

## HB518 INTRODUCED



1 HB518  
2 4HT1333-1  
3 By Representatives Yarbrough, Butler, Whorton, Harrison,  
4 Mooney, Carns  
5 RFD: Health  
6 First Read: 03-Apr-25



## 4 SYNOPSIS:

5 Under existing law, a person may not be  
6 prosecuted for homicide or assault if the victim is an  
7 unborn child in utero and the death or injury results  
8 from certain lawful medical care or medication.

9 This bill would create the Prenatal Equal  
10 Protection Act and would authorize prosecutions for  
11 homicide or assault if the victim is an unborn child  
12 from the moment of fertilization at any stage of  
13 development, unless: (i) the death or injury occurred  
14 in attempts to save the life of the mother and  
15 reasonable steps were taken to save the life of the  
16 unborn child; or (ii) the death was a spontaneous  
17 miscarriage.

18 This bill would remove a provision that exempts  
19 from the crimes of homicide or assault the death or  
20 injury of an unborn child allegedly caused by  
21 medication or medical care or treatment provided to a  
22 pregnant woman when performed by a licensed health care  
23 provider.

24 This bill would delete a provision that  
25 prohibits a woman from being prosecuted for homicide or  
26 assault of her own unborn child or for conduct relating  
27 to an abortion.

28 This bill would authorize duress as a defense to



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murder if the victim is an unborn child and the defendant is the child's mother.

This bill would also require that prosecutions of homicide or assault where the victim is an unborn child must be treated the same as prosecutions of homicide or assault of a person born alive.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to crimes and offenses; to amend Sections 13A-3-30 and 13A-6-1; to create the Prenatal Equal Protection Act; to provide legislative findings; to authorize the defense of duress in certain cases against a woman for the death of her unborn child; to authorize prosecutions for homicide or assault of an unborn child from the moment of fertilization; to provide exceptions for spontaneous miscarriage and life-saving measures for the mother; to delete provisions prohibiting certain prosecutions relating to the death or injury to an unborn child; and to require that certain prosecutions where the victim is an unborn child must be treated as the same as if the unborn child were born alive.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Prenatal Equal Protection Act.

Section 2. The Legislature finds and declares the



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following:

(1) That in Section 36.06 of the Constitution of Alabama of 2022, "[t]his state acknowledges, declares, and affirms that it is the public policy of this state to recognize and support the sanctity of unborn life and the rights of unborn children, including the right to life;" "[t]his state further acknowledges, declares, and affirms that it is the public policy of this state to ensure the protection of the rights of the unborn child in all manners and measures lawful and appropriate;" and that "[n]othing in [the] constitution secures or protects a right to abortion or requires the funding of an abortion."

(2) That the Alabama Supreme Court has held that Section 36.06 of the Constitution of Alabama of 2022, is a "constitutionally imposed canon of construction, directing courts to construe ambiguous statutes in a way that 'protect[s]...the rights of the unborn child' equally with the rights of born children, whenever such construction is 'lawful and appropriate.'" *LePage v. Ctr. for Reprod. Med., P.C., Nos. SC-2022-0515, SC-2022-0579* (Feb. 16, 2024).

(3) That the Constitution of the United States requires that "[n]o state shall...deny to any person within its jurisdiction the equal protection of the laws."

(4) That, accordingly, the sanctity of innocent human life, created in the image of God, should be equally protected from fertilization to natural death.

(5) That all preborn children from the moment of fertilization have the right to life and equal protection of



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the laws.

(6) That to fulfill this equal protection requirement, the lives of preborn individuals must be protected with the same criminal and civil laws protecting the lives of born individuals.

(7) That all persons potentially subject to such laws are entitled to due process.

Section 3. Sections 13A-3-30 and 13A-6-1, Code of Alabama 1975, are amended to read as follows:

"§13A-3-30

(a) It is a defense to prosecution that the actor engaged in the proscribed conduct because he or she was compelled to do so by the threat of imminent death or serious physical injury to himself or herself or another.

