

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S1/30/13

A Bill

SENATE BILL 134

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
11

For An Act To Be Entitled

12
13 *AN ACT TO CREATE THE ARKANSAS HUMAN HEARTBEAT*
14 *PROTECTION ACT; TO PROTECT UNBORN CHILDREN; TO*
15 *DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.*
16
17

Subtitle

18
19 *TO CREATE THE ARKANSAS HUMAN HEARTBEAT*
20 *PROTECTION ACT; TO PROTECT UNBORN*
21 *CHILDREN; AND TO DECLARE AN EMERGENCY.*
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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.

31 This subchapter shall be known and may be cited as the "Arkansas Human
32 Heartbeat Protection Act".
33

34 20-16-1302. Definitions.

35 As used in this subchapter:

36 (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; and

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

22 20-16-1303. Testing for heartbeat.

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

27 (b)(1) A person authorized to perform abortions under Arkansas law
28 shall perform a test necessary to detect a heartbeat of an unborn human
29 individual according to standard medical practice, including the use of
30 medical devices as determined by standard medical practice.

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

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

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

36 (ii) Rules adopted under subdivision (c)(1) of this

1 section shall specify that a test for fetal heartbeat is not required in the
2 case of a life-threatening medical emergency; and

3 (B) To define, based on available medical evidence, the
4 statistical probability of bringing an unborn human individual to term based
5 on the gestational age of the unborn human individual possessing a detectible
6 heartbeat.

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

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

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

15 (3) An abortion is prohibited under §20-16-1303.

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

19
20 20-16-1304. Prohibitions.

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

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

26
27 20-16-1305. Exemptions.

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

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

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

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

35 (ii) Has been informed by a medical professional who
36 has undertaken the examination for fetal heartbeat that the examination did

1 not reveal a fetal heartbeat.

2 (b) This subchapter does not apply to:

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

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

6
7 20-16-1306. Interpretation.

8 This subchapter does not:

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

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

13
14 20-16-1307. Tolling of effective date.

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

19
20 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that abortions are currently being
22 performed in Arkansas on unborn children with detectable heartbeats; and
23 that this act is immediately necessary because to protect the lives of unborn
24 children with detectable heartbeats. Therefore, an emergency is declared to
25 exist, and this act being immediately necessary for the preservation of the
26 public peace, health, and safety shall become effective on:

27 (1) The date of its approval by the Governor;

28 (2) If the bill is neither approved nor vetoed by the Governor,
29 the expiration of the period of time during which the Governor may veto the
30 bill; or

31 (3) If the bill is vetoed by the Governor and the veto is
32 overridden, the date the last house overrides the veto.

33
34 /s/Rapert