

Kansas Constitutional Amendment on Regulating Abortions

Regarding the Kansas 2021 Constitutional Amendment to ban abortion, below are links to the committee and chamber hearings and a lot of information. This Concurrent Resolution has passed both the Kansas House and Senate by the required 2/3 vote, and it will be on the August 2, 2022 ballot. A simple majority of voters will rule. The Governor does not have a roll on Constitutional Amendments.

Senate Concurrent Resolution SCR 1602 and House Concurrent Resolution HCR 5003 were identical resolutions – Amending the bill of rights of the constitution of the state of Kansas to reserve to the people the right to regulate abortion through their elected state representatives and senators. The House voted to adopt HCR 5003 before the Senate voted to adopt SCR 1603, so the Senate voted on HCR 5003. Members in both chambers voted along party line: Republicans voting Yea, Democrats No.

SCR 1602 was heard by the [Committee on Judiciary](#) on Fri, January 15, 2021, 11 am – 1:20 pm.
<https://www.youtube.com/watch?v=DxekAtzhm1o>
The Committee Report recommending the resolution be adopted on Tue, January 19, 2021.

HCR 5003 was heard by the [Committee on Federal and State Affairs](#) on January 15, 2021.
<https://www.youtube.com/watch?v=6-sGwjQKKzA>
The Committee Report recommending resolution be adopted on Thu, January, 21, 2021.
The House Emergency Final Action – Adopted: [Yea: 86 Nay: 38](#), Fri, January 22, 2021.
<https://www.youtube.com/watch?v=0dCRHWUUWeY>
The Senate Emergency Final Action – Adopted: [Yea: 28 Nay: 11](#), Thu, January, 28, 2021
https://www.youtube.com/watch?v=e_IKGIzNyLg

Proponents statements vs Opponents statements (Pro vs Opp)

Pro: This Constitutional Amendment just takes us back to before the Hodes decision.

Opp: This Constitutional Amendment takes away women's basic rights to bodily autonomy that have been in our Kansas Constitution since it was ratified in 1859. This amendment will make women second class citizens.

Pro: This Amendment only gives the legislature the right to regulate abortion.

Opp: This Amendment allows the legislature to regulate abortion nearly out of access in Kansas. Several state legislatures are enacting “heartbeat bills” or 6-week bans, when most women don't know they are pregnant. And if the US Supreme Court overturns Roe v Wade, abortion could be illegal, along with most forms of birth control: those that are considered abortifacients.

Pro: The Constitutional Amendment values the mother and the child.

Opp: The Constitutional Amendment allows regulations against abortion to include those who are pregnant by rape or incest or whose life is in danger. This does not value women. Amendments were offered to make exception for regulation if the woman was pregnant by rape or incest or whose life is in danger. The Legislature voted these amendments down.

Pro: The Legislature has passed sound legislation to address abortions.

Opp: The Legislature has been practicing medicine without a medical license. The bill passed which outlawed the method used in second trimester abortions – Dilation and Evacuation, left doctors with

few choices – all more dangerous to women. The bill that requires doctors to tell women that the abortion process can be reversed after taking only one pill is misinformation according to medical research. None of the bills help women that put more requirements for outpatient abortion facilities than other outpatient facilities, 24 hour waiting periods, or gag rules, etc.

Pro: This is something that the people should vote on.

Opp: If they were truthful about wanting the “people” to vote on it, they would have put the issue on the November ballot instead of the partisan, low turnout August ballot. To show the evidence, here are the numbers for the 2020 elections:

August 2020: Dem: 192,963; Rep: 412,925; Other: 7,286.

November 2020: Dem: 357,255; Rep: 652,987; Other 270,463 (source: Votebuilder).

Amendments were introduced to change to the November election, but Republicans voted it down.

Pro: Very few women's lives are in danger due to pregnancy.

Opp: The United States has a high rate of maternal death compared to other developed countries.

<https://www.cdc.gov/reproductivehealth/maternal-mortality/preventing-pregnancy-related-deaths.html>

The rate of ectopic pregnancy ranges from 1% - 4% and is the most common cause of death among women during the first trimester at approximately 10% of the total.

https://en.wikipedia.org/wiki/Ectopic_pregnancy

Life threatening conditions may also develop later in pregnancy. These include conditions like early severe [preeclampsia](#), newly diagnosed [cancer](#) requiring prompt treatment, and intrauterine infection ([chorioamnionitis](#)) often in conjunction with premature rupture of the amniotic sac ([PPROM](#)).

<https://www.kff.org/womens-health-policy/fact-sheet/abortions-later-in-pregnancy/>

Pro: There is no longer a need to abort a baby due to Fetal Anomalies. If need be, they can be fixed in the womb.

