

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 417

5 By: Senator J. Hendren
6

For An Act To Be Entitled

8 AN ACT TO MODIFY THE DEFINITION OF AN UNBORN CHILD IN
9 THE CRIMINAL CODE AND IN WRONGFUL DEATH ACTIONS; AND
10 FOR OTHER PURPOSES.
11
12

Subtitle

13 TO MODIFY THE DEFINITION OF AN UNBORN
14 CHILD IN THE CRIMINAL CODE AND IN
15 WRONGFUL DEATH ACTIONS.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 5-1-102(13), concerning the definition of
22 "person" in the criminal code, is amended to read as follows:

23 (13)(A) "Person", "actor", "defendant", "he", "she", "her", or
24 "him" includes:

25 (i) Any natural person; and

26 (ii) When appropriate, an "organization" as defined
27 in § 5-2-501.

28 (B)(i)(a) As used in §§ 5-10-101 – 5-10-105, "person" also
29 includes an unborn child in utero at any stage of development.

30 (b) "Unborn child" means ~~a living fetus of~~
31 ~~twelve (12) weeks or greater gestation~~ offspring of human beings from
32 conception until birth.
33

34 SECTION 2. Arkansas Code § 16-62-102(a), concerning survival of
35 wrongful death actions, is amended to read as follows:

36 (a)(1) Whenever the death of a person or ~~a viable fetus~~ an unborn



1 child as defined in § 5-1-102 is caused by a wrongful act, neglect, or
 2 default and the act, neglect, or default ~~is such as~~ would have entitled the
 3 party injured to maintain an action and recover damages in respect thereof if
 4 death had not ensued, then and in every such case, the person or company or
 5 corporation that would have been liable if death had not ensued shall be
 6 liable to an action for damages, notwithstanding the death of the person or
 7 the ~~viable fetus~~ unborn child as defined in § 5-1-102 injured, and although
 8 the death may have been caused under such circumstances as amount in law to a
 9 felony.

10 (2) The cause of action created in this subsection shall survive
 11 the death of the person wrongfully causing the death of another and may be
 12 brought, maintained, or revived against the personal representatives of the
 13 person wrongfully causing the death of another.

14 (3) ~~No person shall be~~ A person is not liable under this
 15 subsection when the death of the ~~fetus~~ unborn child results from a legal
 16 abortion or from the fault of the pregnant woman carrying the ~~fetus~~ unborn
 17 child.

18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 29
 30
 31
 32
 33
 34
 35
 36