

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 149

5 By: Senators Rapert, B. Ballinger, Bledsoe, A. Clark, B. Davis, Hester, Hill, B. Johnson, G. Stubblefield
6 By: Representatives Bentley, Barker, Beck, Bragg, Breaux, Cavanaugh, Christiansen, Cloud, Coleman, C.
7 Cooper, Crawford, Della Rosa, Dotson, Gates, Gonzales, G. Hodges, Holcomb, Lowery, Lundstrum, J.
8 Mayberry, McCollum, Penzo, Petty, Richmond, S. Smith, Speaks, Sullivan, Womack, Wooten
9

For An Act To Be Entitled

11 AN ACT TO CREATE THE ARKANSAS HUMAN LIFE PROTECTION
12 ACT; TO ABOLISH ABORTION IN ARKANSAS AND PROTECT THE
13 LIVES OF UNBORN CHILDREN; AND FOR OTHER PURPOSES.
14
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Subtitle

17 TO CREATE THE ARKANSAS HUMAN LIFE
18 PROTECTION ACT; AND TO ABOLISH ABORTION
19 IN ARKANSAS AND PROTECT THE LIVES OF
20 UNBORN CHILDREN.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code Title 5, Chapter 61, is amended to add an
26 additional subchapter to read as follows:

27 Subchapter 3 – Arkansas Human Life Protection Act.
28

29 5-61-301. Title.

30 This subchapter shall be known and may be cited as the "Arkansas Human
31 Life Protection Act".
32

33 5-61-302 Legislative findings and intent.

34 (a) The General Assembly finds that:

35 (1) It is time for the United States Supreme Court to redress
36 and correct the grave injustice and the crime against humanity which is being



1 perpetuated by their decisions in Roe v. Wade, Doe v. Bolton, and Planned
2 Parenthood v. Casey;

3 (2) The United States Supreme Court committed a grave injustice
4 and a crime against humanity in the Dred Scott decision by denying personhood
5 to a class of human beings, African-Americans;

6 (3) The United States Supreme Court also committed a grave
7 injustice and a crime against humanity by upholding the "separate but equal"
8 doctrine in Plessy v. Ferguson which withdrew legal protection from a class
9 of human beings who were persons under the United States Constitution,
10 African-Americans;

11 (4) A crime against humanity occurs when a government withdraws
12 legal protection from a class of human beings resulting in severe deprivation
13 of their rights, up to and including death;

14 (5) In Brown v. Board of Education, the United States Supreme
15 Court corrected its own grave injustice and crime against humanity created in
16 Plessy v. Ferguson by overruling and abolishing the fifty-eight-year-old
17 "separate but equal" doctrine, thus giving equal legal rights to African-
18 Americans;

19 (6) Under the doctrine of stare decisis, the three (3) abortion
20 cases mentioned in subdivisions (a)(2), (a)(3), (a)(4), and (a)(5) of this
21 section meet the test for when a case should be overturned by the United
22 States Supreme Court because of significant changes in facts or laws,
23 including without limitation the following:

24 (A) The cases have not been accepted by scholars, judges,
25 and the American people, as witnessed to by the fact that these cases are
26 still the most intensely controversial cases in American history and at the
27 present time;

28 (B) New scientific advances have demonstrated since 1973
29 that life begins at the moment of conception and the child in a woman's womb
30 is a human being;

31 (C) Scientific evidence and personal testimonies document
32 the massive harm that abortion causes to women;

33 (D) The laws in all fifty (50) states have now changed
34 through "Safe Haven" laws to eliminate all burden of child care from women
35 who do not want to care for a child; and

36 (E) Public attitudes favoring adoption have created a

1 culture of adoption in the United States with many families waiting long
2 periods of time to adopt newborn infants;

3 (7) Before the United States Supreme Court decision of Roe v.
4 Wade, Arkansas had already enacted prohibitions on abortions under § 5-61-101
5 et seq., and authorized the refusal to perform, participate, consent or
6 submit to an abortion under § 20-16-601;

7 (8) Arkansas Constitution, Amendment 68, states that the policy
8 of Arkansas is to protect the life of every unborn child from conception
9 until birth and that public funds shall not be used to pay for any abortion
10 except to save the life of the mother;

11 (9) Arkansas passed the Arkansas Heartbeat Protection Act, § 20-
12 16-1301 et seq., in 2013 which shows the will of the Arkansas people to save
13 the lives of unborn children;

14 (10) Arkansas has continued to pass additional legislation in
15 2015 and 2017 that further shows the will of the Arkansas people to save the
16 lives of unborn children;

17 (11)(A) Millions of deaths of unborn children have occurred in
18 recent years.

