

[As Amended by House Committee of the Whole]

Session of 2004

HOUSE Substitute for SENATE BILL No. 280

By Committee on Federal and State Affairs

3-24

10 AN ACT enacting the unborn victims of violence act [**defining the**
11 **crimes of causing injury or death to an unborn child and causing**
12 **injury or death to an unborn child by vehicle; providing penal-**
13 **ties for violations**].

14

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

16 Section 1. (a) This act shall be known and may be cited as the unborn
17 victims of violence act.

18 ~~(b) As used in this section:~~

19 ~~(1) "Abortion" means an abortion as defined by K.S.A. 65-6701, and~~
20 ~~amendments thereto.~~

21 ~~(2) "Conception" means the fusion of a human spermatozoon with a~~
22 ~~human ovum.~~

23 ~~(3) "Unborn child" means a living fetus in utero at any stage of de-~~
24 ~~velopment or gestation from conception until live birth.~~

25 ~~(c) This section shall not apply to:~~

26 ~~(1) Any act committed by the mother of the unborn child;~~

27 ~~(2) any medical procedure, including abortion, performed by a phy-~~
28 ~~sician or other licensed medical professional at the request of the preg-~~
29 ~~nant woman or her legal guardian; or~~

30 ~~(3) the lawful dispensation or administration of lawfully prescribed~~
31 ~~medication.~~

32 ~~Sec. 2. As used in the Kansas criminal code, "person" and "human~~
33 ~~being" also mean an unborn child.~~

34 ~~(b) As used in this act:~~

35 ~~(1) "Fetal demise" means termination of a pregnancy such~~
36 ~~that death of the fetus occurs.~~

37 ~~(2) "Fetus" means a member of the species homo sapiens who~~
38 ~~is carried in the womb.~~

39 ~~(3) "Unborn child" means a living fetus in utero at any stage~~
40 ~~of development or gestation from conception until live birth.~~

41 **[Sec. 2. (a) Causing injury or death to an unborn child is caus-**
42 **ing, in the commission of a felony or misdemeanor, fetal demise**
43 **or injury to a fetus resulting in serious defect or disfigurement**

1 **which exists at birth.**

2 **[(b) The provisions of this section shall not apply to:**

3 **[(1) Any act committed by the mother of the unborn child;**

4 **[(2) any medical procedure, including abortion, performed by**
5 **a licensed physician or other licensed medical professional at the**
6 **request of the pregnant woman or her legal guardian; or**

7 **[(3) the lawful dispensation or administration of lawfully pre-**
8 **scribed medication.**

9 **[(c) (1) Causing injury or death to an unborn child in the com-**
10 **mission of a felony is a severity level 4, person felony.**

11 **[(2) Causing injury or death to an unborn child in the commis-**
12 **sion of a violation of K.S.A. 21-3412, subsection (a)(1) of K.S.A. 21-**
13 **3413 or K.S.A. 21-3517, and amendments thereto, or a violation of**
14 **K.S.A. 2003 Supp. 21-3412a, and amendments thereto, punishable**
15 **pursuant to subsection (b)(1) or (b)(2) of that statute, is a severity**
16 **level 5, person felony.**

17 **[(3) Causing injury or death to an unborn child in the commis-**
18 **sion of a misdemeanor other than a violation of K.S.A. 21-3412,**
19 **subsection (a)(1) of K.S.A. 21-3413 or K.S.A. 21-3517, and amend-**
20 **ments thereto, or a violation of K.S.A. 2003 Supp. 21-3412a, and**
21 **amendments thereto, punishable pursuant to subsection (b)(1) or**
22 **(b)(2) of that statute, is a class A person misdemeanor.**

23 **[Sec. 3. (a) Causing injury or death to an unborn child by ve-**
24 **hicle is causing, in the unlawful operation of a motor vehicle, fetal**
25 **demise or injury to a fetus resulting in serious defect or disfigure-**
26 **ment which exists at birth.**

27 **[(b) The provisions of this section shall not apply to any act**
28 **committed by the mother of the unborn child.**

29 **[(c) (1) Causing injury or death to an unborn child by vehicle**
30 **while committing a violation of K.S.A. 8-1567, and amendments**
31 **thereto, is a severity level 5, person felony.**

32 **[(2) Causing injury or death to an unborn child by vehicle while**
33 **committing a violation of law related to the operation of a motor**
34 **vehicle other than K.S.A. 8-1567, and amendments thereto, is a**
35 **class A person misdemeanor.]**

36 **Sec. ~~3~~ [4.] The provisions of this act shall be part of and supple-**
37 **mental to the Kansas criminal code.**

38 **Sec. ~~4~~ [5.] The provisions of this act are declared to be severable**
39 **and if any provision, word, phrase or clause of the act of the application**
40 **thereof to any person shall be held invalid, such invalidity shall not affect**
41 **the validity of the remaining portions of this act.**

42 **Sec. ~~5~~ [6.] This act shall take effect and be in force from and after**
43 **its publication in the statute book.**