

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

# A Bill

HOUSE BILL 1012

5 By: Representatives Bentley, M. Berry, Barker, Payton, Miller, Womack, Pilkington, Furman, Ladyman,  
6 Lynch, Cozart, Richmond, Lowery, C. Cooper, Cloud, Speaks, M. McElroy, B. Smith, Tosh, Wooten,  
7 Rye, S. Smith, Penzo, Lundstrum, Wing, Haak  
8 By: Senators Rapert, Hester, B. Ballinger, Caldwell, T. Garner, K. Hammer, G. Stubblefield  
9

## For An Act To Be Entitled

11 AN ACT TO CREATE THE ARKANSAS HUMAN HEARTBEAT AND  
12 HUMAN LIFE CIVIL JUSTICE ACT; TO REGULATE ABORTION IN  
13 ARKANSAS; TO SAVE THE LIVES OF UNBORN CHILDREN AND  
14 PROTECT THE HEALTH OF WOMEN THROUGH CIVIL LIABILITY  
15 FOR VIOLATIONS OF ABORTION LAWS; TO DECLARE AN  
16 EMERGENCY; AND FOR OTHER PURPOSES.  
17  
18

## Subtitle

19 TO CREATE THE ARKANSAS HUMAN HEARTBEAT  
20 AND HUMAN LIFE CIVIL JUSTICE ACT; TO SAVE  
21 THE LIVES OF UNBORN CHILDREN AND PROTECT  
22 THE HEALTH OF WOMEN THROUGH CIVIL  
23 LIABILITY; AND TO DECLARE AN EMERGENCY.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

29 SECTION 1. Arkansas Code Title 20, Chapter 16, is amended to add an  
30 additional subchapter to read as follows:

31 Subchapter 26 – Arkansas Human Heartbeat and Human Life Civil Justice Act  
32

33 20-16-2601. Title.

34 This subchapter shall be known and may be cited as the "Arkansas Human  
35 Heartbeat and Human Life Civil Justice Act".  
36



1           20-16-2602. Legislative findings.

2           (a) The General Assembly finds that:

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

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

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

15                   (4) An injustice against humanity occurs when a government  
16 withdraws legal protection from a class of human beings, resulting in severe  
17 deprivation of their rights, up to and including death;

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

22                   (6) Under the doctrine of stare decisis, the three (3) abortion  
23 cases mentioned in subdivision (a)(1) of this section meet the test for when  
24 a case should be overturned by the United States Supreme Court because of  
25 significant changes in facts or laws, including without limitation the  
26 following:

27                           (A) The cases have not been accepted by scholars, judges,  
28 and the American people, evidenced by the fact that these cases are still the  
29 most intensely controversial cases in American history and at the present  
30 time;

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

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

36                           (D) The laws in all fifty (50) states have now changed

1 through "Safe Haven" laws to eliminate all burdens of child care from women  
2 who do not want to care for a child; and

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

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

10 (8) Arkansas Constitution, Amendment 68, states that "the policy  
11 of Arkansas is to protect the life of every unborn child from conception  
12 until birth" and that "no public funds will be used to pay for any abortion,  
13 except to save the mother's life";

14 (9) Arkansas passed the Arkansas Human Heartbeat Protection Act,  
15 § 20-16-1301 et seq., in 2013, which shows the will of the Arkansas people to  
16 save the lives of unborn children;

17 (10) Arkansas has continued to pass additional legislation in  
18 2015, 2017, 2019, and 2021 that further shows the will of the Arkansas people  
19 to save the lives of unborn children;

20 (11)(A) Since the decision of Roe v. Wade, approximately sixty-  
21 two million five hundred two thousand nine hundred four (62,502,904)  
22 abortions have ended the lives of unborn children.

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

27 (C) The Department of Health reports that two thousand  
28 nine hundred sixty-three (2,963) abortions took place in Arkansas during  
29 2019, including abortions performed on out-of-state residents;

30 (12) Arkansas has a compelling interest from the outset of a  
31 woman's pregnancy in protecting the health of the woman and life of an unborn  
32 child; and

33 (13) The State of Arkansas urgently pleads with the United  
34 States Supreme Court to do the right thing, as they did in one of their  
35 greatest cases, Brown v. Board of Education, which overturned a fifty-eight-  
36 year-old precedent of the United States, and reverse, cancel, overturn, and

1 annul Roe v. Wade, Doe v. Bolton, and Planned Parenthood v. Casey.

