

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

State of Arkansas
94th General Assembly
Regular Session, 2023

HJR 1008

By: Representative D. Ferguson

By: Senator C. Tucker

HOUSE JOINT RESOLUTION

AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO CREATE THE PROTECT ARKANSAS HEALTHCARE AMENDMENT; TO AMEND THE ARKANSAS CONSTITUTION CONCERNING REPRODUCTIVE FREEDOM; AND TO REPEAL ARKANSAS CONSTITUTION, AMENDMENT 68, § 2.

Subtitle

AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO CREATE THE PROTECT ARKANSAS HEALTHCARE AMENDMENT.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, AND BY THE SENATE, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

THAT the following is proposed as an amendment to the Constitution of the State of Arkansas, and upon being submitted to the electors of the state for approval or rejection at the next general election for Representatives and Senators, if a majority of the electors voting thereon at the election adopt the amendment, the amendment shall become a part of the Constitution of the State of Arkansas, to wit:

SECTION 1. The Arkansas Constitution is amended to add an additional amendment to read as follows:

§ 1. Protect Arkansas Healthcare Amendment.

(a) This section shall be known and may be cited as the "Protect



Arkansas Healthcare Amendment."

(b) It is the policy of the State of Arkansas that every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including without limitation:

- (1) Prenatal care;
- (2) Childbirth;
- (3) Postpartum care;
- (4) Contraception;
- (5) Sterilization;
- (6) Abortion care;
- (7) Miscarriage management; and
- (8) Infertility care.

(c) An individual's right to reproductive freedom shall not be denied, burdened, or infringed upon unless justified by a compelling state interest achieved by the least restrictive means.

(d) Notwithstanding subsection (c) of this section, the state may regulate the provision of abortion care after fetal viability, provided that in no circumstance shall the state prohibit an abortion that, in the professional judgment of an attending health care professional, is medically indicated to protect the life or physical or mental health of the pregnant individual.

(e) The state shall not discriminate in the protection or enforcement of the fundamental right to reproductive freedom established in this section.

(f) The state shall not penalize, prosecute, or otherwise take adverse action against an individual:

(1) Based on their actual, potential, perceived, or alleged pregnancy outcomes, including without limitation:

- (A) Miscarriage;
- (B) Stillbirth; or
- (C) Abortion; or

(2) For aiding or assisting a pregnant individual in exercising their right to reproductive freedom with their voluntary consent.

(g) For the purposes of this section:

(1) A state interest is "compelling" only if it is for the limited purpose of protecting the health of an individual seeking care,

consistent with accepted clinical standards of practice and evidence-based medicine, and does not infringe on that individual's autonomous decision-making; and

(2) "Fetal viability" means the point in pregnancy when, in the professional judgment of an attending health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

(h)(1) This section shall be self-executing.

(2) If any provision or section of this amendment or its application to any person or circumstance is held invalid, the invalidity shall not affect any other provisions or application of the amendment that can be given effect without the invalid provisions or applications, and to this end the provisions of this amendment are declared to be severable.

SECTION 2. Arkansas Constitution, Amendment 68, § 2, is repealed.

~~§ 2. Public policy.~~

~~The policy of Arkansas is to protect the life of every unborn child from conception until birth, to the extent permitted by the Federal Constitution.~~

SECTION 3. EFFECTIVE DATE. This amendment is effective on and after January 1, 2025.

SECTION 4. BALLOT TITLE AND POPULAR NAME. When this proposed amendment is submitted to the electors of this state on the general election ballot:

(1) The title of this Joint Resolution shall be the ballot title; and

(2) The popular name shall be "A Constitutional Amendment to Create the "Protect Arkansas Healthcare Amendment"; to Amend the Arkansas Constitution Concerning Reproductive Freedom; and to Repeal Arkansas Constitution, Amendment 68, § 2."