

1 HB314  
2 198038-3  
3 By Representatives Collins, Rowe, Mooney, Wilcox, Estes,  
4 Lipscomb, Isbell, Ellis, Lee, Allen, Faust, Brown (K), Pettus,  
5 Greer, Kiel, Nordgren, Reynolds, Drake, Wood (R), Ball, Fridy,  
6 Rich, Ingram, Shiver, Wood (D), Simpson, Kitchens, Marques,  
7 Weaver, South, Faulkner, Shaver, Holmes, McMillan, Whorton,  
8 Farley, Hurst, Standridge, Crawford, Sorrell, Brown (C),  
9 Robertson, Whitt, Moore (P), Wheeler, Carns, Oliver, Garrett,  
10 Sullivan, Gaston, Blackshear, Fincher, Wingo, Hill, Ledbetter,  
11 Baker, Dismukes, Stadthagen, Poole, Clouse, McCutcheon, Shedd,  
12 Sorrells, Pringle, Harbison, Hanes and Easterbrook  
13 RFD: Judiciary  
14 First Read: 02-APR-19

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ENROLLED, An Act,

Relating to abortion; to make abortion and attempted abortion felony offenses except in cases where abortion is necessary in order to prevent a serious health risk to the unborn child's mother; to provide that a woman who receives an abortion will not be held criminally culpable or civilly liable for receiving the abortion; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known as The Alabama Human Life Protection Act.

Section 2. Legislative Findings.

(a) This state's statute criminalizing abortion, Section 13A-13-7, Code of Alabama 1975, has never been repealed. It has remained unenforceable as a result of the U.S. Supreme Court decision in Roe v. Wade, 410 U.S. 113 (1973) and its progeny, which struck down as unconstitutional a Texas statute criminalizing abortion and which effectively repealed by implication and made unenforceable all other state statutes criminalizing abortion.

1           (b) On November 6, 2018, electors in this state  
2 approved by a majority vote a constitutional amendment to the  
3 Constitution of Alabama of 1901 declaring and affirming the  
4 public policy of the state to recognize and support the  
5 sanctity of unborn life and the rights of unborn children. The  
6 amendment made it clear that the Constitution of Alabama of  
7 1901 does not include a right to an abortion or require the  
8 funding of abortions using public funds.

9           (c) In present state law, Section 13A-6-1, Code of  
10 Alabama 1975, defines a person for homicide purposes to  
11 include an unborn child in utero at any stage of development,  
12 regardless of viability.

13           (d) In the United States Declaration of  
14 Independence, the principle of natural law that "all men are  
15 created equal" was articulated. The self-evident truth found  
16 in natural law, that all human beings are equal from creation,  
17 was at least one of the bases for the anti-slavery movement,  
18 the women's suffrage movement, the Nuremberg war crimes  
19 trials, and the American civil rights movement. If those  
20 movements had not been able to appeal to the truth of  
21 universal human equality, they could not have been successful.

22           (e) Abortion advocates speak to women's rights, but  
23 they ignore the unborn child, while medical science has  
24 increasingly recognized the humanity of the unborn child.

1           (f) Recent medical advances prove a baby's heart  
2 starts to beat at around six weeks. At about eight weeks, the  
3 heartbeat can be heard through an ultrasound examination. A  
4 fetal Doppler can detect a fetal heartbeat as early as 10  
5 weeks.

6           (g) Ultrasound imaging shows the developing child in  
7 utero.

8           (h) As early as six weeks after fertilization, fetal  
9 photography shows the clear development of a human being. The  
10 Alabama Department of Public Health publication "Did You Know  
11 . . ." demonstrates through actual pictures at two-week  
12 intervals throughout the entire pregnancy the clear images of  
13 a developing human being.

14           (i) It is estimated that 6,000,000 Jewish people  
15 were murdered in German concentration camps during World War  
16 II; 3,000,000 people were executed by Joseph Stalin's regime  
17 in Soviet gulags; 2,500,000 people were murdered during the  
18 Chinese "Great Leap Forward" in 1958; 1,500,000 to 3,000,000  
19 people were murdered by the Khmer Rouge in Cambodia during the  
20 1970s; and approximately 1,000,000 people were murdered during  
21 the Rwandan genocide in 1994. All of these are widely  
22 acknowledged to have been crimes against humanity. By  
23 comparison, more than 50 million babies have been aborted in  
24 the United States since the Roe decision in 1973, more than  
25 three times the number who were killed in German death camps,

1 Chinese purges, Stalin's gulags, Cambodian killing fields, and  
2 the Rwandan genocide combined.

3 (j) The cases of Roe v. Wade and its progeny have  
4 engendered much civil litigation and legislative attempts to  
5 reign in so called abortion rights. Roe v. Wade attempted to  
6 define when abortion of an unborn child would be legal. Judges  
7 and legal scholars have disagreed and dissented with its  
8 finding.