2 (b) It is the intent of this subchapter to ensure that abortion in  
3 Arkansas is abolished and to establish civil liability for the violation of  
4 abortion laws in order to protect the lives of unborn children.

5  
6 20-16-2603. Definitions.

7 As used in this subchapter:

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

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

15 (i) Save the life or preserve the health of the  
16 unborn child;

17 (ii) Remove a dead unborn child caused by  
18 spontaneous abortion; or

19 (iii) Remove an ectopic pregnancy;

20 (2) "Entity" means a corporation, partnership, limited liability  
21 company, association, joint venture, public corporation, any other legal or  
22 commercial entity, fiduciary, or any organized group of persons whether  
23 incorporated or not, including without limitation a church or religious  
24 organization;

25 (3) "Fertilization" means the fusion of a human spermatozoon  
26 with a human ovum;

27 (4) "Medical emergency" means a condition in which an abortion  
28 is necessary to preserve the life of a pregnant woman whose life is  
29 endangered by a physical disorder, physical illness, or physical injury,  
30 including a life-endangering physical condition caused by or arising from the  
31 pregnancy itself; and

32 (5) "Unborn child" means an individual organism of the species  
33 Homo sapiens from fertilization until live birth.

34  
35 20-16-2604. Prohibition.

36 (a) A person or entity shall not purposely perform or attempt to

1 perform an abortion except to save the life of a pregnant woman in a medical  
2 emergency.

3 (b) This section does not:

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

6 (2) Permit a civil liability to be assessed against a woman upon  
7 whom an abortion is performed in violation of this subchapter; or

8 (3) Prohibit the sale, use, prescription, or administration of a  
9 contraceptive measure, drug, or chemical if the contraceptive measure, drug,  
10 or chemical is administered before the time when a pregnancy could be  
11 determined through conventional medical testing and if the contraceptive  
12 measure, drug, or chemical is sold, used, prescribed, or administered in  
13 accordance with manufacturer instructions.

14 (c) It is an affirmative defense under this section if a licensed  
15 physician provides medical treatment to a pregnant woman which results in the  
16 accidental or unintentional physical injury or death to the unborn child.

17  
18 20-16-2605. Exemption for preemption and intergovernmental immunity.

19 The prohibition in § 20-16-2604 shall not apply to an abortion  
20 performed at the behest of federal agencies, contractors, or employees that  
21 are carrying out duties under federal law, if the prohibition on the abortion  
22 would violate the doctrines of preemption or intergovernmental immunity.

23  
24 20-16-2606. Limitation on public enforcement.

25 (a) Notwithstanding any other law, the requirements of this subchapter  
26 shall be enforced exclusively through the private civil actions described in  
27 § 20-16-2607.

28 (b) A direct or indirect enforcement of this subchapter may not be  
29 taken or threatened by the state, a political subdivision, a district or  
30 county attorney, or an executive or administrative officer or employee of  
31 this state or a political subdivision against any person or entity.

32 (c) A violation of this subchapter may not be used to justify or  
33 trigger the enforcement of any other law, except as provided in § 20-16-2607.

34  
35 20-16-2607. Civil liability.

36 (a) Any person or entity, other than the state, a political

1 subdivision of the state, or an officer or employee of a state or local  
2 governmental entity in this state, may bring a civil action against any  
3 person or entity who:

4 (1) Performs or induces an abortion in violation of this  
5 subchapter;

6 (2) Knowingly engages in conduct that aids or abets the  
7 performance or inducement of an abortion, including paying for or reimbursing  
8 the costs of an abortion through insurance or otherwise, if the abortion is  
9 performed or induced in violation of this subchapter, regardless of whether  
10 the person or entity knew or should have known that the abortion would be  
11 performed or induced in violation of this subchapter; or

12 (3) Intends to engage in the conduct described in subdivision  
13 (a)(1) or subdivision (a)(2) of this section.

14 (b) If a claimant prevails in an action brought under this section,  
15 the court shall award:

16 (1) Injunctive relief sufficient to prevent the defendant from  
17 violating this subchapter or engaging in acts that aid or abet violations of  
18 this subchapter;

19 (2) Statutory damages in an amount of not less than ten thousand  
20 dollars (\$10,000) for each abortion that the defendant performed or induced  
21 in violation of this subchapter, and for each abortion performed or induced  
22 or aided or abetted in violation of this subchapter;

23 (3) Nominal and compensatory damages if the plaintiff has  
24 suffered harm from the defendant's conduct, including without limitation loss  
25 of consortium and emotional distress; and

26 (4) Costs and attorney's fees.

