

1 State of Arkansas
2 93rd General Assembly
3 Fiscal Session, 2022

SR 16

4
5 By: Senators Flipppo, Irvin, Rice, B. Johnson, Hill, D. Wallace

6
7 **SENATE RESOLUTION**

8 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION
9 BILL TO CREATE THE ARKANSAS UNBORN CHILD PROTECTION
10 ACT OF 2022, ABOLISH ABORTION IN ARKANSAS, AND
11 PROTECT THE LIVES OF UNBORN CHILDREN.

12
13
14 **Subtitle**

15 TO AUTHORIZE THE INTRODUCTION OF A
16 NONAPPROPRIATION BILL TO CREATE THE
17 ARKANSAS UNBORN CHILD PROTECTION ACT OF
18 2022, ABOLISH ABORTION IN ARKANSAS, AND
19 PROTECT THE LIVES OF UNBORN CHILDREN.

20
21
22 BE IT RESOLVED BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE
23 STATE OF ARKANSAS:

24
25 THAT Representative Wardlaw is authorized to introduce a bill which as
26 introduced will read substantially as follows:

27
28 "Title

29 AN ACT TO CREATE THE ARKANSAS UNBORN CHILD PROTECTION ACT OF 2022; TO ABOLISH
30 ABORTION IN ARKANSAS AND PROTECT THE LIVES OF UNBORN CHILDREN; TO DECLARE AN
31 EMERGENCY; AND FOR OTHER PURPOSES.

32
33 Subtitle

34 TO CREATE THE ARKANSAS UNBORN CHILD PROTECTION ACT OF 2022; TO ABOLISH
35 ABORTION IN ARKANSAS AND PROTECT THE LIVES OF UNBORN CHILDREN; AND TO DECLARE
36 AN EMERGENCY.



1
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

3
4 SECTION 1. Arkansas Code Title 5, Chapter 61, is amended to add an
5 additional subchapter to read as follows:

6 Subchapter 5 – Arkansas Unborn Child Protection Act of 2022

7
8 5-61-501. Title.

9 This subchapter shall be known and may be cited as the “Arkansas Unborn
10 Child Protection Act of 2022”.

11
12 5-61-502. Legislative findings and intent.

13 (a) The General Assembly finds that:

14 (1) It is time for the United States Supreme Court to redress
15 and correct the grave injustice and the crime against humanity which is being
16 perpetuated by its decisions in Roe v. Wade, Doe v. Bolton, and Planned
17 Parenthood v. Casey;

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

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

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

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

34 (6) Under the doctrine of stare decisis, the three (3) abortion
35 cases mentioned in subdivision (a)(1) of this section meet the test for when
36 a case should be overturned by the United States Supreme Court because of

1 significant changes in facts or laws, including without limitation the
2 following:

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

7 (B) New scientific advances have demonstrated since 1973
8 that life begins at the moment of conception and that an unborn child in a
9 woman's womb is a human being;

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

12 (D) The laws in all fifty (50) states have now changed
13 through "Safe Haven" laws to eliminate all burden of child care from women
14 who do not want to care for a child; and

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

18 (7) Before the United States Supreme Court decision of Roe v.
19 Wade, Arkansas had already enacted prohibitions on abortions under § 5-61-101
20 et seq., and authorized the refusal to perform, participate, consent, or
21 submit to an abortion under § 20-16-601;

22 (8) Arkansas Constitution, Amendment 68, states that "[t]he
23 policy of Arkansas is to protect the life of every unborn child from
24 conception until birth" and that "[n]o public funds will be used to pay for
25 any abortion, except to save the mother's life";

26 (9) Arkansas passed the Arkansas Human Heartbeat Protection Act,
27 § 20-16-1301 et seq., in 2013, which shows the will of the Arkansas people to
28 save the lives of unborn children;

29 (10) Arkansas has continued to pass additional legislation in
30 2015, 2017, and 2019 that further shows the will of the Arkansas people to
31 save the lives of unborn children;

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

35 (B) In 2015, six hundred thirty-eight thousand one hundred
36 sixty-nine (638,169) legal induced abortions were reported to the Centers for

1 Disease Control and Prevention from forty-nine (49) reporting areas in the
2 United States.

3 (C) The Department of Health reports that two thousand
4 nine hundred sixty-three (2,963) abortions took place in Arkansas during
5 2019, including abortions performed on out-of-state residents; and

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

11 (b) In anticipation of the groundbreaking decision of Dobbs v. Jackson
12 Women's Health Organization, it is the intent of this subchapter to ensure
13 that abortion in Arkansas is abolished and to protect the lives of unborn
14 children.

15
16 5-61-503. Definitions.

17 As used in this subchapter:

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

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

25 (i) Save the life or preserve the health of the
26 unborn child;

27 (ii) Remove a dead unborn child whose death was
28 caused by spontaneous abortion; or

29 (iii) Remove an ectopic pregnancy;

30 (2) "Fertilization" means the fusion of a human spermatozoon
31 with a human ovum;

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

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

3
 4 5-61-504. Prohibition.

5 (a) A person shall not purposely perform or attempt to perform an
 6 abortion except in the case of incest; rape, if documentation is presented
 7 that states that the rape was reported to law enforcement; or to save the
 8 life of the pregnant woman in a medical emergency.

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

10 (c) This section does not:

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

13 (2) Prohibit the sale, use, prescription, or administration of a
 14 contraceptive measure, drug, or chemical if the contraceptive measure, drug,
 15 or chemical is administered before the time when a pregnancy could be
 16 determined through conventional medical testing and if the contraceptive
 17 measure, drug, or chemical is sold, used, prescribed, or administered in
 18 accordance with manufacturer instructions.

