

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: S1/21/21 S2/8/21*

2 93rd General Assembly

A Bill

3 Regular Session, 2021

SENATE BILL 6

4

5 By: Senators Rapert, *T. Garner, G. Stubblefield, B. Ballinger, Bledsoe, A. Clark, L. Eads, J. English,*

6 *Flippo, Gilmore, K. Hammer, Hester, Hill, Irvin, B. Johnson, D. Sullivan, D. Wallace, Beckham, M.*

7 *Johnson*

8 By: Representatives Bentley, *Gazaway, M. Berry, Bragg, Breaux, Brooks, Cloud, C. Cooper, Cozart,*

9 *Crawford, Dotson, Evans, Hillman, Lowery, J. Mayberry, McCollum, McNair, Milligan, Payton,*

10 *Pilkington, Ray, B. Smith, Tosh, Underwood, Vaught, Wardlaw, Watson, Beaty Jr., Lundstrum, Richmond*

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For An Act To Be Entitled

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AN ACT TO CREATE THE ARKANSAS UNBORN CHILD PROTECTION

14

ACT; AND FOR OTHER PURPOSES.

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16

17

Subtitle

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TO CREATE THE ARKANSAS UNBORN CHILD

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PROTECTION ACT.

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

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

25 additional subchapter to read as follows:

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Subchapter 4 – Arkansas Unborn Child Protection Act

27

28 5-61-401. Title.

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This subchapter shall be known and may be cited as the “Arkansas Unborn Child Protection Act”.

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5-61-402. Legislative findings and intent.

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(a) The General Assembly finds that:

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

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1 Parenthood v. Casey;

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

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

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

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

18 (6) Under the doctrine of *stare decisis*, the three (3) abortion
19 cases mentioned in subdivision (a)(1) of this section meet the test for when
20 a case should be overturned by the United States Supreme Court because of
21 significant changes in facts or laws, including without limitation the
22 following:

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

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

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

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

35 (E) Public attitudes favoring adoption have created a
36 culture of adoption in the *United States*, with many families waiting long

1 periods of time to adopt newborn infants;

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

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

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

13 (10) Arkansas has continued to pass additional legislation in
14 2015, 2017, and 2019 that further shows the will of the Arkansas people to
15 save the lives of unborn children;

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

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 two thousand
24 nine hundred sixty-three (2,963) abortions took place in Arkansas during
25 2019, 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 to protect the lives of unborn children.

33
34 5-61-403. 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) "Medical emergency" means a condition in which an abortion
15 is necessary to preserve the life of a pregnant woman whose life is
16 endangered by a physical disorder, physical illness, or physical injury,
17 including a life-endangering physical condition caused by or arising from the
18 pregnancy itself; and

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

21
22 5-61-404. Prohibition.

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

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

28 (c) This section does not:

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

31 (2) Prohibit the sale, use, prescription, or administration of a
32 contraceptive measure, drug, or chemical if the contraceptive measure, drug,
33 or chemical is administered before the time when a pregnancy could be
34 determined through conventional medical testing and if the contraceptive
35 measure, drug, or chemical is sold, used, prescribed, or administered in
36 accordance with manufacturer instructions.

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

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7 */s/Rapert*
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