27 (c) Notwithstanding subsection (b) of this section, a court may not  
28 award relief under this section in response to a violation of subdivision  
29 (a)(1) or subdivision (a)(2) of this section if the defendant demonstrates  
30 that the defendant previously paid the full amount of statutory damages under  
31 subdivision (b)(2) of this section in a previous action for that particular  
32 violation of this subchapter, or for the particular conduct that aided or  
33 abetted an abortion performed or induced in violation of this subchapter.

34 (d) Notwithstanding any other law, a person or entity may bring an  
35 action under this section not later than the third anniversary after the date  
36 the cause of action accrues.

1           (e) Notwithstanding any other law, the following are not a defense to  
2 an action brought under this section:

3                   (1) Ignorance or mistake of law;

4                   (2) A defendant's belief that the requirements or provisions of  
5 this subchapter are or were unconstitutional;

6                   (3) A defendant's reliance on any court decision that has been  
7 overruled on appeal or by a subsequent court, even if that court decision has  
8 not been overruled when the defendant violated this subchapter;

9                   (4) A defendant's reliance on any state or federal court  
10 decision that is not binding on the court in which the action has been  
11 brought;

12                   (5) Nonmutual issue preclusion or nonmutual claim preclusion;

13                   (6) The consent of the unborn child's mother to the abortion; or

14                   (7) Any claim that the enforcement of this subchapter or the  
15 imposition of civil liability against the defendant will violate the  
16 constitutional rights of third parties, except as provided by § 20-16-2608.

17           (f)(1) It is an affirmative defense if:

18                   (A) A person or entity sued under subdivision (a)(2) of  
19 this section reasonably believed, after conducting a reasonable  
20 investigation, that the person or entity performing or inducing the abortion  
21 had complied or would comply with every requirement and provision of this  
22 subchapter; or

23                   (B) A person or entity sued under subdivision (a)(3) of  
24 this section reasonably believed, after conducting a reasonable  
25 investigation, that the person or entity performing or inducing the abortion  
26 would comply with every requirement and provision of this subchapter.

27                   (2) The defendant has the burden of proving an affirmative  
28 defense under subdivision (f)(1)(A) or subdivision (f)(1)(B) of this section  
29 by a preponderance of the evidence.

30                   (g) This section does not impose liability on any speech or conduct  
31 protected by the First Amendment of the United States Constitution, as made  
32 applicable to the states through the United States Supreme Court's  
33 interpretation of the Fourteenth Amendment of the United States Constitution,  
34 or by Arkansas Constitution, Article 2, § 6.

35                   (h)(1) Notwithstanding any other law, neither the state, nor any of  
36 its political subdivisions, nor any district or county attorney, nor any

1 executive or administrative officer or employee of this state or a political  
2 subdivision may act in concert or participation with anyone who brings suit  
3 under this section, nor may they intervene in any action brought under this  
4 section.

5 (2) This subsection does not prohibit a person or entity  
6 described in subsection (h)(1) of this section from filing an amicus curiae  
7 brief in the action if that person or entity does not act in concert or  
8 participate with the plaintiff or plaintiffs who sue under this section.

9 (i) Notwithstanding any other law, including § 16-22-309, a court may  
10 not award costs or attorney's fees under the Arkansas Rules of Civil  
11 Procedure or any other law to a defendant in an action brought under this  
12 section.

13 (j) Notwithstanding any other law, a civil action under this section  
14 may not be brought by a person who impregnated the woman who obtained an  
15 abortion through an act of rape, sexual assault, incest, or any other act  
16 prohibited under Title 5, Chapter 14.

17 (k) Notwithstanding any other law, a civil action under this section  
18 may not be brought against a person or entity that performed or aided or  
19 abetted an abortion at the behest of federal agencies, contractors, or  
20 employees that are carrying out duties under federal law if the prohibition  
21 on the abortion would violate the doctrines of preemption or  
22 intergovernmental immunity.

