

1 State of Arkansas
2 93rd General Assembly
3 Fiscal Session, 2022

HR 1012

4
5 By: Representative Payton

6
7 **HOUSE RESOLUTION**

8 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION
9 BILL TO IMPLEMENT THE ARKANSAS HUMAN HEARTBEAT AND
10 HUMAN LIFE CIVIL JUSTICE ACT, REGULATE ABORTION IN
11 ARKANSAS, AND SAVE THE LIVES OF UNBORN CHILDREN AND
12 PROTECT THE HEALTH OF WOMEN THROUGH CIVIL LIABILITY
13 FOR VIOLATIONS OF ABORTION LAWS.

14
15
16 **Subtitle**

17 TO AUTHORIZE THE INTRODUCTION OF A
18 NONAPPROPRIATION BILL TO IMPLEMENT THE
19 ARKANSAS HUMAN HEARTBEAT AND HUMAN LIFE
20 CIVIL JUSTICE ACT TO SAVE THE LIVES OF
21 UNBORN CHILDREN AND PROTECT THE HEALTH OF
22 WOMEN THROUGH CIVIL LIABILITY.

23
24
25 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-THIRD GENERAL
26 ASSEMBLY OF THE STATE OF ARKANSAS:

27
28 THAT Representative Payton is authorized to introduce a bill which as
29 introduced will read substantially as follows:

30
31 "Title

32 AN ACT TO ESTABLISH THE ARKANSAS HUMAN HEARTBEAT AND HUMAN LIFE CIVIL JUSTICE
33 ACT; TO REGULATE ABORTION IN ARKANSAS; TO SAVE THE LIVES OF UNBORN CHILDREN
34 AND PROTECT THE HEALTH OF WOMEN THROUGH CIVIL LIABILITY FOR VIOLATIONS OF
35 ABORTION LAWS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.



1 Subtitle

2 TO ESTABLISH THE ARKANSAS HUMAN HEARTBEAT AND HUMAN LIFE CIVIL JUSTICE ACT;
3 TO SAVE THE LIVES OF UNBORN CHILDREN AND PROTECT THE HEALTH OF WOMEN THROUGH
4 CIVIL LIABILITY; AND TO DECLARE AN EMERGENCY.

5

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

7

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

10 Subchapter 26 – Arkansas Human Heartbeat and Human Life Civil Justice Act

11

12 20-16-2601. Title.

13 This subchapter shall be known and may be cited as the "Arkansas Human
14 Heartbeat and Human Life Civil Justice Act".

15

16 20-16-2602. Legislative findings.

17 (a) The General Assembly finds that:

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

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

25 (3) The United States Supreme Court also committed a grave
26 injustice against humanity by upholding the "separate but equal" doctrine in
27 Plessy v. Ferguson, which withdrew legal protection from a class of human
28 beings who were persons under the United States Constitution, African
29 Americans;

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

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

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

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

10 (B) New scientific advances have demonstrated since 1973
11 that life begins at the moment of conception and that the child in a woman's
12 womb is a human being;

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

15 (D) The laws in all fifty (50) states have now changed
16 through "Safe Haven" laws to eliminate all burdens of child care from women
17 who do not want to care for a child; and

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

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

25 (8) Arkansas Constitution, Amendment 68, states that "[t]he
26 policy of Arkansas is to protect the life of every unborn child from
27 conception until birth" and that "no public funds will be used to pay for any
28 abortion, except to save the mother's life";

29 (9) Arkansas passed the Arkansas Human Heartbeat Protection Act,
30 § 20-16-1301 et seq., in 2013, which shows the will of the Arkansas people to
31 save the lives of unborn children;

32 (10) Arkansas has continued to pass additional legislation in
33 2015, 2017, 2019, and 2021 that further shows the will of the Arkansas people
34 to save the lives of unborn children;

35 (11)(A) Since the decision of Roe v. Wade, approximately sixty-
36 two million five hundred two thousand nine hundred four (62,502,904)

1 abortions have ended the lives of unborn children.