Opp: Structural fetal anomalies are often detected much later in pregnancy. As part of routine care, a fetal [anatomy scan](#) is performed around 20 weeks, which entails ultrasound imaging of all the developing organs. Many structural anomalies are discovered at this time that would not have been apparent previously. A proportion of these are [lethal fetal anomalies](#), meaning that the fetus will almost certainly die before or shortly after birth, meaning the fetus may be nonviable.² In these cases, many individuals wish to terminate their pregnancies, rather than carrying the pregnancy until the fetus or newborn passes away. <https://www.kff.org/womens-health-policy/fact-sheet/abortions-later-in-pregnancy/>

Pro: If women don't want to have babies, then they shouldn't have sex. Except for rape, a pregnancy is always a willing act of both the man and the woman.

Opp: Birth control does sometimes fail. Also, pregnancy is always a willing act by the man, but, not always by the woman. For those women in abusive relationships, or (common for pro-lifers; a wife should always submit to the husband), she is not always a willing partner.

Pro: Life begins at conception and we must protect the fetus.

Opp: Religious groups take different positions on abortion and “choice”. Several groups support abortion, including Episcopalians, Evangelical Lutherans, United Methodists, Conservative Judaism, Presbyterians, Reform Judaism, Unitarian Universalists, United Church of Christ. In addition, Islam, Buddhism, National Baptist Convention, and Orthodox Judaism have no clear positions.

<https://www.pewresearch.org/fact-tank/2016/06/21/where-major-religious-groups-stand-on-abortion/>

HOUSE CONCURRENT RESOLUTION No. 5003

A PROPOSITION to amend the bill of rights of the constitution of the state of Kansas by adding a new section thereto stating that there is no constitutional right to abortion, and reserving to the people the ability to regulate abortion through the elected members of the legislature of the state of Kansas.

WHEREAS, This proposition to amend the bill of rights of the constitution of the state of Kansas shall be known and may be cited as the Value Them Both Amendment. Now, therefore: Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: The bill of rights of the constitution of the state of Kansas is hereby amended by adding a new section to read as follows:

"§ 22. Regulation of abortion. Because Kansans value both women and children, the constitution of the state of Kansas does not require government funding of abortion and does not create or secure a right to abortion. To the extent permitted by the constitution of the United States, the people, through their elected state representatives and state senators, may pass laws regarding abortion, including, but not limited to, laws that account for circumstances of pregnancy resulting from rape or incest, or circumstances of necessity to save the life of the mother."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. The Value Them Both Amendment would affirm there is no Kansas constitutional right to abortion or to require the government funding of abortion, and would reserve to the people of Kansas, through their elected state legislators, the right to pass laws to regulate abortion, including, but not limited to, in circumstances of pregnancy resulting from rape or incest, or when necessary to save the life of the mother.

"A vote for the Value Them Both Amendment would affirm there is no Kansas constitutional right to abortion or to require the government funding of abortion, and would reserve to the people of Kansas, through their elected state legislators, the right to pass laws to regulate abortion.

"A vote against the Value Them Both Amendment would make no changes to the constitution of the state of Kansas, and could restrict the people, through their elected state legislators, from regulating abortion by leaving in place the recently recognized right to abortion."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at a special election which is hereby called on August 2, 2022, pursuant to section 1 of article 14 of the constitution of the state of Kansas, to be held in conjunction with the primary election held on such date.

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

http://kslegislature.org/li/b2021_22/measures/documents/hcr5003_enrolled.pdf

SESSION OF 2021
SUPPLEMENTAL NOTE ON HOUSE CONCURRENT RESOLUTION NO. 5003
As Recommended by House Committee on Federal and State Affairs

Brief*

HCR 5003, if adopted by a two-thirds majority of each chamber of the Kansas Legislature and approved by voters, would amend the Kansas Constitution to create a new section in the Bill of Rights concerning the regulation of abortion. The new section would state the Kansas Constitution does not require government funding of abortion and does not create or secure a right to abortion. Further, the language would state, to the extent permitted by the U.S. Constitution, the people of Kansas, through their elected state representatives and senators, may pass laws regarding abortion, including, but not limited to, laws that account for circumstances of pregnancy resulting from rape or incest, or circumstances of necessity when necessary to save the life of the mother.

The resolution requires the following explanatory statement be printed on the ballot with the text of the amendment if it is submitted to voters for their approval:

The Value Them Both Amendment would affirm there is no Kansas constitutional right to abortion or to require the government funding of abortion, and would reserve to the people of Kansas, through their elected state legislators, the right to pass laws to regulate abortion, including, but not limited to, in circumstances of pregnancy resulting from rape or incest, or when necessary to save the life of the mother.

Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

A vote for the Value Them Both Amendment would affirm there is no Kansas constitutional right to abortion or to require the government funding of abortion, and would reserve to the people of Kansas, through their elected state legislators, the right to pass laws to regulate abortion.

A vote against the Value Them Both Amendment would make no changes to the constitution of the state of Kansas and could restrict the people, through their elected state legislators, from regulating abortion by leaving in place the recently recognized right to abortion.

If approved by two-thirds of the Legislature, the text of the resolution and the yea and nay votes of both the Kansas House of Representatives and the Kansas Senate would be published in the journals of both chambers.

The resolution requires the proposed constitutional amendment be submitted to voters at a special election called on August 2, 2022, to be held in conjunction with the primary election held on that date.

Background

2019 Kansas Supreme Court Decision

The proposed constitutional amendment was first introduced in the 2020 Legislative Session after the Kansas Supreme Court's decision in *Hodes & Nauser, MDs, P.A. v. Schmidt*, 309 Kan. 610 (2019) (Hodes), which was released in April 2019. In the decision, the Supreme Court concluded section 1 of the Bill of Rights protects judicially enforceable rights, including a right to personal autonomy that includes the right to decide whether to continue a pregnancy, and a strict scrutiny standard of review should be applied in determining whether a statute infringes on fundamental constitutional rights. The litigation was a challenge to provisions of enacted 2015 SB 95, which prohibited dismemberment, or dilation and evacuation (D&E) method, abortions.

2019 Interim Committee Action

The topic of the resolution was discussed at meetings of both the 2019 Special Committee on Federal and State Affairs and the 2019 Special Committee on Judiciary. Both Special Committees issued recommendations that voters be provided an opportunity to vote on an amendment concerning the language of the Kansas Constitution in light of the Kansas Supreme Court's decision in *Hodes*.

2020 Legislative Session Action (HCR 5019/SCR 1613)

The House Committee on Federal and State Affairs and the Senate Committee on Judiciary held a concurrent hearing on HCR 5019 and SCR 1613 on January 21, 2020.

HCR 5019 was recommended favorably by the House Committee on Federal and State Affairs, but no further action was taken on HCR 5019.

The Senate Committee of the Whole amended SCR1613 to specify the proposed amendment would be submitted to electors at a special election held in conjunction with the August 4, 2020, primary election. As introduced, the concurrent resolution stated submission to electors would occur "at the primary election in August in the year 2020, unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election."

The 2020 Senate adopted SCR 1613 as amended. On final action in the 2020 House of Representatives, SCR 1613 did not obtain the required two-thirds majority for adoption.

2021 Legislative Session Action (HCR 5003)

The concurrent resolution was introduced by the House Committee on Federal and State Affairs at the request of Representative Barker.

House Committee on Federal and State Affairs

The House Committee on Federal and State Affairs held a hearing on HCR 5003 on January 15, 2021. At the hearing, proponents testifying in support of the resolution included representatives of the Archdiocese of Kansas City, Family Policy Alliance of Kansas, Frontier Peace Advisors, Kansans for Life, and Rachel's Vineyard; one attorney; two medical doctors; one licensed psychologist; and a private citizen.

Written-only proponent testimony was provided by representatives of Ascension Via Christi, Kansas Catholic Conference, and the Office of the Attorney General; former Kansas Governor Jeff Colyer; six medical professionals; and a private citizen.

Opponent testimony was provided by former Representative Lusk; representatives of Kansas Abortion Fund, Mainstream Coalition, Planned Parenthood Great Plains Votes, Trust Women, and URGE: Unite for Reproductive Justice; two medical doctors; and six private citizens.

Written-only opponent testimony was provided by Representative Vaughn and Representative Haswood; former Representative Koesten; representatives of American Civil Liberties Union of Kansas, Jewish Community Relations Bureau, National Association for Pregnant Women, National Women's Law Center, Physicians for Trust Women, and Woody Law Firm; 1 medical doctor; and 17 private citizens.

Written-only neutral testimony was provided by a representative of the Kansas Association of Counties.

Fiscal Information

No fiscal note was available at the time the House Committee took action on the resolution.
Abortion; Value Them Both; Kansas Constitution

http://kslegislature.org/li/b2021_22/measures/documents/supp_note_hcr5003_00_0000.pdf

League of Women Voters of Kansas

website: www.Lwvk.org Fb: <https://www.facebook.com/lwv.kansas> email: contactus@lwvk.org