23 (l) Notwithstanding any other law, a civil action under this section  
24 may not be brought against a common carrier who transports a pregnant woman  
25 to an abortion provider, if the common carrier is unaware that the woman  
26 intends to abort her unborn child.

27  
28 20-16-2608. Civil liability – Defenses.

29 (a) A defendant against whom an action is brought under § 20-16-2607  
30 may assert an affirmative defense to liability under this section if:

31 (1) The defendant has standing to assert the rights of a woman  
32 or a group of women seeking to obtain an abortion under the tests for third-  
33 party standing established by the Supreme Court of the United States; and

34 (2) The imposition of civil liability on the defendant will  
35 result in an undue burden on that abortion-seeking woman or group of  
36 abortion-seeking women.



1           (b) The defendant shall bear the burden of proving the affirmative  
2 defense in subsection (a) of this section by a preponderance of the evidence.

3           (c) The affirmative defense under subsection (a) of this section is  
4 not available if the United States Supreme Court overrules Roe v. Wade, 410  
5 U.S. 113 (1973), or Planned Parenthood v. Casey, 505 U.S. 833 (1992),  
6 regardless of whether the conduct on which the cause of action is based under  
7 § 20-16-2607 occurred before the United States Supreme Court overruled either  
8 of those decisions.

9           (d)(1) This section or subchapter does not in any way limit or  
10 preclude a defendant from asserting the defendant's personal constitutional  
11 rights as a defense to liability under § 20-16-2607.

12           (2) A court may not award relief under § 20-16-2607 if the  
13 conduct for which the defendant has been sued was an exercise of state or  
14 federal constitutional rights that personally belong to the defendant.

15           (e) This section or subchapter does not in any way limit or preclude a  
16 defendant from asserting the unconstitutionality of any provision of Arkansas  
17 law as a defense to liability under this subchapter.

18  
19           20-16-2609. Civil liability – Venue.

20           (a) Notwithstanding any other law, a civil action brought under § 20-  
21 16-2607 shall be brought in:

22           (1) The county in which all or a substantial part of the events  
23 or omissions giving rise to the claim occurred;

24           (2) The county of residence for any one (1) of the natural  
25 person defendants at the time the cause of action accrued;

26           (3) The county of the principal office in this state of any one  
27 (1) of the defendants that is not a natural person; or

28           (4) The county of residence for the claimant if the claimant is  
29 a natural person residing in this state.

30           (b) If a civil action is brought under § 20-16-2607 in any one (1) of  
31 the venues described in subsection (a) of this section, the action shall not  
32 be transferred to a different venue without the written consent of all  
33 parties.

34  
35           20-16-2610. Sovereign, governmental, and official immunity preserved –  
36 Limits on jurisdiction.

1        (a) Notwithstanding any other law, the state of Arkansas shall have  
2 sovereign immunity, each of its political subdivisions shall have  
3 governmental immunity, and each officer and employee of this state or a  
4 political subdivision shall have official immunity in any action, claim, or  
5 counterclaim or any type of legal or equitable action that challenges the  
6 validity of any provision or application of this subchapter, on  
7 constitutional grounds or otherwise, or that seeks to prevent or enjoin the  
8 state of Arkansas, its political subdivisions, or any officer or employee of  
9 this state or a political subdivision from enforcing any provision or  
10 application of this subchapter, unless that immunity has been abrogated or  
11 preempted by federal law in a manner consistent with the Constitution of the  
12 United States.

13        (b) Notwithstanding any other law, a provision of state law may not be  
14 construed to waive or abrogate an immunity described by subsection (a) of  
15 this section unless it expressly waives immunity by specific reference to  
16 this section.

17        (c) Notwithstanding any other law, an attorney representing the state,  
18 a political subdivision of the state, or any officer or employee of the state  
19 or a political subdivision of the state is not authorized or permitted to  
20 waive an immunity described in this section or take any action that would  
21 result in a waiver of the immunity described in this section.

22        (d) Notwithstanding any other law, a court of this state shall not  
23 have jurisdiction to consider any action, claim, or counterclaim that seeks  
24 declaratory or injunctive relief to prevent the state, a political  
25 subdivision of the state, any officer or employee of the state or a political  
26 subdivision of the state, or any person or entity from enforcing any  
27 provision or application of this subchapter or from filing a civil action  
28 under this subchapter.