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

6 (C) The Department of Health reports that two thousand
7 nine hundred sixty-three (2,963) abortions took place in Arkansas during
8 2019, including abortions performed on out-of-state residents;

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

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

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

21
22 20-16-2603. Definitions.

23 As used in this subchapter:

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

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

31 (i) Save the life or preserve the health of the
32 unborn child;

33 (ii) Remove a dead unborn child caused by
34 spontaneous abortion; or

35 (iii) Remove an ectopic pregnancy;

36 (2) "Entity" means a corporation, partnership, limited liability

1 company, association, joint venture, public corporation, any other legal or
2 commercial entity, fiduciary, or any organized group of persons whether
3 incorporated or not, including without limitation a church or religious
4 organization;

5 (3) "Fertilization" means the fusion of a human spermatozoon
6 with a human ovum;

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

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

14
15 20-16-2604. Prohibition.

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

19 (b) This section does not:

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

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

24 (3) Prohibit the sale, use, prescription, or administration of a
25 contraceptive measure, drug, or chemical if the contraceptive measure, drug,
26 or chemical is administered before the time when a pregnancy could be
27 determined through conventional medical testing and if the contraceptive
28 measure, drug, or chemical is sold, used, prescribed, or administered in
29 accordance with manufacturer instructions.

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

33
34 20-16-2605. Exemption for preemption and intergovernmental immunity.

35 The prohibition in § 20-16-2604 shall not apply to an abortion
36 performed at the behest of federal agencies, contractors, or employees that

1 are carrying out duties under federal law, if the prohibition on the abortion
2 would violate the doctrines of preemption or intergovernmental immunity.

3
4 20-16-2606. Limitation on public enforcement.

5 (a) Notwithstanding any other law, the requirements of this subchapter
6 shall be enforced exclusively through the private civil actions described in
7 § 20-16-2607.

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

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

14
15 20-16-2607. Civil liability.

16 (a) Any person or entity, other than the state, a political
17 subdivision of the state, or an officer or employee of a state or local
18 governmental entity in this state, may bring a civil action against any
19 person or entity who:

20 (1) Performs or induces an abortion in violation of this
21 subchapter;

22 (2) Knowingly engages in conduct that aids or abets the
23 performance or inducement of an abortion, including paying for or reimbursing
24 the costs of an abortion through insurance or otherwise, if the abortion is
25 performed or induced in violation of this subchapter, regardless of whether
26 the person or entity knew or should have known that the abortion would be
27 performed or induced in violation of this subchapter; or

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

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

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

35 (2) Statutory damages in an amount of not less than ten thousand
36 dollars (\$10,000) for each abortion that the defendant performed or induced

1 in violation of this subchapter, and for each abortion performed or induced
2 or aided or abetted in violation of this subchapter;

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

6 (4) Costs and attorney's fees.

7 (c) Notwithstanding subsection (b) of this section, a court may not
8 award relief under this section in response to a violation of subdivision
9 (a)(1) of this section or subdivision (a)(2) of this section if the defendant
10 demonstrates that the defendant previously paid the full amount of statutory
11 damages under subdivision (b)(2) of this section in a previous action for
12 that particular violation of this subchapter, or for the particular conduct
13 that aided or abetted an abortion performed or induced in violation of this
14 subchapter.

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

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

20 (1) Ignorance or mistake of law;

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

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

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

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

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

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

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

35 (A) A person or entity sued under subdivision (a)(2) of
36 this section reasonably believed, after conducting a reasonable

1 investigation, that the person or entity performing or inducing the abortion
2 had complied or would comply with every requirement and provision of this
3 subchapter; or

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

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

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

16 (h)(1) Notwithstanding any other law, neither the state, nor any of
17 its political subdivisions, nor any district or county attorney, nor any
18 executive or administrative officer or employee of this state or a political
19 subdivision may act in concert or participation with anyone who brings suit
20 under this section, nor may they intervene in any action brought under this
21 section.

