

HOUSE BILL No. 2417

By Committee on Federal and State Affairs

3-23

1 AN ACT concerning abortion; prohibiting decapitation of unborn children.

2
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) As used in this section:

5 (1) "Abortion" means the use or prescription of any instrument,
6 medicine, drug or any other substance or device to terminate the
7 pregnancy of a woman known to be pregnant with an intention other than
8 to increase the probability of a live birth or to preserve the life or health of
9 the child after live birth.

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

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

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

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

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

1 perform a decapitation abortion.

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

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

16 (2) Such relief shall include:

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

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

21 (C) reasonable attorney fees.

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

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

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

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