29        (e) This section or subchapter shall not be construed to prevent a  
30 litigant from asserting the invalidity or unconstitutionality of any  
31 provision or application of this subchapter as a defense to any action,  
32 claim, or counterclaim brought against the litigant.

33  
34        20-16-2611. Award of attorney's fees in actions challenging abortion  
35 laws.

36        (a) Notwithstanding any other law, any person, including an entity,

1 attorney, or law firm, that seeks declaratory or injunctive relief to prevent  
2 this state, a political subdivision of this state, any governmental entity or  
3 public official in this state, or any person or entity in this state from  
4 enforcing any statute, ordinance, rule, regulation, or any other type of law  
5 that regulates or restricts abortion or that limits taxpayer funding for  
6 individuals or entities that perform or promote abortions, in any state or  
7 federal court, or that represents any litigant seeking such relief in any  
8 state or federal court, is jointly and severally liable to pay the costs and  
9 attorney's fees of the prevailing party.

10 (b) For purposes of this section, a party is considered a prevailing  
11 party if a state or federal court:

12 (1) Dismisses any claim or cause of action brought against the  
13 party that seeks the declaratory or injunctive relief described in subsection  
14 (a) of this section, regardless of the reason for the dismissal; or

15 (2) Enters judgment in the party's favor on any such claim or  
16 cause of action.

17 (c) Regardless of whether a prevailing party sought to recover costs  
18 or attorney's fees in the underlying action, a prevailing party under this  
19 section may bring a civil action to recover costs and attorney's fees against  
20 a person, including an entity, attorney, or law firm, that sought declaratory  
21 or injunctive relief described in subsection (a) of this section not later  
22 than three (3) years after the date on which, as applicable:

23 (1) The dismissal or judgment described in subsection (b) of  
24 this section becomes final on the conclusion of appellate review; or

25 (2) The time for seeking appellate review expires.

26 (d) It is not a defense to an action brought under subsection (c) of  
27 this section that:

28 (1) A prevailing party under this section failed to seek  
29 recovery of costs or attorney's fees in the underlying action;

30 (2) The court in the underlying action declined to recognize or  
31 enforce the requirements of this section; or

32 (3) The court in the underlying action held that any provisions  
33 of this section are invalid, unconstitutional, or preempted by federal law,  
34 notwithstanding the doctrines of issue or claim preclusion.

35  
36 20-16-2612. Severability.

1       (a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in  
2 the context of determining the severability of a state statute regulating  
3 abortion the Supreme Court of the United States held that an explicit  
4 statement of legislative intent is controlling, it is the intent of the  
5 General Assembly that every provision, section, subsection, sentence, clause,  
6 phrase, and word of this subchapter, and every application of the provisions  
7 of this subchapter, be severable from each other.

8       (b)(1) If any application of any provision of this subchapter to any  
9 person or entity, group of persons or entities, or circumstances is found by  
10 a court to be invalid, preempted, unconstitutional, or to impose an undue  
11 burden on any woman or group of women seeking an abortion, then the remaining  
12 applications of that provision to all other persons or entities and  
13 circumstances shall be severed and preserved, and shall remain in effect.

14       (2) All constitutionally valid applications of the provisions of  
15 this subchapter, and every application of those provisions that can be  
16 enforced without imposing an undue burden on women seeking abortions, shall  
17 be severed from any applications that a court finds to be invalid, preempted,  
18 unconstitutional, or to impose an undue burden on women seeking abortions,  
19 and the valid applications shall remain in force, because it is the General  
20 Assembly's intent and priority that the valid applications be allowed to  
21 stand alone.

22       (3) Even if a reviewing court finds that a provision of this  
23 subchapter to impose an undue burden in a large or substantial fraction of  
24 relevant cases, the applications that do not present an undue burden shall be  
25 severed from the remaining applications and shall remain in force, and shall  
26 be treated as if the General Assembly had enacted a statute limited to the  
27 persons or entities, groups of persons or entities, or circumstances for  
28 which the statute's application does not present an undue burden.

29       (c) The General Assembly further declares that it would have enacted  
30 this subchapter, and each provision, section, subsection, sentence, clause,  
31 phrase, or word, and all constitutional applications of this subchapter,  
32 irrespective of the fact that any provision, section, subsection, sentence,  
33 clause, phrase, or word, or applications of this subchapter, were to be  
34 declared invalid, preempted, unconstitutional, or to impose an undue burden.