(b) The defense provided by this section is unavailable if the actor intentionally or recklessly placed himself or herself in a situation in which it was probable that he or she would be subjected to duress. The defense is also unavailable if he or she was negligent in placing himself or herself in such a situation, whenever negligence suffices to establish culpability for the offense charged.

(c) It is no defense that a person acted at the command or persuasion of his or her spouse, unless such compulsion would establish a defense under this section. The presumption that a woman is subject to compulsion when acting in the presence of her husband is abolished.

(d) ~~The~~ Except where the victim is an unborn child and the defendant is the child's mother, the defense provided by



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this section is unavailable in a prosecution for:

(1) ~~murder~~ Murder; or

(2) ~~any~~ Any killing of another under aggravated circumstances, as provided by Article 2 of Chapter 5 ~~of this title.~~"

"§13A-6-1

(a) As used in Article 1 and Article 2, the following terms ~~shall~~ have the following meanings ~~ascribed to them by this section:~~

(1) CRIMINAL HOMICIDE. Murder, manslaughter, or criminally negligent homicide.

(2) FERTILIZATION. The fusion of a human spermatozoon with a human ovum.

(3) HOMICIDE. A person commits criminal homicide if he or she intentionally, knowingly, recklessly, or with criminal negligence causes the death of another person.

(4) ~~(3)~~ PERSON. The term, when referring to the victim of a criminal homicide or assault, means a human being, including an unborn child ~~in utero~~ from the moment of fertilization at any stage of development, regardless of viability.

(5) SPONTANEOUS MISCARRIAGE. The natural or accidental termination of pregnancy and the expulsion of the unborn child.

(b) (1) Article 1 or Article 2 shall not apply to the death or injury to an unborn child alleged to be caused by ~~medication or medical care or treatment provided to a pregnant woman when performed by a physician or other licensed health~~



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~~care provider:~~

a. The undertaking of life-saving procedures to save the life of the mother when accompanied by reasonable steps to save the life of the unborn child; or

b. Spontaneous miscarriage.

(2) Mistake~~r~~, or unintentional error on the part of a licensed physician or other licensed health care provider~~or~~, his or her employee or agent, or any person acting on behalf of the patient shall not subject the licensed physician or other licensed health care provider or person acting on behalf of the patient to any criminal liability under this section.

~~Medical care or treatment includes, but is not limited to, ordering, dispensation or administration of prescribed medications and medical procedures.~~

(c) A victim of domestic violence or sexual assault may not be charged under Article 1 or Article 2 for the injury or death of an unborn child caused by a crime of domestic violence or rape perpetrated upon her.

(d) Notwithstanding any other law to the contrary, both of the following apply in any prosecution under Article 1 or Article 2 where the victim is an unborn child:

(1) Enforcement shall be subject to the same legal principles as would apply if the victim were a person who had been born alive, including the same legal presumptions, defenses, justifications, laws of parties, immunities, and clemencies.

(2) District attorneys and the Attorney General shall have concurrent authority to prosecute criminal cases and to



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169 perform any duty that necessarily appertains to such  
170 authority.~~Nothing in Article 1 or Article 2 shall permit the~~  
171 ~~prosecution of (1) any person for conduct relating to an~~  
172 ~~abortion for which the consent of the pregnant woman or a~~  
173 ~~person authorized by law to act on her behalf has been~~  
174 ~~obtained or for which consent is implied by law or (2) any~~  
175 ~~woman with respect to her unborn child.~~

176 ~~(c) Nothing in this section shall make it a crime to~~  
177 ~~perform or obtain an abortion that is otherwise legal. Nothing~~  
178 ~~in this section shall be construed to make an abortion legal~~  
179 ~~which is not otherwise authorized by law."~~

180 Section 4. The changes in law made by this act apply  
181 only to conduct that occurs on or after the effective date of  
182 this act. Conduct that occurs before the effective date of  
183 this act is governed by the law in effect immediately before  
184 the effective date of this act, and that law is continued in  
185 effect for that purpose.

186 Section 5. This act shall become effective on June 1,  
187 2025.