

State of Arkansas  
89th General Assembly  
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# A Bill

SENATE BILL 134

By: Senators Rapert, Bledsoe, Caldwell, A. Clark, J. Dismang, J. English, Files, J. Hendren, Hester, Hickey, Holland, J. Hutchinson, Irvin, J. Key, B. King, D. Sanders, G. Stubblefield, E. Williams, J. Woods  
By: Representatives Clemmer, Alexander, D. Altes, Bell, Dale, Davis, Deffenbaugh, Dotson, C. Douglas, Farrer, Fite, Harris, Hobbs, House, Hutchison, Lea, Mayberry, D. Meeks, Neal, Scott, Westerman, Womack

## For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS HUMAN HEARTBEAT  
PROTECTION ACT; TO PROTECT UNBORN CHILDREN; AND FOR  
OTHER PURPOSES.

## Subtitle

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

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

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. Definitions.

As used in this subchapter:

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

8 (4) "Heartbeat" means cardiac activity, the steady and  
9 repetitive rhythmic contraction of the fetal heart within the gestational  
10 sac;

11 (5) "Human individual" means an individual organism of the  
12 species Homo sapiens;

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

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

20  
21 20-16-1303. Testing for heartbeat.

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

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

30 (c)(1) The State Board of Health shall adopt rules:

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

33 (ii) Rules adopted under subdivision (c)(1) of this  
34 section shall specify that a test for fetal heartbeat is not required in the  
35 case of a life-threatening medical emergency; and

36 (B) To define, based on available medical evidence, the

1 statistical probability of bringing an unborn human individual to term based  
2 on the gestational age of the unborn human individual possessing a detectible  
3 heartbeat.

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

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

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

12 (3) An abortion is prohibited under § 20-16-1305.

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

16  
17 20-16-1305. Prohibitions.

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

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

23  
24 20-16-1306. Exemptions.

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

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

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

31 (B)(i) The examination does not reveal a heartbeat; or  
32 (ii) Has been informed by a medical professional who  
33 has undertaken the examination for fetal heartbeat that the examination did  
34 not reveal a fetal heartbeat.

35 (b) This subchapter does not apply to:

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

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

3  
4           20-16-1307. Interpretation.

5           This subchapter does not:

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

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

10  
11           20-16-1308. Tolling of effective date.

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