

HOUSE RESOLUTION No. 6003

A RESOLUTION requiring the attorney general to bring action to determine certain issues of law concerning unborn children and to seek a permanent injunction to prohibit the expenditure of state funds for the purpose of terminating the lives of innocent human beings including the unborn.

WHEREAS, The constitution of Kansas provides for the basic organization of state government, defines and limits the powers of the state and guarantees certain fundamental rights to all men; and

WHEREAS, The Bill of Rights of the constitution is a declaration of the basic rights of all men that may not be denied or infringed upon by the state or any local government; and

WHEREAS, The United States Supreme Court holds that the very purpose of a Bill of Rights is to withdraw certain subjects from political debate, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. (See *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 638 (1943)); and

WHEREAS, Section one of the Bill of Rights of the constitution of Kansas states that “All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.” The right to life, logically enumerated first, is the basic, most fundamental right without which all others are meaningless; and

WHEREAS, The term “men” is accepted to include adult males, women, and children, in other words, all human beings; and

WHEREAS, All medical and scientific evidence acknowledges and affirms that children before birth share all the basic attributes of human personality—that they in fact are identifiable individual human beings; the unborn child is considered a person for purposes of qualifying for medical care under the federal medicaid program; modern medicine treats unborn children as patients; through ultrasound imaging and other techniques we can see the child’s amazing development; by using DNA profiling, before birth, indeed, even before the new being is implanted in her mother’s womb, we can be absolutely sure we are monitoring the same individual from conception/fertilization through the various stages of growth; and

WHEREAS, The legislature of the state of Kansas has acknowledged, even as recently as 1994, that a human being exists before birth by requiring the postponement of the execution of a pregnant convict “until the child is born.” [K.S.A. 22-4009 (b)]; and

WHEREAS, The Kansas supreme court acknowledged in *Smith v. Deppish*, 248 Kansas 217, 231 (1991) that “we humans create human offspring by transferring our DNA to our children” and that this is done “during reproduction...,” also known biologically as fertilization or conception, or both. The Court further acknowledged in *Smith v. Deppish*, 248 Kansas 217, 232 (1991) that “each person’s” DNA can be “individualized”; and

WHEREAS, A controversy now exists when the pregnancy of a woman constitutes the presence of a second person in order to qualify for medicaid while at the same time allowing such funds to be expended for the purpose of terminating the life of that “second person” as well as the lives of other preborn human beings. Through the use of matching funds in, and the administration of, the medicaid program and the use of state facilities in the termination of the lives of innocent human beings, the state has become a direct party in violating section 1 of the Bill of Rights of the constitution of Kansas; and

WHEREAS, This matter involves issues of law which have never been resolved by the courts of the state of Kansas except to the extent questions have been raised in the Kansas Supreme Court by *City of Wichita vs. Elizabeth A. Tilson*, 253 Kansas 285 (1991): Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That, based on undeniable medical, biological and scientific facts, we do hereby acknowledge and affirm that the unborn children in the state of Kansas have an equal and inalienable right to life from conception/fertilization and that allowing the termination of the lives of innocent human beings even before birth violates section 1 of the Bill of Rights of the Kansas Constitution; and

Be it further resolved: That in accordance with K.S.A. 75-702, the attorney general of the state of Kansas, on and after February 1, 2003, shall be and is hereby required to seek final resolution of this issue in the supreme court of the state of Kansas and such other courts as may be warranted; the attorney general is further directed to bring action in mandamus and *quo warranto* against the governor as chief executive officer of the state and the secretary of social and rehabilitation services as administrative officer of the medicaid program in Kansas for the granting of a prospective permanent injunction barring the defendants from expending state funds for the purpose of paying for the termination of the lives of innocent human beings, whether in utero or ex utero; and the attorney general is further directed and ordered to plead to the court that upon conception/fertilization there is life, that this life is that of a human being and to further plead to the court to acknowledge and affirm that this human being is an “individual,” a “man” under the constitution of the state of Kansas. The most recent medical, biological, and scientific facts and developments, especially those concerning the beginning of life and the incontestable reliance on DNA profiling as a positive means of identification, must be presented to the court in support of the above mentioned plea.

I hereby certify that the above RESOLUTION originated in the HOUSE, and was adopted by that body

Speaker of the House.

Chief Clerk of the House.