19 (B) In 2015, six hundred thirty-eight thousand one hundred
20 sixty-nine (638,169) legal induced abortions were reported to the Centers for
21 Disease Control and Prevention from forty-nine (49) reporting areas in the
22 United States.

23 (C) The Department of Health reports that three thousand
24 two hundred forty-nine (3,249) abortions took place in Arkansas during 2017,
25 including abortions performed on out-of-state residents; and

26 (12) The State of Arkansas urgently pleads with the United
27 States Supreme Court to do the right thing, as they did in one of their
28 greatest cases, Brown v. Board of Education, which overturned a fifty-eight-
29 year-old precedent of the United States, and reverse, cancel, overturn, and
30 annul Roe v. Wade, Doe v. Bolton, and Planned Parenthood v. Casey.

31 (b) It is the intent of this subchapter to ensure that abortion in
32 Arkansas is abolished and protect the lives of unborn children.

33
34 5-61-303. Definitions.

35 As used in this subchapter:

36 (1)(A) "Abortion" means the act of using, prescribing,

1 administering, procuring, or selling of any instrument, medicine, drug, or
 2 any other substance, device, or means with the purpose to terminate the
 3 pregnancy of a woman, with knowledge that the termination by any of those
 4 means will with reasonable likelihood cause the death of the unborn child.

5 (B) An act under subdivision (1)(A) of this section is not
 6 an abortion if the act is performed with the purpose to:

7 (i) Save the life or preserve the health of the
 8 unborn child;

9 (ii) Remove a dead unborn child caused by
 10 spontaneous abortion; or

11 (iii) Remove an ectopic pregnancy;

12 (2) "Fertilization" means the fusion of a human spermatozoon
 13 with a human ovum;

14 (3)(A) "Medical emergency" means a condition that, in reasonable
 15 medical judgment, so complicates the medical condition of the pregnant woman
 16 that it necessitates the immediate abortion of her pregnancy.

17 (B) "Medical emergency" does not include a condition based
 18 on a claim or diagnosis that a pregnant woman will engage in conduct which
 19 she intends to result in her death or in substantial and irreversible
 20 physical impairment of a major bodily function; and

21 (4) "Unborn child" means an individual organism of the species
 22 Homo sapiens from fertilization until live birth.

23
 24 5-61-304. Prohibition.

25 (a) A person shall not purposely perform or attempt to perform an
 26 abortion except in a medical emergency.

27 (b) Performing or attempting to perform an abortion is an unclassified
 28 felony with a fine not to exceed one hundred thousand dollars (\$100,000) or
 29 imprisonment not to exceed ten (10) years, or both.

30 (c) This section does not:

31 (1) Authorize the charging or conviction of a woman with any
 32 criminal offense in the death of her own unborn child; or

33 (2) Prohibit the sale, use, prescription, or administration of a
 34 contraceptive measure, drug, or chemical if the contraceptive measure, drug,
 35 or chemical is administered before the time when a pregnancy could be
 36 determined through conventional medical testing and if the contraceptive

1 measure, drug, or chemical is sold, used, prescribed, or administered in
2 accordance with manufacturer instructions.

3 (d) It is an affirmative defense to prosecution under this section if
4 a licensed physician provides medical treatment to a pregnant woman which
5 results in the accidental or unintentional injury or death to the unborn
6 child.

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8 SECTION 2. CONTINGENT EFFECTIVE DATE.

9 This act becomes effective on and after the certification of the
10 Attorney General that:

11 (1) The United States Supreme Court overrules, in whole or in
12 part, Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973) thereby
13 restoring to the State of Arkansas the authority to prohibit abortion; or

14 (2) An amendment to the United States Constitution is adopted
15 that, in whole or in part, restores to the State of Arkansas the authority to
16 prohibit abortion.

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