

HOUSE RESOLUTION No. 6019

By Representatives Lukert and Williams

3-27

9 A RESOLUTION requiring the attorney general to bring action to de-
10 termine certain issues of law concerning unborn children and to seek
11 a permanent injunction to prohibit the expenditure of state funds for
12 the purpose of terminating the lives of innocent human beings includ-
13 ing the unborn whether in utero or ex utero.

14
15 WHEREAS, The constitution of Kansas provides for the basic organ-
16 ization of state government, defines and limits the powers of the state
17 and guarantees certain fundamental rights to all men; and

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

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

26 WHEREAS, The term “men” is accepted to include adult males,
27 women and children, in other words all human beings [see *Ex Parte*
28 *Dunkerton*, 104 Kan. 481, 179 P.347 (1919); *Pauley v. Gross*, 1 Kan.
29 App.2d 736, 574 P.2d 234 (1977); and *In re Gordon’s Estate*, 183 Kan.
30 238, 246, 326 P.2d 264,270 (1958)]; and

31 WHEREAS, In 1854 the first territorial legislature enacted three laws
32 that protected preborn children. All three laws were again enacted by the
33 first state legislature in 1861. The first of these made it a misdemeanor
34 to commit the act of abortion unless it was necessary to preserve the
35 mother’s life. One made the willful killing of an unborn quick child by
36 injury to the mother manslaughter in the first degree. The third pre-
37 scribed a penalty of manslaughter in the second degree for merely at-
38 tempting an abortion after “quickening”. It was presumed that quickening
39 was the only way to prove that a child was alive in the womb; and

40 WHEREAS, All medical and scientific evidence now acknowledges
41 and affirms that children before birth share all the basic attributes of
42 human personality—that they in fact are identifiable individual human
43 beings; the unborn child is considered a person for purposes of qualifying

1 for medical care under the federal medicaid program; modern medicine
2 treats unborn children as patients; through ultrasound imaging and other
3 techniques we can see the child's amazing development; by using DNA
4 profiling, before birth, indeed, even before the new being is implanted
5 in her mother's womb, we can be absolutely sure we are monitoring the
6 same individual from conception/fertilization through the various stages
7 of growth; and

8 WHEREAS, The state of Kansas acknowledges that a human being
9 exists before birth by requiring the postponement of the execution of a
10 pregnant convict "until the child is born." [K.S.A. 22-4009 (b)]; and

11 WHEREAS, The House of Representatives of The State of Kansas did
12 acknowledge during the 2005 legislative session that an unborn child is
13 in existence at any stage of development from conception/fertilization and
14 that this unborn child is a person and/or a human being as used in the
15 Kansas criminal code. [HB 2300, the unborn victims of violence act,
16 passed by a vote of 85 in favor with 38 against. (House Journal 3-24-
17 2005)]; and

18 WHEREAS, The Kansas Supreme Court acknowledged in *Smith v.*
19 *Deppish*, 248 Kan. 217, 231 (1991) that "we humans create human off-
20 spring by transferring our DNA to our children" and that this is done
21 "during reproduction...", also known biologically as fertilization or con-
22 ception, or both. The court further acknowledged in *Smith v. Deppish*,
23 248 Kan. 217, 232 (1991) that "each person's" DNA can be "individual-
24 ized"; and

25 WHEREAS, A controversy now exists when the state of Kansas ex-
26 pends state funds for the purpose of terminating the lives of preborn
27 human beings. Through the use of matching funds in, and the adminis-
28 tration of, the medicaid and healthwave programs and the use of state
29 funds to finance the major portion of the premiums for state employees
30 health care many of which pay for the termination of the lives of innocent
31 human beings, the state has become a direct party in violating section 1
32 of the Bill of Rights of the constitution of Kansas; and

33 WHEREAS, This matter involves issues of law which have never been
34 resolved by the courts of the state of Kansas except to the extent questions
35 have been raised in the Kansas Supreme Court by *City of Wichita vs.*
36 *Elizabeth A. Tilson*, 253 Kan. 285 (1991) and *State v. Kleypas*, 272 Kan.
37 894, 1051-52, 40 P.3d 139, 253 (2001): Now, therefore,

38 *Be it resolved by the House of Representatives of the State of Kan-*
39 *sas:* That, based on undeniable medical, biological and scientific facts,
40 we do hereby acknowledge and affirm that the unborn children in the
41 state of Kansas have an equal and inalienable right to life from conception/
42 fertilization and that allowing and expending state funds for the termi-
43 nation of the lives of innocent human beings even before birth violates

1 section 1 of the Bill of Rights of the Kansas Constitution; and
2 *Be it further resolved:* That in accordance with K.S.A. 75-702, and
3 amendments thereto, the attorney general of the state of Kansas no later
4 than 90 days from passage of this resolution, it hereby required to begin
5 proceedings to seek resolution of this issue in the supreme court of the
6 state of Kansas and to prosecute the case vigorously; the attorney general
7 is further directed to bring action in mandamus and quo warranto against
8 the governor as chief executive officer of the state and the secretary of
9 the Kansas Department of Administration and the director of the Division
10 of Health Policy and Finance as administrative officers of health programs
11 in Kansas for the granting of a prospective permanent injunction barring
12 the defendants from expending state funds for the purpose of paying for
13 the termination of the lives of innocent human beings, whether in utero
14 or ex utero; and the attorney general is further directed and ordered to
15 plead to the court that upon conception/fertilization there is life, that this
16 life is that of a human being and to further plead to the court to acknowl-
17 edge and affirm that this human being is an “individual”, a “man” under
18 the constitution of the state of Kansas. The most recent medical, biolog-
19 ical and scientific facts and developments, especially those concerning the
20 beginning of life and the incontestable reliance on DNA profiling as a
21 positive means of identification, must be presented to the court in support
22 of the above mentioned plea.