35       (d) If any provision of this subchapter is found by any court to be  
36 unconstitutionally vague, then the applications of that provision that do not

1 present constitutional vagueness problems shall be severed and remain in  
2 force consistent with the requirements of subsections (a)-(c) of this  
3 section.

4 (e)(1) A court may not decline to enforce the severability  
5 requirements of subsections (a)-(d) of this section on the grounds that  
6 severance would rewrite the statute or involve the court in legislative or  
7 lawmaking activity.

8 (2) A court that declines to enforce or enjoins a state official  
9 from enforcing a statutory provision does not rewrite a statute, as the  
10 statute contains the same words as before the court's decision.

11 (3) A judicial injunction or declaration of unconstitutionality:

12 (A) Is nothing more than an edict prohibiting enforcement  
13 that may subsequently be vacated by a later court if that court has a  
14 different understanding of the requirements of the Arkansas Constitution or  
15 the United States Constitution;

16 (B) Is not a formal amendment of the language in a  
17 statute; and

18 (C) No more rewrites a statute than a decision by the  
19 Governor not to enforce a duly enacted statute in a limited and defined set  
20 of circumstances.

21 (f)(1) If any state or federal court disregards the severability  
22 requirements of subsections (a)-(e) of this section, and declares or finds  
23 any provision of this subchapter is facially unconstitutional, when there are  
24 discrete applications of that provision can be enforced against a person or  
25 entity, group of persons or entities, or circumstances without violating  
26 federal law, the United States Constitution, or the Arkansas Constitution or  
27 imposing an undue burden on women seeking abortions, then that provision  
28 shall be interpreted as if the General Assembly had enacted a provision  
29 limited to the persons or entities, groups of persons or entities, or  
30 circumstances for which the provision's application will not violate federal  
31 law, the United States Constitution, or the Arkansas Constitution or impose  
32 an undue burden on women seeking abortions.

33 (2) Every court shall adopt this saving construction of that  
34 provision until the court ruling that pronounced the provision facially  
35 unconstitutional is vacated or overruled.

36

1 SECTION 2. DO NOT CODIFY. Construction.

2 It is the specific intent of this act that the provisions of this act  
3 are supplemental to, cumulative to, and in addition to existing laws, civil  
4 or criminal, and shall not be construed to amend, repeal, or otherwise affect  
5 those existing laws, including without limitation:

6 (1) The Arkansas Human Life Protection Act, § 5-61-301 et seq.;

7 (2) The Arkansas Unborn Child Protection Act, § 5-61-401 et  
8 seq.;

9 (3) Section 20-16-603;

10 (4) Section 20-16-604;

11 (5) Section 20-16-701 et seq.;

12 (6) The Unborn Child Pain Awareness and Prevention Act, § 20-16-  
13 1101 et seq.;

14 (7) The Partial-Birth Abortion Ban Act, § 20-16-1201 et seq.;

15 (8) The Arkansas Human Heartbeat Protection Act, § 20-16-1301 et  
16 seq.;

17 (9) The Pain-Capable Unborn Child Protection Act, § 20-16-1401  
18 et seq.;

19 (10) The Abortion-Inducing Drugs Safety Act, § 20-16-1501 et  
20 seq.;

21 (11) The Arkansas Unborn Child Protection from Dismemberment  
22 Abortion Act, § 20-16-1801 et seq.;

23 (12) The Sex Discrimination by Abortion Prohibition Act, § 20-  
24 16-1901 et seq.;

25 (13) The Cherish Act, § 20-16-2001 et seq.; and

26 (14) The Down Syndrome Discrimination by Abortion Prohibition  
27 Act, § 20-16-2101 et seq.

28  
29 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
30 General Assembly of the State of Arkansas that legislation in other states  
31 has created a situation in which individuals from other states are entering  
32 Arkansas seeking abortions, which is burdening the healthcare system in this  
33 state; that the General Assembly previously enacted legislation in the spring  
34 to abolish abortions, which has been enjoined; that abortions have increased  
35 in this state causing harm to unborn children and the health and safety of  
36 pregnant women; and that this act is immediately necessary to protect the

1 lives of unborn children and the health and safety of pregnant women in this  
2 state. Therefore, an emergency is declared to exist, and this act being  
3 immediately necessary for the preservation of the public peace, health, and  
4 safety shall become effective on:

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

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

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

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