

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 307

5 By: Senators K. Hammer, Dees, J. Payton
6 By: Representative Bentley
7

For An Act To Be Entitled

9 AN ACT TO CREATE A MONUMENT TO THE UNBORN; TO CREATE
10 A MONUMENT ON STATE CAPITOL GROUNDS; TO AMEND THE LAW
11 CONCERNING THE DUTIES OF THE SECRETARY OF STATE; AND
12 FOR OTHER PURPOSES.
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Subtitle

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16 TO CREATE A MONUMENT TO THE UNBORN; TO
17 CREATE A MONUMENT ON STATE CAPITOL
18 GROUNDS; AND TO AMEND THE LAW CONCERNING
19 THE DUTIES OF THE SECRETARY OF STATE.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. DO NOT CODIFY. Legislative Findings and Intent.

25 (a) The General Assembly finds that:

26 (1) As the United States Supreme Court explained in Dobbs v.
27 Jackson Women's Health Organization, 597 U.S. _____ (2022), slip op. at 17,
28 abortion after quickening was a crime according to the common law of England;

29 (2) In his "Lectures on Law in 1790", James Wilson, who signed
30 the Declaration of Independence and was a delegate to the Constitutional
31 Convention of 1787, explained, "With consistency beautiful and undeviating,
32 human life, from its commencement to its close, is protected by the common
33 law. In the contemplation of law, life begins when the infant is first able
34 to stir in the womb. By the law, life is protected not only from actual
35 destruction, but from every degree of violence, and, in some cases, from
36 every degree of danger." Collected Works of James Wilson, Vol. II, p. 1068



1 (Liberty Fund: 2007);

2 (3) At its inception as a State, Arkansas law, now codified as §
3 1-2-119 provided, “The common law of England, so far as it is applicable and
4 of a general nature, and all statutes of the British Parliament in aid of or
5 to supply the defects of the common law made prior to March 24, 1606, which
6 are applicable to our own form of government, of a general nature and not
7 local to that kingdom, and not inconsistent with the United States
8 Constitution and the laws of the United States or the Arkansas Constitution
9 and laws of this state, shall be the rule of decision in this state unless
10 altered or repealed by the General Assembly of this state.”;

11 (4) Early in our history as a state, Arkansas enacted a statute
12 prohibiting abortion before quickening, while, at the same time, recognizing
13 the common-law crime of abortion after quickening. State v. Reed, 45 Ark.
14 333 (1885);

15 (5)(A) The protection of life in the womb before as well as
16 after quickening is based on the recognition by modern medicine that life
17 begins, not when the mother first feels the child move in the womb, but at
18 conception.

19 (B) As Alan Guttmacher explained, “Through some unknown
20 mechanism, as soon as one sperm penetrates the egg, the capsule becomes
21 altered and successfully bars entry to all later applicants. The nucleus of
22 the sperm-head . . . becomes indissolubly united with the nucleus of the
23 ovum . . . and a new life is begun.” Alan Guttmacher, Life in the Making, p.
24 55 (Viking Press: 1933);

25 (6) In keeping with the common-law tradition and the findings of
26 modern science, as well as its own historical practice of protecting human
27 life in the womb, in 1988 Arkansas enacted Arkansas Constitution, Amendment
28 68, which provides that it is the policy of the State of Arkansas to protect
29 every unborn child from conception until birth, to the extent permitted by
30 the United States Constitution; and

31 (7) From 1973 until 2022, Arkansas was prevented from protecting
32 the life of unborn children by the decisions of the United State Supreme
33 Court in Roe v. Wade, 410 U.S. 113 (1973), Doe v. Bolton, 410 U.S. 179
34 (1973), and Planned Parenthood v. Casey, 505 U.S. 833 (1992).
35 During the period from 1973 to 2022, approximately at least two hundred
36 thirty six thousand two hundred and forty three (236,243) elective abortions

1 were performed in this State.

2 (b) As a memorial to the lives lost from 1973 to 2022 due to the
3 decisions of the United States Supreme Court, and as a constant reminder of
4 our duty to protect the life of every innocent human person, no matter how
5 young or old, or how helpless and vulnerable that person may be, it is the
6 intent of the General Assembly of the State of Arkansas to enact the Monument
7 to Unborn Children Display Act, § 22-3-223, and the Monument to Unborn
8 Children Display Fund.

9
10 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 11, is
11 amended to add an additional section to read as follows:

12 19-5-1158. Monument to Unborn Children Display Fund.

13 (a) There is established on the books of the Treasurer of State, the
14 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
15 be known as the “Monument to Unborn Children Display Fund”.

16 (b) The fund shall consist of gifts, grants, and donations from
17 individuals and organizations as provided under the Monument to Unborn
18 Children Display Act, § 22-3-223, and other funds as may be provided by law.

19 (c) The fund shall be used exclusively for the purpose of erecting and
20 maintaining a suitable monument on the State Capitol grounds commemorating
21 unborn children aborted during the era of Roe v. Wade, 410 U.S. 113 (1973),
22 as provided in the Monument to the Unborn Children Display Act, § 22-3-223.

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24 SECTION 3. Arkansas Code Title 22, Chapter 3, Subchapter 2, is amended
25 to add an additional section to read as follows:

26 22-3-223. Monument to Unborn Children Display Act.

27 (a) This section shall be known and may be cited as the “Monument to
28 Unborn Children Display Act”.

29 (b)(1) The Secretary of State shall permit and arrange placement on
30 the State Capitol grounds of a suitable monument commemorating unborn
31 children aborted during the era of Roe v. Wade, 410 U.S. 113 (1973).

32 (2)(A) The Capitol Arts and Grounds Commission, shall oversee
33 the selection of the artist and design of the monument with input from pro-
34 life groups in Arkansas.

35 (B) The Secretary of State shall have final approval of
36 the selection of the artist and design of the monument selected by the

1 commission before any construction is commenced.

2 (C) Upon approval of the artist and design, the Secretary
3 of State shall arrange for the construction, placement, and dedication of the
4 monument on the State Capitol grounds by private entities at no expense to
5 the State of Arkansas.

6 (D) The monument shall be placed on the State Capitol
7 grounds at a location selected and approved by the Secretary of State.

8 (3) The monument under this subsection shall be exempt from §
9 22-3-301 et seq. and § 22-3-501 et seq.

10 (c) If the legality or constitutionality of the monument under
11 subsection (b) of this section is challenged in a court of law, the Attorney
12 General may:

13 (1) Prepare and present a legal defense of the monument; or

14 (2)(A) Request that a private law firm serve as counsel to
15 prepare and present a legal defense of the monument.

16 (B) A request under subdivision (c)(2)(A) shall not be
17 subject to § 25-16-702.

18 (d) The Secretary of State may accept gifts, grants, and donations
19 from individuals and organizations, to be deposited as trust funds into the
20 Monument to Unborn Children Display Fund.

21 (e) The Secretary of State shall:

22 (1) Have the authority to enter into all necessary contracts for
23 the design, construction and dedication of the monument;

24 (2)(A) Oversee the continued maintenance, repair, and
25 replacement, if necessary due to catastrophic damage, of the monument
26 utilizing funds held in the Monument to Unborn Children Display fund; or

27 (B) If no funds are available, any other fund under the
28 control and authority of the Secretary of State that exists for the
29 maintenance and repair of monuments on display in the State Capitol or on the
30 grounds of the State Capitol; and

31 (3) Provide that any maintenance, repairs or replacement of the
32 monument shall restore it to a state equal to the original quality and
33 condition.

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35 **APPROVED: 3/16/23**