9 Section 3. As used in this act, the following terms  
10 shall have the following meanings:

11 (1) ABORTION. The use or prescription of any  
12 instrument, medicine, drug, or any other substance or device  
13 with the intent to terminate the pregnancy of a woman known to  
14 be pregnant with knowledge that the termination by those means  
15 will with reasonable likelihood cause the death of the unborn  
16 child. The term does not include these activities if done with  
17 the intent to save the life or preserve the health of an  
18 unborn child, remove a dead unborn child, to deliver the  
19 unborn child prematurely to avoid a serious health risk to the  
20 unborn child's mother, or to preserve the health of her unborn  
21 child. The term does not include a procedure or act to  
22 terminate the pregnancy of a woman with an ectopic pregnancy,  
23 nor does it include the procedure or act to terminate the  
24 pregnancy of a woman when the unborn child has a lethal  
25 anomaly.

1           (2) ECTOPIC PREGNANCY. Any pregnancy resulting from  
2 either a fertilized egg that has implanted or attached outside  
3 the uterus or a fertilized egg implanted inside the cornu of  
4 the uterus.

5           (3) LETHAL ANOMALY. A condition from which an unborn  
6 child would die after birth or shortly thereafter or be  
7 stillborn.

8           (4) MEDICAL EMERGENCY. A condition which, in  
9 reasonable medical judgment, so complicates the medical  
10 condition of the pregnant woman that her pregnancy must be  
11 terminated to avoid a serious health risk as defined in this  
12 act.

13           (5) PHYSICIAN. A person licensed to practice  
14 medicine and surgery or osteopathic medicine and surgery in  
15 Alabama.

16           (6) SERIOUS HEALTH RISK TO THE UNBORN CHILD'S  
17 MOTHER. In reasonable medical judgment, the child's mother has  
18 a condition that so complicates her medical condition that it  
19 necessitates the termination of her pregnancy to avert her  
20 death or to avert serious risk of substantial physical  
21 impairment of a major bodily function. This term does not  
22 include a condition based on a claim that the woman is  
23 suffering from an emotional condition or a mental illness  
24 which will cause her to engage in conduct that intends to  
25 result in her death or the death of her unborn child. However,

1 the condition may exist if a second physician who is licensed  
2 in Alabama as a psychiatrist, with a minimum of three years of  
3 clinical experience, examines the woman and documents that the  
4 woman has a diagnosed serious mental illness and because of  
5 it, there is reasonable medical judgment that she will engage  
6 in conduct that could result in her death or the death of her  
7 unborn child. If the mental health diagnosis and likelihood of  
8 conduct is confirmed as provided in this act, and it is  
9 determined that a termination of her pregnancy is medically  
10 necessary to avoid the conduct, the termination may be  
11 performed and shall be only performed by a physician licensed  
12 in Alabama in a hospital as defined in the Alabama  
13 Administrative Code and to which he or she has admitting  
14 privileges.

15 (7) UNBORN CHILD, CHILD or PERSON. A human being,  
16 specifically including an unborn child in utero at any stage  
17 of development, regardless of viability.

18 (8) WOMAN. A female human being, whether or not she  
19 has reached the age of majority.

20 Section 4. (a) It shall be unlawful for any person  
21 to intentionally perform or attempt to perform an abortion  
22 except as provided for by subsection (b).

23 (b) An abortion shall be permitted if an attending  
24 physician licensed in Alabama determines that an abortion is  
25 necessary in order to prevent a serious health risk to the

1 unborn child's mother. Except in the case of a medical  
2 emergency as defined herein, the physician's determination  
3 shall be confirmed in writing by a second physician licensed  
4 in Alabama. The confirmation shall occur within 180 days after  
5 the abortion is completed and shall be prima facie evidence  
6 for a permitted abortion.

7 Section 5. No woman upon whom an abortion is  
8 performed or attempted to be performed shall be criminally or  
9 civilly liable. Furthermore, no physician confirming the  
10 serious health risk to the child's mother shall be criminally  
11 or civilly liable for those actions.

12 Section 6. (a) An abortion performed in violation of  
13 this act is a Class A felony.

14 (b) An attempted abortion performed in violation of  
15 this act is a Class C felony.

16 Section 7. This act shall not apply to a physician  
17 licensed in Alabama performing a termination of a pregnancy or  
18 assisting in performing a termination of a pregnancy due to a  
19 medical emergency as defined by this act.

20 Section 8. The construction of existing statutes and  
21 regulations that regulate or recognize abortion in Alabama  
22 that are in conflict with or antagonistic to this act shall be  
23 repealed as null and void and shall recognize the prohibition  
24 of abortion as provided in this act. If this act is challenged  
25 and enjoined pending a final judicial decision, the existing

1 statutes and regulations that regulate or recognize abortion  
2 shall remain in effect during that time.

3 Section 9. Although this bill would have as its  
4 purpose or effect the requirement of a new or increased  
5 expenditure of local funds, the bill is excluded from further  
6 requirements and application under Amendment 621, now  
7 appearing as Section 111.05 of the Official Recompilation of  
8 the Constitution of Alabama of 1901, as amended, because the  
9 bill defines a new crime or amends the definition of an  
10 existing crime.

11 Section 10. This act shall become effective six  
12 months following its passage and approval by the Governor, or  
13 its otherwise becoming law.

