

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 6

5 By: Senator Rapert
6 By: Representative Bentley
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS UNBORN CHILD PROTECTION
10 ACT; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO CREATE THE ARKANSAS UNBORN CHILD
14 PROTECTION ACT.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code Title 5, Chapter 61, is amended to add an
21 additional subchapter to read as follows:

Subchapter 4 – Arkansas Unborn Child Protection Act

5-61-401. Title.

24 This subchapter shall be known and may be cited as the “Arkansas Unborn
25 Child Protection Act”.
26

5-61-402. Legislative findings and intent.

(a) The General Assembly finds that:

30 (1) It is time for the United States Supreme Court to redress
31 and correct the grave injustice and the crime against humanity which is being
32 perpetuated by their decisions in Roe v. Wade, Doe v. Bolton, and Planned
33 Parenthood v. Casey;

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



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

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

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

14 (6) Under the doctrine of stare decisis, the three (3) abortion
15 cases mentioned in subdivisions (a)(2), (a)(3), (a)(4), and (a)(5) of this
16 section meet the test for when a case should be overturned by the United
17 States Supreme Court because of significant changes in facts or laws,
18 including without limitation the following:

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

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

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

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

31 (E) Public attitudes favoring adoption have created a
32 culture of adoption in the United States with many families waiting long
33 periods of time to adopt newborn infants;

34 (7) Before the United States Supreme Court decision of Roe v.
35 Wade, Arkansas had already enacted prohibitions on abortions under § 5-61-101
36 et seq., and authorized the refusal to perform, participate, consent or

1 submit to an abortion under § 20-16-601;

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

6 (9) Arkansas passed the Arkansas Human Heartbeat Protection Act,
7 § 20-16-1301 et seq., in 2013 which shows the will of the Arkansas people to
8 save the lives of unborn children;

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

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

15 (B) In 2015, six hundred thirty-eight thousand one hundred
16 sixty-nine (638,169) legal induced abortions were reported to the Centers for
17 Disease Control and Prevention from forty-nine (49) reporting areas in the
18 United States.

19 (C) The Department of Health reports that two thousand
20 nine hundred sixty-three (2,963) abortions took place in Arkansas during
21 2019, including abortions performed on out-of-state residents; and

22 (12) The State of Arkansas urgently pleads with the United
23 States Supreme Court to do the right thing, as they did in one of their
24 greatest cases, Brown v. Board of Education, which overturned a fifty-eight-
25 year-old precedent of the United States, and reverse, cancel, overturn, and
26 annul Roe v. Wade, Doe v. Bolton, and Planned Parenthood v. Casey.

27 (b) It is the intent of this subchapter to ensure that abortion in
28 Arkansas is abolished and protect the lives of unborn children.

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30 5-61-403. Definitions.

31 As used in this subchapter:

32 (1)(A) "Abortion" means the act of using, prescribing,
33 administering, procuring, or selling of any instrument, medicine, drug, or
34 any other substance, device, or means with the purpose to terminate the
35 pregnancy of a woman, with knowledge that the termination by any of those
36 means will with reasonable likelihood cause the death of the unborn child.

1 (B) An act under subdivision (1)(A) of this section is not
2 an abortion if the act is performed with the purpose to:

3 (i) Save the life or preserve the health of the
4 unborn child;

5 (ii) Remove a dead unborn child caused by
6 spontaneous abortion; or

7 (iii) Remove an ectopic pregnancy;

8 (2) "Fertilization" means the fusion of a human spermatozoon
9 with a human ovum;

10 (3) "Medical emergency" means a condition in which an abortion
11 is necessary to preserve the life of a pregnant woman whose life is
12 endangered by a physical disorder, physical illness, or physical injury,
13 including a life-endangering physical condition caused by or arising from the
14 pregnancy itself; and

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

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18 5-61-404. Prohibition.

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

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

24 (c) This section does not:

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

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

33 (d) It is an affirmative defense to prosecution under this section if
34 a licensed physician provides medical treatment to a pregnant woman which
35 results in the accidental or unintentional injury or death to the unborn
36 child.