, including IUDs and emergency contraception; interfere with a doctor’s ability to treat miscarriages and ectopic pregnancies; and give state actors the power to control, detain, arrest, and surveille a pregnant person from the moment she has a fertilized egg inside of her.

HCR 5004 is an extreme measure that could interfere with personal, private medical decisions about birth control, fertility treatments, and access to safe, legal abortion.

- By giving legal rights to fertilized eggs, this bill could restrict access to emergency contraception for women in Kansas, including survivors of rape and incest.
- Access to many common forms of birth control, such as IUDs, could be restricted.
- HCR 5004 could create a legal quagmire for any doctor who needs to provide specialized medical care to a pregnant woman. For example, a woman with cancer could be denied access to life-saving medical treatment because it could endanger her pregnancy.
- HCR 5004 could interfere with access to in-vitro fertilization for Kansas couples who want to start their own families.
- The claim that fertilized eggs, embryos, and fetuses should be treated as if they are already separate persons has been used in a number of states to force caesarean surgeries on women against their will.

HCR 5004 also opens the door for miscarriages to be investigated.

- Early pregnancy loss, or miscarriage, is common, occurring in 10 percent of all clinically recognized pregnancies. Approximately 80 percent of all cases of pregnancy loss occur within the first trimester¹.
- The proposed bill could trigger government investigations into women and their medical providers for miscarriages. A woman experiencing a miscarriage or ectopic pregnancy may need emergency

¹American College of Obstetricians and Gynecologists (2018). ACOG Practice Bulletin No. 200.
<https://www.acog.org/Clinical-Guidance-and-Publications/Practice-Bulletins/Committee-on-Practice-Bulletins-Gynecology/Early-Pregnancy-Loss>

treatment to prevent serious damage to her health or to save her life. This legislation would effectively tie a doctor's hands rather than allowing them to treat their patient without fear of prosecution.

- Pregnant women who suffer complications or miscarriages could be subject to criminal investigations and possible jail time for homicide, manslaughter or reckless endangerment. This is a clear and extreme violation of medical privacy.
- Any actions having a negative effect on pregnancy, even in the first few weeks, could be prosecuted. A woman who is unaware she is pregnant could face similar consequences if she chooses to drink alcohol, engage in strenuous physical exercise, or other activities which might result in harm to the fetus.
- Police officers and prosecutors might investigate or prosecute miscarriages deemed "suspicious."

HCR 5004 could impact the definition and reporting of child abuse. Actions that either intentionally or inadvertently endanger the welfare of an embryo or fetus could be considered child abuse. This has implications for possible charges against women, as well as doctors and other medical professionals who might be required to report child abuse.

HCR 5004 could effectively remove pregnant people from the protections of every state law and make them the subject of every criminal law that references children.

- It could give state actors the power to use the criminal law, the civil child welfare law, the civil commitment law power, and a range of others to control, detain, arrest, and surveil a woman from the moment she has a fertilized egg inside of her.
- Private actors such as boyfriends and husbands could try to use the judicial system to similarly control a woman if she was carrying a fertilized egg.

HCR 5004 would impact thousands of laws unrelated to abortion, leading to unforeseeable and unintended consequences.

- Because this bill would effectively define "human being" under the Kansas constitution as including fertilized eggs, it could impact literally thousands of laws unrelated to abortion, from when property rights are granted, to inheritance rights, to criminal laws, to who can file a lawsuit, leading to unforeseeable and unintended consequences.
- Because of its broad implications, it would allow lawyers and courts to reinterpret every state law and regulation that contains the word person, clogging our courts and allowing for lawsuits against anyone associated with women's health care.

HCR 5004 is intended to ban all abortion, without exception. The U.S. Supreme Court has reaffirmed for close to half a century that every woman has a constitutional, fundamental right to abortion and that states may not ban access pre-viability. Defining a fertilized egg as a "person" under the Kansas Constitution is a blatant attempt to ban access to safe, legal abortion in Kansas should *Roe v. Wade* ever be overturned.

"Personhood" measures are extremely unpopular and have been defeated by voters from Colorado to Mississippi to North Dakota.

- HCR 5004 is not what the public wants—and that's why voters from Colorado to Mississippi to North Dakota have rejected these so-called "personhood" measures. In fact, "personhood" supporters in Ohio, Florida, Nevada, Colorado, California, Oregon, and Montana have failed to get enough signatures to even get a "personhood" measure on the ballot—illustrating the overwhelming majority who disagree with it.
- In Colorado, voters defeated a 2014 ballot initiative that would have included unborn human beings under the definition of "person" and "child" throughout the Colorado criminal code. Previous attempts

in 2008 and 2010 to enact “personhood” in Colorado had been rejected by more than 70 percent of the voters.

- In 2011, Mississippi voters overwhelmingly rejected a “personhood” initiative by a margin of 16 points.
- In North Dakota in 2014, voters overwhelmingly defeated a ballot measure to amend their constitution to define fertilized eggs as persons under state law.

Banning all abortions without exception does not reflect the values of most Kansans. In a November 2018 poll from the Associated Press and Fox News², 53 percent of Kansans said that abortion should be legal in all or most cases. In a February 2018 survey from Public Policy Polling, only 38 percent of Kansans said they would support a constitutional amendment restricting access to abortion. HCR 5004 is not in line with Kansas values.

Decisions about whether to end a pregnancy are deeply personal, and should be left to a woman in consultation with her health care provider, her family, and her faith. Planned Parenthood’s top priority is making sure that every woman no matter where she lives can make her own personal, private health care decisions without government interference.

The issue of when life begins is also personal. For some, it is based on faith, and for others, it is based on science. HCR 5004 attempts to enshrine one definition of “personhood” into our state constitution, and its implications would go far beyond abortion rights. We strongly urge the committee to reject HCR 5004.

² Voter Analysis - Fox News Midterms 2018. <https://www.foxnews.com/midterms-2018/voter-analysis?filter=KS&type=G#>