

Stricken language would be deleted from and underlined language would be added to present law.
Act 301 of the Regular Session

State of Arkansas *As Engrossed: S1/30/13 H2/8/13 H2/11/13 H2/13/13*

89th General Assembly

A Bill

Regular Session, 2013

SENATE BILL 134

By: Senators Rapert, Bledsoe, Caldwell, A. Clark, J. Dismang, J. English, Files, J. Hendren, Hester, Hickey, Holland, J. Hutchinson, Irvin, J. Key, B. King, D. Sanders, G. Stubblefield, E. Williams, J. Woods

By: Representatives Clemmer, Alexander, D. Altes, Bell, Dale, Davis, Deffenbaugh, Dotson, C. Douglas, Farrer, Fite, Harris, Hobbs, House, Hutchison, Lea, Mayberry, D. Meeks, Neal, Scott, Westerman, Womack

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS HUMAN HEARTBEAT PROTECTION ACT; TO PROTECT UNBORN CHILDREN; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS HUMAN HEARTBEAT PROTECTION ACT; TO PROTECT UNBORN CHILDREN.

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

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

Subchapter 13 – Arkansas Human Heartbeat Protection Act

20-16-1301. Title.

This subchapter shall be known and may be cited as the "Arkansas Human Heartbeat Protection Act".

20-16-1302. Definitions.

As used in this subchapter:

(1) "Contraceptive" means a device, drug, or chemical that



prevents fertilization;

(2) "Fetus" means the human offspring developing during pregnancy from the moment of fertilization and includes the embryonic stage of development;

(3) "Heartbeat" means cardiac activity, the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac;

(4) "Human individual" means an individual organism of the species *Homo sapiens*;

(5) "Major bodily function" includes without limitation, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions;

(6) "Medical emergency" means a condition in which an abortion is necessary:

(A) To preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman; or

(B) Due to the existence of a highly lethal fetal disorder as defined by the Arkansas State Medical Board;

(7) "Pregnancy" means the human female reproductive condition that begins with fertilization when the female is carrying the developing human offspring and is calculated from the first day of the last menstrual period of the human female; and

(8) "Viability" means a medical condition that begins with a detectible fetal heartbeat.

20-16-1303. Testing for heartbeat.

(a) A person authorized to perform abortions under Arkansas law shall not perform an abortion on a pregnant woman before the person tests the pregnant woman to determine whether the fetus that the pregnant woman is carrying possesses a detectible heartbeat.

(b)(1) A person authorized to perform abortions under Arkansas law shall perform an abdominal ultrasound test necessary to detect a heartbeat of

an unborn human individual according to standard medical practice, including the use of medical devices as determined by standard medical practice.

(2) Tests performed under subdivision (b)(1) of this section shall be approved by the Arkansas State Medical Board.

(c)(1) The Arkansas State Medical Board shall adopt rules:

(A)(i) Based on standard medical practice for testing for the fetal heartbeat of an unborn human individual.

(ii) Rules adopted under subdivision (c)(1) of this section shall specify that a test for fetal heartbeat is not required in the case of a medical emergency; and

(B) To define, based on available medical evidence, the statistical probability of bringing an unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat.

(d) If a fetal heartbeat is detected during the test required under this section, the person performing the test shall inform the pregnant woman in writing:

(1) That the unborn human individual that the pregnant woman is carrying possesses a heartbeat;

(2) Of the statistical probability of bringing the unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat; and

(3) An abortion is prohibited under §20-16-1304.

(e) If a heartbeat has been detected, the pregnant woman shall sign a form acknowledging that she has received the information required under subsection (d) of this section.

20-16-1304. Prohibitions.

(a) A person authorized to perform abortions under Arkansas law shall not perform an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human individual whose heartbeat has been detected under § 20-16-1303 and is twelve (12) weeks or greater gestation.

(b) A violation of this section as determined by the Arkansas State Medical Board shall result in the revocation of the medical license of the person authorized to perform abortions under Arkansas law.

20-16-1305. Exemptions.

(a) A person does not violate this subchapter if the person:

(1) Performs a medical procedure designed to or intended to prevent the death of a pregnant woman or in reasonable medical judgment to preserve the life of the pregnant woman; or

(2)(A) Has undertaken an examination for the presence of a heartbeat in the fetus utilizing standard medical practice; and

(B)(i) The examination does not reveal a heartbeat; or

(ii) Has been informed by a medical professional who has undertaken the examination for fetal heartbeat that the examination did not reveal a fetal heartbeat.

(b) This subchapter does not apply to:

(1) An abortion performed to save the life of the mother;

(2) A pregnancy that results from rape under § 5-14-103 or incest under § 5-26-202; or

(3) A medical emergency.

20-16-1306. Interpretation.

This subchapter does not:

(1) Subject a pregnant female on whom an abortion is performed or attempted to be performed to any criminal prosecution or civil penalty; or

(2) Prohibit the sale, use, prescription, or administration of a measure, drug, or chemical designed for contraceptive purposes.

20-16-1307. Tolling of effective date.

If a state or federal court of competent jurisdiction voids a provision of this subchapter as unconstitutional, the effective date of that provision shall be tolled until that provision has been upheld as valid by an appellate tribunal.

/s/Rapert

**APPROVED: BECAME LAW ON 03/06/2013 Disapproved by Governor on 3-4-13,
Overridden by Senate and House on 3-5-13 & 3-6-13**