

1 State of Arkansas *As Engrossed: S1/30/13 H2/8/13 H2/11/13 H2/13/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

SENATE BILL 134

4

5 By: Senators Rapert, Bledsoe, Caldwell, A. Clark, J. Dismang, J. English, Files, J. Hendren, Hester,

6 Hickey, Holland, J. Hutchinson, Irvin, J. Key, B. King, D. Sanders, G. Stubblefield, E. Williams, J.

7 Woods

8 By: Representatives Clemmer, Alexander, D. Altes, Bell, Dale, Davis, Deffenbaugh, Dotson, C. Douglas,

9 Farrer, Fite, Harris, Hobbs, House, Hutchison, Lea, Mayberry, D. Meeks, Neal, Scott, Westerman,

10 Womack

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For An Act To Be Entitled

13

AN ACT TO CREATE THE ARKANSAS HUMAN HEARTBEAT

14

PROTECTION ACT; TO PROTECT UNBORN CHILDREN; AND FOR

15

OTHER PURPOSES.

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17

18

Subtitle

19

TO CREATE THE ARKANSAS HUMAN HEARTBEAT

20

PROTECTION ACT; TO PROTECT UNBORN

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CHILDREN.

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

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26 SECTION 1. Arkansas Code Title 20, Chapter 16 is amended to add an

27 additional subchapter to read as follows:

28

Subchapter 13 – Arkansas Human Heartbeat Protection Act

29

30

20-16-1301. Title.

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This subchapter shall be known and may be cited as the "Arkansas Human Heartbeat Protection Act".

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20-16-1302. Definitions.

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As used in this subchapter:

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(1) "Contraceptive" means a device, drug, or chemical that



1 prevents fertilization;

2 (2) "Fetus" means the human offspring developing during
3 pregnancy from the moment of fertilization and includes the embryonic stage
4 of development;

5 (3) "Heartbeat" means cardiac activity, the steady and
6 repetitive rhythmic contraction of the fetal heart within the gestational
7 sac;

8 (4) "Human individual" means an individual organism of the
9 species *Homo sapiens*;

10 (5) "Major bodily function" includes without limitation,
11 functions of the immune system, normal cell growth, and digestive, bowel,
12 bladder, neurological, brain, respiratory, circulatory, endocrine, and
13 reproductive functions;

14 (6) "Medical emergency" means a condition in which an abortion
15 is necessary:

16 (A) To preserve the life of the pregnant woman whose life is
17 endangered by a physical disorder, physical illness, or physical injury,
18 including a life-endangering physical condition caused by or arising from the
19 pregnancy itself, or when continuation of the pregnancy will create a serious
20 risk of substantial and irreversible impairment of a major bodily function of
21 the pregnant woman; or

22 (B) Due to the existence of a highly lethal fetal disorder as
23 defined by the Arkansas State Medical Board;

24 (7) "Pregnancy" means the human female reproductive condition
25 that begins with fertilization when the female is carrying the developing
26 human offspring and is calculated from the first day of the last menstrual
27 period of the human female; and

28 (8) "Viability" means a medical condition that begins with a
29 detectible fetal heartbeat.

30 20-16-1303. Testing for heartbeat.

31 (a) A person authorized to perform abortions under Arkansas law shall
32 not perform an abortion on a pregnant woman before the person tests the
33 pregnant woman to determine whether the fetus that the pregnant woman is
34 carrying possesses a detectible heartbeat.

35 (b)(1) A person authorized to perform abortions under Arkansas law
36 shall perform an abdominal ultrasound test necessary to detect a heartbeat of

1 an unborn human individual according to standard medical practice, including
2 the use of medical devices as determined by standard medical practice.

3 (2) Tests performed under subdivision (b)(1) of this section
4 shall be approved by the Arkansas State Medical Board.

5 (c)(1) The Arkansas State Medical Board shall adopt rules:

6 (A)(i) Based on standard medical practice for testing for the fetal
7 heartbeat of an unborn human individual.

8 (ii) Rules adopted under subdivision (c)(1) of this
9 section shall specify that a test for fetal heartbeat is not required in the
10 case of a medical emergency; and

11 (B) To define, based on available medical evidence, the
12 statistical probability of bringing an unborn human individual to term based
13 on the gestational age of the unborn human individual possessing a detectible
14 heartbeat.

15 (d) If a fetal heartbeat is detected during the test required under
16 this section, the person performing the test shall inform the pregnant woman
17 in writing:

18 (1) That the unborn human individual that the pregnant woman is
19 carrying possesses a heartbeat;

20 (2) Of the statistical probability of bringing the unborn human
21 individual to term based on the gestational age of the unborn human
22 individual possessing a detectible heartbeat; and

23 (3) An abortion is prohibited under §20-16-1304.

24 (e) If a heartbeat has been detected, the pregnant woman shall sign a
25 form acknowledging that she has received the information required under
26 subsection (d) of this section.

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28 20-16-1304. Prohibitions.

29 (a) A person authorized to perform abortions under Arkansas law shall
30 not perform an abortion on a pregnant woman with the specific intent of
31 causing or abetting the termination of the life of an unborn human individual
32 whose heartbeat has been detected under § 20-16-1303 and is twelve (12) weeks
33 or greater gestation.

34 (b) A violation of this section as determined by the Arkansas State
35 Medical Board shall result in the revocation of the medical license of the
36 person authorized to perform abortions under Arkansas law.

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20-16-1305. Exemptions.

(a) A person does not violate this subchapter if the person:

(1) Performs a medical procedure designed to or intended to prevent the death of a pregnant woman or in reasonable medical judgment to preserve the life of the pregnant woman; or

(2)(A) Has undertaken an examination for the presence of a heartbeat in the fetus utilizing standard medical practice; and

(B)(i) The examination does not reveal a heartbeat; or

(ii) Has been informed by a medical professional who has undertaken the examination for fetal heartbeat that the examination did not reveal a fetal heartbeat.

(b) This subchapter does not apply to:

(1) An abortion performed to save the life of the mother;

(2) A pregnancy that results from rape under § 5-14-103 or incest under § 5-26-202; or

(3) A medical emergency.

20-16-1306. Interpretation.

This subchapter does not:

(1) Subject a pregnant female on whom an abortion is performed or attempted to be performed to any criminal prosecution or civil penalty; or

(2) Prohibit the sale, use, prescription, or administration of a measure, drug, or chemical designed for contraceptive purposes.

20-16-1307. Tolling of effective date.

If a state or federal court of competent jurisdiction voids a provision of this subchapter as unconstitutional, the effective date of that provision shall be tolled until that provision has been upheld as valid by an appellate tribunal.

/s/Rapert

**APPROVED: BECAME LAW ON 03/06/2013 Disapproved by Governor on 3-4-13,
Overridden by Senate and House on 3-5-13 & 3-6-13**