

State of Arkansas
94th General Assembly
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As Engrossed: H2/14/23

A Bill

SENATE BILL 138

By: Senators Irvin, Crowell, B. Davis, Dees, Flipppo, Gilmore, Hickey, Hill, B. Johnson, M. McKee

By: Representatives Burkes, L. Johnson, Wardlaw, Beaty Jr.

For An Act To Be Entitled

AN ACT TO REPEAL THE LICENSING REQUIREMENT OF CLINICS AND HEALTH CENTERS IN WHICH A PREGNANCY OF A WOMAN KNOWN TO BE PREGNANT IS WILLFULLY TERMINATED OR ABORTED; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REPEAL THE LICENSING REQUIREMENT OF CLINICS AND HEALTH CENTERS IN WHICH A PREGNANCY OF A WOMAN KNOWN TO BE PREGNANT IS WILLFULLY TERMINATED OR ABORTED; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 20-9-302(a)(1), concerning the licensure of an abortion clinic or health center, is amended to read as follows:

(a)(1)(A) ~~A clinic, health center, or other facility in which a pregnancy of a woman known to be pregnant is willfully terminated or aborted in any month, including nonsurgical abortions, shall be licensed by the Department of Health.~~

~~(B)~~ A hospital shall not perform an abortion unless the abortion is to save the life of the pregnant woman in a medical emergency.

~~(C)~~(B) As used in subdivision ~~(a)(1)(B)~~ (a)(1)(A) of this section:

(i)(a) "Abortion" means the act of using,



prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the unborn child.

(b) An act under subdivision ~~(a)(1)(C)(i)(a)~~ (a)(1)(B)(i)(a) of this section is not an abortion if the act is performed with the purpose to:

(1) Save the life or preserve the health of the unborn child;

(2) Remove a dead unborn child caused by spontaneous abortion; or

(3) Remove an ectopic pregnancy; and

(ii) “Medical emergency” means a condition in which an abortion is necessary to preserve the life of a 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.

SECTION 2. Arkansas Code § 19-6-301(132), concerning the enumeration of special revenues, is repealed.

~~(132) Abortion clinic license fees, § 20-9-302;~~

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that current Arkansas law requires a clinic, health center, or other facility in which a pregnancy of a woman known to be pregnant is willfully terminated or aborted in any month, including nonsurgical abortions, to be licensed by the Department of Health; that pursuant to *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. _____ (2022) (decided June 24, 2022), overruling *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833 (1992), Acts 2019, No. 180, and Acts 2021, No. 309, the services described violate federal and state law; and that this act is immediately necessary to prevent any confusion about the licensing of an abortion clinic, health center, or other facility and the practices in which are detrimental and contrary to the public health, safety, and welfare of any patients and facility employees.

Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

/s/Irvin

APPROVED: 2/27/23