

State of Arkansas

As Engrossed: S4/9/25

95th General Assembly

A Bill

Regular Session, 2025

SENATE BILL 591

By: Senator C. Penzo

By: Representative K. Brown

For An Act To Be Entitled

AN ACT TO PROHIBIT RACE-SELECTION ABORTION IN THIS
STATE; TO CREATE THE RACE DISCRIMINATION BY ABORTION
PROHIBITION ACT; AND FOR OTHER PURPOSES.

Subtitle

TO PROHIBIT RACE-SELECTION ABORTION IN
THIS STATE; AND TO CREATE THE RACE
DISCRIMINATION BY ABORTION PROHIBITION
ACT.

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 26 – Race Discrimination by Abortion Prohibition Act

20-16-2601. Title.

This subchapter shall be known and may be cited as the “Race
Discrimination by Abortion Prohibition Act”.

20-16-2602. Definitions.

As used in this subchapter:

(1)(A) “Abortion” means the act of using or prescribing any
instrument, medicine, drug, or any other substance, device, or means with the
intent to terminate the clinically diagnosable pregnancy of a woman, with
knowledge that the termination by any of those 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 intent to:

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

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

7 (iii) Remove an ectopic pregnancy;

8 (2) “Incompetent” means an individual who has been adjudicated
9 as an individual with a disability and has had a guardian appointed for her;

10 (3) “Minor” means an individual under eighteen (18) years of
11 age;

12 (4) “Physician” means a person licensed to practice medicine in
13 this state, including a medical doctor and a doctor of osteopathy;

14 (5) “Race-selection abortion” means an abortion performed solely
15 on the basis of the race of the unborn child;

16 (6) “Unborn child” means the offspring of human beings from
17 conception until birth; and

18 (7) “Viability” means the state of fetal development when, in
19 the judgment of the physician based on the particular facts of the case
20 before him or her and in light of the most advanced medical technology and
21 information available to him or her, there is a reasonable likelihood of
22 sustained survival of the unborn child outside the body of the mother, with
23 or without artificial life support.

24
25 20-16-2603. Prohibition – Race-selection abortion.

26 (a) A physician or other person shall not intentionally perform or
27 attempt to perform an abortion with the knowledge that the pregnant woman is
28 seeking the abortion solely on the basis of the race of the unborn child.

29 (b) Before performing an abortion, the physician or other person who
30 is performing the abortion shall:

31 (1)(A) Ask the pregnant woman if she knows the race of the
32 unborn child.

33 (B) If the pregnant woman knows the race of the unborn
34 child, the physician or other person who is performing the abortion shall
35 inform the pregnant woman of the prohibition of abortion as a method of race
36 selection for children; and

1 (2)(A) Request the medical records of the pregnant woman
2 relating directly to the entire pregnancy history of the woman.

3 (B) An abortion shall not be performed until reasonable
4 time and effort is spent to obtain the medical records of the pregnant woman
5 as described in subdivision (b)(2)(A) of this section.

6 (c) If this section is held invalid as applied to the period of
7 pregnancy prior to viability, then the section shall remain applicable to the
8 period of pregnancy subsequent to viability.

9
10 20-16-2604. Criminal penalties.

11 A physician or other person who knowingly performs or attempts to
12 perform an abortion prohibited by this subchapter is guilty of a Class A
13 misdemeanor.

14
15 20-16-2605. Civil penalties and professional sanctions.

16 (a)(1) A physician or other person who knowingly violates this
17 subchapter is liable for damages and shall have his or her medical license
18 suspended or revoked as applicable.

19 (2) The physician or other person may also be enjoined from
20 future acts prohibited by this subchapter.

21 (b)(1) A woman who receives an abortion in violation of this
22 subchapter without being informed of the prohibition of abortion as a method
23 of race selection for children, the parent or legal guardian of the woman if
24 the woman is a minor who is not emancipated, or the legal guardian of the
25 woman if the woman has been adjudicated incompetent, may commence a civil
26 action for any reckless violation of this subchapter and may seek both actual
27 and punitive damages.

28 (2) Damages may include without limitation:

29 (A) Money damages for all psychological and physical
30 injuries occasioned by the violation of this subchapter; and

31 (B) Statutory damages equal to ten (10) times the cost of
32 the abortion performed in violation of this subchapter.

33 (c) A physician or other person who performs an abortion in violation
34 of this subchapter shall be considered to have engaged in unprofessional
35 conduct for which his or her license to provide healthcare services in this
36 state shall be suspended or revoked by the Arkansas State Medical Board.

1 (d)(1) A cause of action for injunctive relief against any physician
2 or other person who has knowingly violated this subchapter may be maintained
3 by:

4 (A) A person who is the spouse, parent, guardian, or
5 current or former licensed healthcare provider of the woman who receives or
6 attempts to receive an abortion in violation of this subchapter; or

7 (B) The Attorney General.

8 (2) The injunction shall prevent the physician or other person
9 from performing further abortions in violation of this subchapter.

10
11 20-16-2606. Exclusion of liability for a woman who undergoes
12 prohibited abortion.

13 (a) A woman who receives or attempts to receive an abortion in
14 violation of this subchapter shall not be prosecuted under this subchapter
15 for conspiracy to violate this subchapter or otherwise be held criminally or
16 civilly liable for any violation.

17 (b) In a criminal proceeding or action brought under this subchapter,
18 a woman who receives or attempts to receive an abortion in violation of this
19 subchapter is entitled to all rights, protections, and notifications afforded
20 to crime victims.

21 (c)(1) In a civil proceeding or action brought under this subchapter,
22 the anonymity of the woman who receives or attempts to receive the abortion
23 in violation of this subchapter shall be preserved from public disclosure
24 unless she gives her consent to disclosure.

25 (2) A court of competent jurisdiction, upon motion or sua
26 sponte, shall issue orders to the parties, witnesses, and counsel and direct
27 the sealing of the record and exclusion of the individuals from the courtroom
28 or hearing room to the extent necessary to safeguard the identity of the
29 woman from public disclosure.

30 (3) In the absence of written consent of the woman who receives
31 or attempts to receive an abortion in violation of this subchapter, a person
32 who initiates a proceeding or action under § 20-16-2605(b) or § 20-16-2605(d)
33 shall do so under a pseudonym.

34
35 20-16-2607. Construction.

36 (a) This subchapter shall not be construed as creating or recognizing

1 a right to abortion.

2 (b) It is not the intention of this subchapter to make lawful an
3 abortion that is currently unlawful.

4
5 20-16-2608. Right of intervention.

6 The General Assembly by joint resolution may appoint one (1) or more of
7 its members who sponsored or cosponsored this subchapter in his or her
8 official capacity to intervene as a matter of right in any case in which the
9 constitutionality of this law is challenged.

10
11 SECTION 2. Contingent effective date.

12 This act shall become effective only upon the certification by the
13 Attorney General that:

14 (1) The State of Arkansas is enjoined from preventing a person
15 from purposely performing or attempting to perform an abortion except to save
16 the life of a pregnant woman in a medical emergency under Arkansas Human Life
17 Protection Act, § 5-61-301 et seq., or the Arkansas Unborn Child Protection
18 Act, § 5-61-401 et seq.; or

19 (2) The Arkansas Human Life Protection Act, § 5-61-301 et seq.,
20 or the Arkansas Unborn Child Protection Act, § 5-61-401 et seq., have been
21 repealed or amended in whole or in part to allow a person to purposely
22 perform or attempt to perform an abortion except to save the life of a
23 pregnant woman in a medical emergency.

24
25 */s/C. Penzo*

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27
28 **APPROVED: 4/22/25**