

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas *As Engrossed: H2/5/99 S2/23/99 S3/26/99 S4/5/99*

2 82nd General Assembly

A Bill

3 Regular Session, 1999

HOUSE BILL 1329

4

5 By: Representatives Hendren, *Wilkinson, Rodgers, Simon*

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For An Act To Be Entitled

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"AN ACT TO BE ENTITLED THE FETAL PROTECTION ACT; AND

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FOR OTHER PURPOSES. "

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Subtitle

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"THE FETAL PROTECTION ACT. "

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

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SECTION 1. Arkansas Code 5-1-102(13) is amended to read as follows:

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"(13) (A) 'Person,' 'actor,' 'defendant,' 'he,' or 'him' includes any natural person and, where appropriate, an organization as that term is defined in § 5-2-501(1);

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(B) For the purposes of Arkansas Code 5-10-101 through 5-10-105,

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'Person' also includes an unborn child in utero at any stage of development;

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(C) 'Unborn child' means a living fetus of twelve (12) weeks or greater gestation.

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SECTION 2. Exceptions.

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This act does not apply to:

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(1) Acts which cause the death of an unborn child in utero if those acts were committed during a legal abortion to which the woman consented;

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(2) Acts which are committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment; and

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(3) Acts which are committed in the course of medical research, experimental medicine, or acts deemed necessary to save the life or preserve the health of the mother.

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1 SECTION 3. Nothing in this act shall be construed to allow the charging
2 or convicting of a woman with any criminal offense in the death of her own
3 unborn child in utero.

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5 SECTION 4. Arkansas Code 5-61-101, requiring a medical license for
6 persons performing abortions, is amended to add the following new language:

7 "(c) Nothing in this section shall be construed to allow the charging or
8 convicting of a woman with any criminal offense in the death of her own unborn
9 child in utero."

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11 SECTION 5. Arkansas Code 5-61-102, prohibiting the use of medicines and
12 drugs to perform abortions, is amended to add the following new language:

13 "(c) Nothing in this section shall be construed to allow the charging or
14 convicting of a woman with any criminal offense in the death of her own unborn
15 child in utero."

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17 SECTION 6. Arkansas Code 20-16-704, assessing a penalty for the
18 performing of an abortion on a viable fetus, is amended to add the following
19 new language:

20 "20-16-704. Penalty.

21 (a) A violation of this subchapter shall be a Class A misdemeanor.

22 (b) Nothing in this subchapter shall be construed to allow the charging
23 or convicting of a woman with any criminal offense in the death of her own
24 unborn child in utero."

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26 SECTION 7. Arkansas Code 20-16-806, assessing a penalty for performing
27 an abortion on an unemancipated minor, or upon a woman for whom a guardian or
28 custodian has been appointed because of a finding of incompetency without
29 written notice to the parent or guardian, is amended to add the following new
30 language:

31 "(c) Nothing in this subchapter shall be construed to allow the charging
32 or convicting of a woman with any criminal offense in the death of her own
33 unborn child in utero."

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35 SECTION 8. All provisions of this act of a general and permanent nature
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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3 SECTION 9. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

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9 SECTION 10. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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/s/ Hendren

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