19 (d) It is an affirmative defense to prosecution under this section if
 20 a licensed physician provides medical treatment to a pregnant woman which
 21 results in the accidental or unintentional physical injury or death to the
 22 unborn child.

23
 24 SECTION 2. Arkansas Code Title 5, Chapter 61, Subchapter 4, is
 25 repealed.

26 ~~Subchapter 4 — Arkansas Unborn Child Protection Act~~

27
 28 ~~5-61-401. Title.~~

29 ~~This subchapter shall be known and may be cited as the "Arkansas Unborn~~
 30 ~~Child Protection Act".~~

31
 32 ~~5-61-402. Legislative findings and intent.~~

33 ~~(a) The General Assembly finds that:~~

34 ~~(1) It is time for the United States Supreme Court to redress~~
 35 ~~and correct the grave injustice and the crime against humanity which is being~~
 36 ~~perpetuated by its decisions in Roe v. Wade, Doe v. Bolton, and Planned~~

1 ~~Parenthood v. Casey;~~

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

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

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

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

18 ~~(6) Under the doctrine of stare decisis, the three (3) abortion~~
19 ~~eases mentioned in subdivision (a)(1) of this section meet the test for when~~
20 ~~a case should be overturned by the United States Supreme Court because of~~
21 ~~significant changes in facts or laws, including without limitation the~~
22 ~~following;~~

23 ~~(A) The cases have not been accepted by scholars, judges,~~
24 ~~and the American people, as witnessed to by the fact that these cases are~~
25 ~~still the most intensely controversial cases in American history and at the~~
26 ~~present time;~~

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

30 ~~(C) Scientific evidence and personal testimonies document~~
31 ~~the massive harm that abortion causes to women;~~

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

35 ~~(E) Public attitudes favoring adoption have created a~~
36 ~~culture of adoption in the United States, with many families waiting long~~

1 ~~periods of time to adopt newborn infants;~~

2 ~~(7) Before the United States Supreme Court decision of Roe v.~~
 3 ~~Wade, Arkansas had already enacted prohibitions on abortions under § 5-61-101~~
 4 ~~et seq., and authorized the refusal to perform, participate, consent or~~
 5 ~~submit to an abortion under § 20-16-601;~~

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

10 ~~(9) Arkansas passed the Arkansas Human Heartbeat Protection Act,~~
 11 ~~§ 20-16-1301 et seq., in 2013, which shows the will of the Arkansas people to~~
 12 ~~save the lives of unborn children;~~

13 ~~(10) Arkansas has continued to pass additional legislation in~~
 14 ~~2015, 2017, and 2019 that further shows the will of the Arkansas people to~~
 15 ~~save the lives of unborn children;~~

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

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

23 ~~(C) The Department of Health reports that two thousand~~
 24 ~~nine hundred sixty-three (2,963) abortions took place in Arkansas during~~
 25 ~~2019, including abortions performed on out-of-state residents; and~~

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

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

33
 34 ~~5-61-403. Definitions.~~

35 ~~As used in this subchapter:~~

36 ~~(1)(A) "Abortion" means the act of using, prescribing,~~

1 administering, procuring, or selling of any instrument, medicine, drug, or
 2 any other substance, device, or means with the purpose to terminate the
 3 pregnancy of a woman, with knowledge that the termination by any of those
 4 means will with reasonable likelihood cause the death of the unborn child.

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

7 (i) ~~Save the life or preserve the health of the
 8 unborn child;~~

9 (ii) ~~Remove a dead unborn child caused by
 10 spontaneous abortion; or~~

11 (iii) ~~Remove an ectopic pregnancy;~~

12 (2) ~~“Fertilization” means the fusion of a human spermatozoon
 13 with a human ovum;~~

14 (3) ~~“Medical emergency” means a condition in which an abortion
 15 is necessary to preserve the life of a pregnant woman whose life is
 16 endangered by a physical disorder, physical illness, or physical injury,
 17 including a life-endangering physical condition caused by or arising from the
 18 pregnancy itself; and~~

19 (4) ~~“Unborn child” means an individual organism of the species
 20 Homo sapiens from fertilization until live birth.~~

21
 22 ~~5-61-404. Prohibition.~~

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

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

28 (c) ~~This section does not:~~

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

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

1 ~~(d) It is an affirmative defense to prosecution under this section if~~
2 ~~a licensed physician provides medical treatment to a pregnant woman which~~
3 ~~results in the accidental or unintentional physical injury or death to the~~
4 ~~unborn child.~~

5
6 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
7 General Assembly of the State of Arkansas that existing state laws to protect
8 the lives of unborn children have been insufficient; that pregnancies in
9 Arkansas are still routinely terminated by persons purposely performing or
10 attempting to perform an abortion in contradiction of state law; tougher
11 criminal penalties directed at persons purposely performing or attempting to
12 perform an abortion in contradiction of state law will ensure that these
13 persons do not perform or attempt to perform an abortion in contradiction of
14 state law; and that this act is immediately necessary to ensure persons do
15 not purposely perform or attempt to perform abortions in contradiction of
16 state law and to protect the lives of unborn children in this state.
17 Therefore, an emergency is declared to exist, and this act being immediately
18 necessary for the preservation of the public peace, health, and safety shall
19 become effective on:

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

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

24 (3) If the bill is vetoed by the Governor and the veto is
25 overridden, the date the last house overrides the veto."