AN ACT concerning abortion; prohibiting decapitation of unborn children.

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

Section 1. (a) As used in this section:
(1) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth or to preserve the life or health of the child after live birth.

(2) "Decapitation abortion" means, with the purpose of causing the death of an unborn child, knowingly using any instrument or procedure to:
(A) Separate the cranium of a living unborn child from its spine; or (B) collapse the cranium of a living unborn child.

(3) "Knowingly" shall have the same meaning attributed to such term in K.S.A. 2014 Supp. 21-5202, and amendments thereto.

(4) "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the woman or for which a delay necessary to comply with the applicable statutory requirements will create serious risk of substantial and irreversible physical impairment of a major bodily function. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible physical impairment of a major bodily function.

(b) No person shall perform, or attempt to perform, a decapitation abortion on an unborn child unless: (1) The decapitation abortion is necessary to preserve the life of the pregnant woman; or (2) the decapitation abortion is necessary to prevent a substantial and irreversible physical impairment of a major bodily function of the pregnant woman. No condition shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct that would result in her death or in substantial and irreversible physical impairment of a major bodily function.

(c) No woman upon whom a decapitation abortion is performed or attempted to be performed shall be liable for performing or attempting to
perform a decapitation abortion.

(d) The attorney general or any district or county attorney with appropriate jurisdiction may bring a cause of action for injunctive relief against a person who has performed or attempted to perform a decapitation abortion in violation of this section. Any injunctive relief ordered pursuant to an action filed under this section shall prohibit the defendant from performing or attempting to perform any decapitation abortions in violation of this section.

(e) (1) A woman upon whom a decapitation abortion is performed in violation of this section, the father, if married to the woman at the time of the abortion, and, if the woman has not attained the age of 18 years at the time of the abortion, the parents or custodial guardian of the woman, may in a civil action obtain appropriate relief, unless, in a case where the plaintiff is not the woman upon whom the abortion was performed, the pregnancy resulted from the plaintiff's criminal conduct.

(2) Such relief shall include:

(A) Money damages for all injuries, psychological and physical, occasioned by the violation of this section;

(B) statutory damages equal to three times the cost of the abortion;

and

(C) reasonable attorney fees.

(f) Upon a first conviction of a violation of this section, a person shall be guilty of a class A person misdemeanor. Upon a second or subsequent conviction of a violation of this section, a person shall be guilty of a severity level 10, person felony.

(g) Nothing in this section shall be construed as creating or recognizing a right to abortion, nor a right to a particular method of abortion.

(h) If any provision of this section is held invalid or unconstitutional, such invalidity shall not affect other provisions of this section which can be given effect without the invalid provision, and to this end the provisions of this section are declared to be severable.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.