

Stricken language would be deleted from and underlined language would be added to present law.  
Act 309 of the Regular Session

1 State of Arkansas As Engrossed: S1/21/21 S2/8/21 S2/9/21

2 93rd General Assembly

# A Bill

3 Regular Session, 2021

SENATE BILL 6

4

5 By: Senators Rapert, T. Garner, G. Stubblefield, B. Ballinger, Bledsoe, A. Clark, L. Eads, J. English,

6 Flippo, Gilmore, K. Hammer, Hester, Hill, Irvin, B. Johnson, D. Sullivan, D. Wallace, Beckham, M.

7 Johnson

8 By: Representatives Bentley, Gazaway, M. Berry, Bragg, Breaux, Brooks, Cloud, C. Cooper, Cozart,

9 Crawford, Dotson, Evans, Hillman, Lowery, J. Mayberry, McCollum, McNair, Milligan, Payton,

10 Pilkington, Ray, B. Smith, Tosh, Underwood, Vaught, Wardlaw, Watson, Beaty Jr., Lundstrum, Richmond

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## For An Act To Be Entitled

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AN ACT TO CREATE THE ARKANSAS UNBORN CHILD PROTECTION

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ACT; TO ABOLISH ABORTION IN ARKANSAS AND PROTECT THE

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LIVES OF UNBORN CHILDREN; TO PROTECT ALL HUMAN LIFE;

16

AND FOR OTHER PURPOSES.

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## Subtitle

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TO CREATE THE ARKANSAS UNBORN CHILD

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PROTECTION ACT; TO ABOLISH ABORTION IN

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ARKANSAS AND PROTECT THE LIVES OF UNBORN

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CHILDREN; AND TO PROTECT ALL HUMAN LIFE.

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

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SECTION 1. Arkansas Code Title 5, Chapter 61, is amended to add an

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additional subchapter to read as follows:

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Subchapter 4 – Arkansas Unborn Child Protection Act

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5-61-401. Title.

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This subchapter shall be known and may be cited as the “Arkansas Unborn

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Child Protection Act”.

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5-61-402. Legislative findings and intent.



1           (a) The General Assembly finds that:

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

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

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

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

17                   (5) In *Brown v. Board of Education*, the United States Supreme  
18 Court corrected its own grave injustice and crime against humanity created in  
19 *Plessy v. Ferguson* by overruling and abolishing the fifty-eight-year-old  
20 “separate but equal” doctrine, thus giving equal legal rights to African-  
21 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, as witnessed to by the fact that these cases are  
29 still the most intensely controversial cases in American history and at the  
30 present 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 burden 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 public funds shall not be used to pay for any abortion,  
13 except to save the life of the mother;

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, and 2019 that further shows the will of the Arkansas people to  
19 save the lives of unborn children;

20 (11)(A) Since the decision of Roe v. Wade, approximately sixty  
21 million sixty-nine thousand nine hundred seventy-one (60,069,971) abortions  
22 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; and

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

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

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2 5-61-403. Definitions.

3 As used in this subchapter:

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

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

11 (i) Save the life or preserve the health of the  
12 unborn child;

13 (ii) Remove a dead unborn child caused by  
14 spontaneous abortion; or

15 (iii) Remove an ectopic pregnancy;

16 (2) "Fertilization" means the fusion of a human spermatozoon  
17 with a human ovum;

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

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

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26 5-61-404. Prohibition.

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

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

32 (c) This section does not:

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

35 (2) Prohibit the sale, use, prescription, or administration of a  
36 contraceptive measure, drug, or chemical if the contraceptive measure, drug,

1 or chemical is administered before the time when a pregnancy could be  
2 determined through conventional medical testing and if the contraceptive  
3 measure, drug, or chemical is sold, used, prescribed, or administered in  
4 accordance with manufacturer instructions.

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

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*/s/Rapert*

**APPROVED: 3/9/21**