

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 307

By: Senators K. Hammer, Dees, J. Payton

By: Representative Bentley

For An Act To Be Entitled

AN ACT TO CREATE A MONUMENT TO THE UNBORN; TO CREATE
A MONUMENT ON STATE CAPITOL GROUNDS; TO AMEND THE LAW
CONCERNING THE DUTIES OF THE SECRETARY OF STATE; AND
FOR OTHER PURPOSES.

Subtitle

TO CREATE A MONUMENT TO THE UNBORN; TO
CREATE A MONUMENT ON STATE CAPITOL
GROUNDS; AND TO AMEND THE LAW CONCERNING
THE DUTIES OF THE SECRETARY OF STATE.

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

SECTION 1. DO NOT CODIFY. Legislative Findings and Intent.

(a) The General Assembly finds that:

(1) As the United States Supreme Court explained in Dobbs v. Jackson Women's Health Organization, 597 U.S. _____ (2022), slip op. at 17, abortion after quickening was a crime according to the common law of England;

(2) In his "Lectures on Law in 1790", James Wilson, who signed the Declaration of Independence and was a delegate to the Constitutional Convention of 1787, explained, "With consistency beautiful and undeviating, human life, from its commencement to its close, is protected by the common law. In the contemplation of law, life begins when the infant is first able to stir in the womb. By the law, life is protected not only from actual destruction, but from every degree of violence, and, in some cases, from every degree of danger." Collected Works of James Wilson, Vol. II, p. 1068



(Liberty Fund: 2007);

(3) At its inception as a State, Arkansas law, now codified as § 1-2-119 provided, “The common law of England, so far as it is applicable and of a general nature, and all statutes of the British Parliament in aid of or to supply the defects of the common law made prior to March 24, 1606, which are applicable to our own form of government, of a general nature and not local to that kingdom, and not inconsistent with the United States Constitution and the laws of the United States or the Arkansas Constitution and laws of this state, shall be the rule of decision in this state unless altered or repealed by the General Assembly of this state.”;

(4) Early in our history as a state, Arkansas enacted a statute prohibiting abortion before quickening, while, at the same time, recognizing the common-law crime of abortion after quickening. State v. Reed, 45 Ark. 333 (1885);

(5)(A) The protection of life in the womb before as well as after quickening is based on the recognition by modern medicine that life begins, not when the mother first feels the child move in the womb, but at conception.

(B) As Alan Guttmacher explained, “Through some unknown mechanism, as soon as one sperm penetrates the egg, the capsule becomes altered and successfully bars entry to all later applicants. The nucleus of the sperm-head . . . becomes indissolubly united with the nucleus of the ovum . . . and a new life is begun.” Alan Guttmacher, Life in the Making, p. 55 (Viking Press: 1933);

(6) In keeping with the common-law tradition and the findings of modern science, as well as its own historical practice of protecting human life in the womb, in 1988 Arkansas enacted Arkansas Constitution, Amendment 68, which provides that it is the policy of the State of Arkansas to protect every unborn child from conception until birth, to the extent permitted by the United States Constitution; and

(7) From 1973 until 2022, Arkansas was prevented from protecting the life of unborn children by the decisions of the United State Supreme Court in Roe v. Wade, 410 U.S. 113 (1973), Doe v. Bolton, 410 U.S. 179 (1973), and Planned Parenthood v. Casey, 505 U.S. 833 (1992). During the period from 1973 to 2022, approximately at least two hundred thirty six thousand two hundred and forty three (236,243) elective abortions

were performed in this State.

(b) As a memorial to the lives lost from 1973 to 2022 due to the decisions of the United States Supreme Court, and as a constant reminder of our duty to protect the life of every innocent human person, no matter how young or old, or how helpless and vulnerable that person may be, it is the intent of the General Assembly of the State of Arkansas to enact the Monument to Unborn Children Display Act, § 22-3-223, and the Monument to Unborn Children Display Fund.

SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 11, is amended to add an additional section to read as follows:

19-5-1158. Monument to Unborn Children Display Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Monument to Unborn Children Display Fund".

(b) The fund shall consist of gifts, grants, and donations from individuals and organizations as provided under the Monument to Unborn Children Display Act, § 22-3-223, and other funds as may be provided by law.

(c) The fund shall be used exclusively for the purpose of erecting and maintaining a suitable monument on the State Capitol grounds commemorating unborn children aborted during the era of Roe v. Wade, 410 U.S. 113 (1973), as provided in the Monument to the Unborn Children Display Act, § 22-3-223.

SECTION 3. Arkansas Code Title 22, Chapter 3, Subchapter 2, is amended to add an additional section to read as follows:

22-3-223. Monument to Unborn Children Display Act.

(a) This section shall be known and may be cited as the "Monument to Unborn Children Display Act".

(b)(1) The Secretary of State shall permit and arrange placement on the State Capitol grounds of a suitable monument commemorating unborn children aborted during the era of Roe v. Wade, 410 U.S. 113 (1973).

(2)(A) The Capitol Arts and Grounds Commission, shall oversee the selection of the artist and design of the monument with input from pro-life groups in Arkansas.

(B) The Secretary of State shall have final approval of the selection of the artist and design of the monument selected by the

commission before any construction is commenced.

(C) Upon approval of the artist and design, the Secretary of State shall arrange for the construction, placement, and dedication of the monument on the State Capitol grounds by private entities at no expense to the State of Arkansas.

(D) The monument shall be placed on the State Capitol grounds at a location selected and approved by the Secretary of State.

(3) The monument under this subsection shall be exempt from § 22-3-301 et seq. and § 22-3-501 et seq.

(c) If the legality or constitutionality of the monument under subsection (b) of this section is challenged in a court of law, the Attorney General may:

(1) Prepare and present a legal defense of the monument; or

(2)(A) Request that a private law firm serve as counsel to prepare and present a legal defense of the monument.

(B) A request under subdivision (c)(2)(A) shall not be subject to § 25-16-702.

(d) The Secretary of State may accept gifts, grants, and donations from individuals and organizations, to be deposited as trust funds into the Monument to Unborn Children Display Fund.

(e) The Secretary of State shall:

(1) Have the authority to enter into all necessary contracts for the design, construction and dedication of the monument;

(2)(A) Oversee the continued maintenance, repair, and replacement, if necessary due to catastrophic damage, of the monument utilizing funds held in the Monument to Unborn Children Display fund; or

(B) If no funds are available, any other fund under the control and authority of the Secretary of State that exists for the maintenance and repair of monuments on display in the State Capitol or on the grounds of the State Capitol; and

(3) Provide that any maintenance, repairs or replacement of the monument shall restore it to a state equal to the original quality and condition.

APPROVED: 3/16/23