

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

SR 12

4  
5 By: Senator Rapert  
6

7 **SENATE RESOLUTION**

8 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION  
9 BILL TO CREATE THE ARKANSAS HUMAN HEARTBEAT AND HUMAN  
10 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 CREATE 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 SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE  
26 STATE OF ARKANSAS:

27  
28 THAT Senator Rapert is authorized to introduce a bill which as  
29 introduced will read substantially as follows:  
30

31 "Title

32 AN ACT TO CREATE 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.  
36



1 Subtitle  
2 TO CREATE THE ARKANSAS HUMAN HEARTBEAT AND HUMAN LIFE CIVIL JUSTICE ACT; TO  
3 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."

28  
29  
30  
31  
32  
33  
34  
35  
36