

1 State of Arkansas *As Engrossed: S1/29/19 S2/5/19*

2 92nd General Assembly

A Bill

3 Regular Session, 2019

SENATE BILL 149

4

5 By: Senators Rapert, B. Ballinger, Bledsoe, A. Clark, B. Davis, Hester, Hill, B. Johnson, G. Stubblefield,
6 *J. Cooper, Flippo, T. Garner, K. Hammer, Irvin*

7 By: Representatives Bentley, Barker, Beck, Bragg, Breaux, Cavanaugh, Christiansen, Cloud, Coleman, C.

8 Cooper, Crawford, Della Rosa, Dotson, Gates, Gonzales, G. Hodges, Holcomb, Lowery, Lundstrum, J.

9 Mayberry, McCollum, Penzo, Petty, Richmond, S. Smith, Speaks, Sullivan, Womack, Wooten, *A. Davis,*

10 *Hawks, Payton, B. Smith*

11

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For An Act To Be Entitled

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AN ACT TO CREATE THE ARKANSAS HUMAN LIFE PROTECTION

14

ACT; TO ABOLISH ABORTION IN ARKANSAS AND PROTECT THE

15

LIVES OF UNBORN CHILDREN; AND FOR OTHER PURPOSES.

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18

Subtitle

19

TO CREATE THE ARKANSAS HUMAN LIFE

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PROTECTION ACT; AND TO ABOLISH ABORTION

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IN ARKANSAS AND PROTECT THE LIVES OF

22

UNBORN CHILDREN.

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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. Arkansas Code Title 5, Chapter 61, is amended to add an

28 additional subchapter to read as follows:

29 Subchapter 3 – Arkansas Human Life Protection Act.

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31 5-61-301. Title.

32 This subchapter shall be known and may be cited as the "Arkansas Human

33 Life Protection Act".

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35 5-61-302 Legislative findings and intent.

36 (a) The General Assembly finds that:



1 (1) It is time for the United States Supreme Court to redress
2 and correct the grave injustice and the crime against humanity which is being
3 perpetuated by their decisions in Roe v. Wade, Doe v. Bolton, and Planned
4 Parenthood v. Casey;

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

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

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

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

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

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

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

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

35 (D) The laws in all fifty (50) states have now changed
36 through "Safe Haven" laws to eliminate all burden of child care from women

1 who do not want to care for a child; and

2 (E) Public attitudes favoring adoption have created a
3 culture of adoption in the United States with many families waiting long
4 periods of time to adopt newborn infants;

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

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

13 (9) Arkansas passed the Arkansas Heartbeat Protection Act, § 20-
14 16-1301 et seq., in 2013 which shows the will of the Arkansas people to save
15 the lives of unborn children;

16 (10) Arkansas has continued to pass additional legislation in
17 2015 and 2017 that further shows the will of the Arkansas people to save the
18 lives of unborn children;

19 (11)(A) Since the decision of Roe v. Wade, approximately sixty
20 million sixty-nine thousand nine hundred seventy-one (60,069,971) abortions
21 have ended the lives of unborn children.

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

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

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

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

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1 5-61-303. Definitions.

2 As used in this subchapter:

3 (1)(A) "Abortion" means the act of using, prescribing,
4 administering, procuring, or selling of any instrument, medicine, drug, or
5 any other substance, device, or means with the purpose to terminate the
6 pregnancy of a woman, with knowledge that the termination by any of those
7 means will with reasonable likelihood cause the death of the unborn child.

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

10 (i) Save the life or preserve the health of the
11 unborn child;

12 (ii) Remove a dead unborn child caused by
13 spontaneous abortion; or

14 (iii) Remove an ectopic pregnancy;

15 (2) "Fertilization" means the fusion of a human spermatozoon
16 with a human ovum;

17 (3) "Medical emergency" means a condition in which an abortion
18 is necessary to preserve the life of a pregnant woman whose life is
19 endangered by a physical disorder, physical illness, or physical injury,
20 including a life-endangering physical condition caused by or arising from the
21 pregnancy itself; and

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

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25 5-61-304. Prohibition.

26 (a) A person shall not purposely perform or attempt to perform an
27 abortion except to save the life of a pregnant woman in a medical emergency.

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

31 (c) This section does not:

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

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

1 determined through conventional medical testing and if the contraceptive
2 measure, drug, or chemical is sold, used, prescribed, or administered in
3 accordance with manufacturer instructions.

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

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9 SECTION 2. CONTINGENT EFFECTIVE DATE.

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

12 (1) The United States Supreme Court overrules, in whole or in
13 part, the central holding of *Roe v. Wade*, 410 U.S. 113 (1973), reaffirmed by
14 *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833
15 (1992), thereby restoring to the State of Arkansas the authority to prohibit
16 abortion; or

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

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21
22 /s/Rapert

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25 **APPROVED: 2/19/19**
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