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

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

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

34 (k) Notwithstanding any other law, a civil action under this section
35 may not be brought against a person or entity that performed or aided or
36 abetted an abortion at the behest of federal agencies, contractors, or

1 employees that are carrying out duties under federal law if the prohibition
2 on the abortion would violate the doctrines of preemption or
3 intergovernmental immunity.

4 (1) Notwithstanding any other law, a civil action under this
5 section may not be brought against a common carrier who transports a pregnant
6 woman to an abortion provider if the common carrier is unaware that the woman
7 intends to abort her unborn child.

8
9 20-16-2608. Civil liability – Defenses.

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

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

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

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

20 (c) The affirmative defense under subsection (a) of this section is
21 not available if the United States Supreme Court overrules Roe v. Wade, 410
22 U.S. 113 (1973), or Planned Parenthood v. Casey, 505 U.S. 833 (1992),
23 regardless of whether the conduct on which the cause of action is based under
24 § 20-16-2607 occurred before the United States Supreme Court overruled either
25 of those decisions.

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

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

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

35
36 20-16-2609. Civil liability – Venue.

1 (a) Notwithstanding any other law, a civil action brought under § 20-
2 16-2607 shall be brought in:

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

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

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

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

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

15
16 20-16-2610. Sovereign, governmental, and official immunity preserved –
17 Limits on jurisdiction.

18 (a) Notwithstanding any other law, the State of Arkansas shall have
19 sovereign immunity, each of its political subdivisions shall have
20 governmental immunity, and each officer and employee of this state or a
21 political subdivision shall have official immunity in any action, claim, or
22 counterclaim or any type of legal or equitable action that challenges the
23 validity of any provision or application of this subchapter, on
24 constitutional grounds or otherwise, or that seeks to prevent or enjoin the
25 State of Arkansas, its political subdivisions, or any officer or employee of
26 this state or a political subdivision from enforcing any provision or
27 application of this subchapter, unless that immunity has been abrogated or
28 preempted by federal law in a manner consistent with the United States
29 Constitution.

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

34 (c) Notwithstanding any other law, an attorney representing the state,
35 a political subdivision of the state, or any officer or employee of the state
36 or a political subdivision of the state is not authorized or permitted to

1 waive an immunity described in this section or take any action that would
2 result in a waiver of the immunity described in this section.

3 (d) Notwithstanding any other law, a court of this state shall not
4 have jurisdiction to consider any action, claim, or counterclaim that seeks
5 declaratory or injunctive relief to prevent the state, a political
6 subdivision of the state, any officer or employee of the state or a political
7 subdivision of the state, or any person or entity from enforcing any
8 provision or application of this subchapter or from filing a civil action
9 under this subchapter.

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

14
15 20-16-2611. Award of attorney's fees in actions challenging abortion
16 laws.

17 (a) Notwithstanding any other law, any person, including an entity,
18 attorney, or law firm, that seeks declaratory or injunctive relief to prevent
19 this state, a political subdivision of this state, any governmental entity or
20 public official in this state, or any person or entity in this state from
21 enforcing any statute, ordinance, rule, regulation, or any other type of law
22 that regulates or restricts abortion or that limits taxpayer funding for
23 individuals or entities that perform or promote abortions, in any state or
24 federal court, or that represents any litigant seeking such relief in any
25 state or federal court, is jointly and severally liable to pay the costs and
26 attorney's fees of the prevailing party.

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

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

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

34 (c) Regardless of whether a prevailing party sought to recover costs
35 or attorney's fees in the underlying action, a prevailing party under this
36 section may bring a civil action to recover costs and attorney's fees against

1 a person, including an entity, attorney, or law firm, that sought declaratory
2 or injunctive relief described in subsection (a) of this section not later
3 than three (3) years after the date on which, as applicable:

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

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

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

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

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

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

16
17 20-16-2612. Severability.

