

ARKANSAS SENATE
88th General Assembly - Regular Session, 2011
Amendment Form

Subtitle of Senate Bill No. 843
TO PROTECT UNBORN CHILDREN.

Amendment No. 1 to Senate Bill No. 843

Amend Senate Bill No. 843 as originally introduced:

Delete the title in its entirety and substitute the following:
"AN ACT TO CREATE THE ARKANSAS HUMAN HEARTBEAT PROTECTION ACT; TO PROTECT UNBORN CHILDREN; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"AN ACT TO CREATE THE ARKANSAS HUMAN HEARTBEAT PROTECTION ACT AND TO PROTECT UNBORN CHILDREN."

AND

Delete everything after the enacting clause and substitute the following:
"SECTION 1. Arkansas Code Title 20, Chapter 16 is amended to add an additional subchapter to read as follows:

Subchapter 13 – Arkansas Human Heartbeat Protection Act

20-16-1301. Title.

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

20-16-1302. Legislative findings.

The General Assembly finds that according to contemporary medical research:

(1) As many as thirty percent (30%) of natural pregnancies end in spontaneous miscarriage;

(2) Less than five percent (5%) of all natural pregnancies end in spontaneous miscarriage after detection of fetal cardiac activity;

(3) Over ninety percent (90%) of in vitro pregnancies survive the first trimester if cardiac activity is detected in the gestational sac;



(4) Nearly ninety percent (90%) of in vitro pregnancies do not survive the first trimester if cardiac activity is not detected in the gestational sac;

(5) Fetal heartbeat, therefore, has become a key medical predictor that an unborn human individual will reach viability and live birth; and

(6) Cardiac activity begins at a biologically identifiable moment in time, normally when the fetal heart is formed in the gestational sac.

23-16-1303. Definitions.

As used in this subchapter:

(1) "Cardiac activity" means the steady and repetitive rhythmic contraction of the fetal heart within the gestational

(2) "Contraceptive" means a device, drug, or chemical that prevents conception;

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

(4) "Gestational sac" means the extraembryonic membranes that envelop the fetus, typically visible by ultrasound after the fourth week of pregnancy;

(5) "Heartbeat" means cardiac activity;

(6) "Human individual" means an individual organism of the species homo sapiens;

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

(8) "Spontaneous miscarriage" means the natural or accidental termination of a pregnancy and the expulsion of the fetus, typically caused by genetic defects in the fetus or physical abnormalities in the mother.

20-16-1304. Testing for heartbeat.

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

(b) A person authorized to perform abortions under Arkansas law shall perform a detection of a heartbeat of an unborn human individual according to standard medical practice, including the use of medical devices as determined by standard medical practice.

(c)(1) The State Board of Health may adopt rules based on standard medical practice for testing for the fetal heartbeat of an unborn human individual.

(2) Rules adopted under subdivision (c)(1) of this section shall specify that a test for fetal heartbeat is not required in the case of a medical emergency.

20-16-1305. Informed consent.

(a) This subchapter applies to all abortions not prohibited under Arkansas law except as under § 20-16-1307.

(b) If a fetal heartbeat is detected, the person performing the intended abortion shall inform the pregnant woman in writing no later than twenty-four (24) hours before the performance of the intended abortion:

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

(2) Of the statistical probability of bringing the unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat.

(c) If a heartbeat has been detected, then no later than twenty-four (24) hours before the performance of the intended abortion, the pregnant woman shall sign a form acknowledging that she has received information that:

(1) The unborn human individual that she is carrying possesses a heartbeat; and

(2) She is aware of the statistical probability of her pregnancy coming to term.

(d) The State Board of Health may adopt rules to define, based upon available medical evidence, the statistical probability of bringing an unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat.

(e) This section does not affect any other provision of Arkansas law relating to informed consent.

20-16-1306. Prohibitions.

(a) A person authorized to perform abortions under Arkansas law shall not perform an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human individual whose heartbeat has been detected under § 20-16-1304.

(b) A violation of this section is a Class D felony.

20-16-1307. 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 or health of the pregnant woman.

(2) Has either

(A) Undertaken an examination for the presence of a heartbeat in the fetus utilizing standard medical practice and the examination does not reveal a heartbeat; or

(B) 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 section does not affect any other provision of Arkansas law that restricts the performance of abortion by a particular method or during a particular stage of a pregnancy.

20-16-1308. Interpretation.

This subchapter does not:

(1) Subject a pregnant female upon 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.

20-16-1309. 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:

(1) That provision has been upheld as valid by an appellate tribunal; or

(2) The Attorney General certifies in an opinion to the Governor that due to a subsequent decision by the United States Supreme Court, it is reasonably probable that the provision would be upheld as constitutional by a court of competent jurisdiction."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Rapert

MGF/CDS - 03/22/11 12:41

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Secretary