

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/15/13

A Bill

SENATE BILL 417

5 By: Senator J. Hendren
6 *By: Representative Steel*
7

For An Act To Be Entitled

9 AN ACT TO MODIFY THE DEFINITION OF AN UNBORN CHILD IN
10 THE CRIMINAL CODE AND IN WRONGFUL DEATH ACTIONS; AND
11 FOR OTHER PURPOSES.
12
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Subtitle

15 TO MODIFY THE DEFINITION OF AN UNBORN
16 CHILD IN THE CRIMINAL CODE AND IN
17 WRONGFUL DEATH ACTIONS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 5-1-102(13), concerning the definition of
23 "person" in the criminal code, is amended to read as follows:

24 (13)(A) "Person", "actor", "defendant", "he", "she", "her", or
25 "him" includes:

26 (i) Any natural person; and

27 (ii) When appropriate, an "organization" as defined
28 in § 5-2-501.

29 (B)(i)(a) As used in §§ 5-10-101 – 5-10-105, "person" also
30 includes an unborn child in utero at any stage of development.

31 (b) "Unborn child" means ~~a living fetus of~~
32 ~~twelve (12) weeks or greater gestation~~ offspring of human beings from
33 conception until birth.
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35 SECTION 2. Arkansas Code § 16-62-102(a), concerning survival of
36 wrongful death actions, is amended to read as follows:



1 (a)(1) Whenever the death of a person or ~~a viable fetus~~ an unborn
2 child as defined in § 5-1-102 is caused by a wrongful act, neglect, or
3 default and the act, neglect, or default ~~is such as~~ would have entitled the
4 party injured to maintain an action and recover damages in respect thereof if
5 death had not ensued, then and in every such case, the person or company or
6 corporation that would have been liable if death had not ensued shall be
7 liable to an action for damages, notwithstanding the death of the person or
8 the ~~viable fetus~~ unborn child as defined in § 5-1-102 injured, and although
9 the death may have been caused under such circumstances as amount in law to a
10 felony.

11 (2) The cause of action created in this subsection shall survive
12 the death of the person wrongfully causing the death of another and may be
13 brought, maintained, or revived against the personal representatives of the
14 person wrongfully causing the death of another.

15 (3) ~~No person shall be~~ A person is not liable under this
16 subsection when the death of the fetus unborn child results from:

17 (A) a legal abortion, including an abortion performed to
18 remove an ectopic pregnancy or other nonviable pregnancy where the embryo is
19 not going to develop further;

20 (B) ~~or from the~~ The fault of the pregnant woman carrying
21 the fetus unborn child;

22 (C) Assisted reproduction technology activity, procedure,
23 or treatment;

24 (D) Actions occurring before transfer to the uterus of the
25 woman of an embryo created through in vitro fertilization; or

26 (E) A woman or her healthcare provider using contraception
27 approved by the United States Food and Drug Administration.

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30 /s/J. Hendren
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