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

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

31 (2) All constitutionally valid applications of the provisions of
32 this subchapter, and every application of those provisions that can be
33 enforced without imposing an undue burden on women seeking abortions, shall
34 be severed from any applications that a court finds to be invalid, preempted,
35 unconstitutional, or to impose an undue burden on women seeking abortions,
36 and the valid applications shall remain in force, because it is the General

1 Assembly's intent and priority that the valid applications be allowed to
2 stand alone.

3 (3) Even if a reviewing court finds that a provision of this
4 subchapter imposes an undue burden in a large or substantial fraction of
5 relevant cases, the applications that do not present an undue burden shall be
6 severed from the remaining applications and shall remain in force, and shall
7 be treated as if the General Assembly had enacted a statute limited to the
8 persons or entities, groups of persons or entities, or circumstances for
9 which the statute's application does not present an undue burden.

10 (c) The General Assembly further declares that it would have enacted
11 this subchapter, and each provision, section, subsection, sentence, clause,
12 phrase, or word, and all constitutional applications of this subchapter,
13 irrespective of the fact that any provision, section, subsection, sentence,
14 clause, phrase, or word, or applications of this subchapter, were to be
15 declared invalid, preempted, unconstitutional, or to impose an undue burden.

16 (d) If any provision of this subchapter is found by any court to be
17 unconstitutionally vague, then the applications of that provision that do not
18 present constitutional vagueness problems shall be severed and remain in
19 force consistent with the requirements of subsections (a)-(c) of this
20 section.

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

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

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

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

33 (B) Is not a formal amendment of the language in a
34 statute; and

35 (C) No more rewrites a statute than a decision by the
36 Governor not to enforce a duly enacted statute in a limited and defined set

1 of circumstances.

2 (f)(1) If any state or federal court disregards the severability
3 requirements of subsections (a)-(e) of this section, and declares or finds
4 any provision of this subchapter is facially unconstitutional, when there are
5 discrete applications of that provision that can be enforced against a person
6 or entity, group of persons or entities, or circumstances without violating
7 federal law, the United States Constitution, or the Arkansas Constitution or
8 imposing an undue burden on women seeking abortions, then that provision
9 shall be interpreted as if the General Assembly had enacted a provision
10 limited to the persons or entities, groups of persons or entities, or
11 circumstances for which the provision's application will not violate federal
12 law, the United States Constitution, or the Arkansas Constitution or impose
13 an undue burden on women seeking abortions.

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

17
18 SECTION 2. DO NOT CODIFY. Construction.

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

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

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

26 (3) Section 20-16-603;

27 (4) Section 20-16-604;

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

29 (6) The Unborn Child Pain Awareness and Prevention Act, § 20-16-
30 1101 et seq.;

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

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

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

36 (10) The Abortion-Inducing Drugs Safety Act, § 20-16-1501 et

1 seq.;

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

4 (12) The Sex Discrimination by Abortion Prohibition Act, § 20-
5 16-1901 et seq.;

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

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

9
10 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
11 General Assembly of the State of Arkansas that legislation in other states
12 has created a situation in which individuals from other states are entering
13 Arkansas seeking abortions, which is burdening the healthcare system in this
14 state; that the General Assembly previously enacted legislation in the spring
15 of 2021 to abolish abortions, which has been enjoined; that abortions have
16 increased in this state causing harm to unborn children and the health and
17 safety of pregnant women; and that this act is immediately necessary to
18 protect the lives of unborn children and the health and safety of pregnant
19 women in this state. Therefore, an emergency is declared to exist, and this
20 act being immediately necessary for the preservation of the public peace,
21 health, and safety shall become effective on:

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

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

26 (3) If the bill is vetoed by the Governor and the veto is
27 overridden, the date the last house overrides the veto."

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