

## HOUSE BILL No. 2737

By Committee on Federal and State Affairs

Requested by Representative Jacobs

2-7

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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 exceptions to wrongful death cause of action for  
4 the death of an unborn child; amending K.S.A. 21-5206 and 21-5419  
5 and K.S.A. 2023 Supp. 60-1901 and repealing the existing sections.  
6

7 WHEREAS, The 14<sup>th</sup> Amendment to the constitution of the United  
8 States requires that "[n]o state ... shall deny to any person within its  
9 jurisdiction the equal protection of the laws"; and

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

12 WHEREAS, To ensure the right to life and equal protection of the laws,  
13 all preborn children should be protected with the same criminal and civil  
14 laws protecting the lives of born persons by repealing provisions that  
15 permit prenatal homicide and battery; and

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

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

20 WHEREAS, Provisions should be repealed that may allow a person to  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

22 Now, therefore:

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

24 Section 1. K.S.A. 21-5206 is hereby amended to read as follows: 21-  
25 5206. (a) *Except as provided in subsections (b) and (c)*, a person is not  
26 guilty of a crime other than murder or voluntary manslaughter by reason of  
27 conduct ~~which~~ *that* such person performs under the compulsion or threat  
28 of the imminent infliction of death or great bodily harm, if such person  
29 reasonably believes that death or great bodily harm will be inflicted upon  
30 such person or upon such person's spouse, parent, child, brother or sister if  
31 such person does not perform such conduct.

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

35 (c) *The defense provided by this section is available even when a*

1 *person is charged with murder or voluntary manslaughter if the victim*  
 2 *was an unborn child, as defined in K.S.A. 21-5419, and amendments*  
 3 *thereto, and the defendant is the mother of such unborn child.*

4 Sec. 2. K.S.A. 21-5419 is hereby amended to read as follows: 21-  
 5 5419. (a) As used in this section:

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

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

11 (b) This section shall not apply to: *the unintentional death of an*  
 12 *unborn child when 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 medical procedure, including abortion, performed by a~~  
 18 ~~physician or other licensed medical professional at the request of the~~  
 19 ~~pregnant woman or her legal guardian; or~~

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

22 (c) As used in K.S.A. 21-5401, 21-5402, 21-5403, 21-5404, 21-5405,  
 23 21-5406 and ~~subsections (a) and (b) of 21-5413(a) and (b), and~~  
 24 ~~amendments thereto,~~ "person" and "human being" also mean an unborn  
 25 child.

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

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

33 (f) *If any provision of state law conflicts with this section, the*  
 34 *provisions of this section shall prevail.*

35 Sec. 3. K.S.A. 2023 Supp. 60-1901 is hereby amended to read as  
 36 follows: 60-1901. (a) If the death of a person is caused by the wrongful act  
 37 or omission of another, an action may be maintained for the damages  
 38 resulting therefrom if the former might have maintained the action had  
 39 such person lived, in accordance with the provisions of this article, against  
 40 the wrongdoer, or such wrongdoer's personal representative if such  
 41 wrongdoer is deceased.

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

1 child.

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

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

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

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

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

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

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

23 New Sec. 4. The amendments to K.S.A. 21-5206 and 21-5419 and  
24 K.S.A. 2023 Supp. 60-1901, and amendments thereto, that are enacted by  
25 this act shall only apply prospectively and shall not apply to any conduct  
26 committed prior to July 1, 2024.

27 Sec. 5. K.S.A. 21-5206 and 21-5419 and K.S.A. 2023 Supp. 60-1901  
28 are hereby repealed.

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