

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
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As Engrossed: H3/5/25

A Bill

HOUSE BILL 1610

By: Representatives Lundstrum, Achor, Bentley, A. Brown, K. Brown, M. Brown, R. Burkes, Crawford, Cozart, Gazaway, Gramlich, Hall, L. Johnson, Ladyman, Long, J. Mayberry, Maddox, McClure, McGrew, Milligan, Puryear, Richmond, Rose, Underwood, Rye, Torres, Unger, Wing, Wooten, S. Berry, Barker, C. Cooper, Hawk, McNair, Tosh, Holcomb
By: Senators Hickey, Irvin, J. Payton, C. Penzo

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS HUMAN LIFE PROTECTION ACT AND THE ARKANSAS UNBORN CHILD PROTECTION ACT; TO MODIFY THE DEFINITION OF "MEDICAL EMERGENCY"; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS HUMAN LIFE PROTECTION ACT AND THE ARKANSAS UNBORN CHILD PROTECTION ACT.

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) Emergency medical situations can present a danger to the life of pregnant women and unborn children if proper care and treatment is not rendered;

(2)(A) In a tragic case where pregnancy poses a serious danger to a pregnant woman's life, the General Assembly has prescribed an objective standard, requiring a doctor to exercise "reasonable medical judgment" before ending the pregnancy.

(B) The reasonable medical judgment standard is the longstanding norm and applies in all medical contexts;

(3)(A) The reasonable medical judgment standard has never been



found unworkable or vague in any medical context, including abortion.

(B) Under Karlin v. Foust, 188 F.3d 446, 464 (7th Cir. 1999), the reasonable medical judgement standard “is the same standard by which all ... medical decisions are judged under traditional theories of tort law”; and

(4) The addition of guidance and clarifications in state law ensures that physicians and medical facilities will continue to administer appropriate emergency medical treatment to save the lives of pregnant women in medical emergencies.

(b) It is the intent of the General Assembly to provide guidance and clarification regarding abortion laws and appropriate emergency medical procedures to save the lives of pregnant women.

SECTION 2. Arkansas Code § 5-61-303 is amended to read as follows:

5-61-303. Definitions.

As used in this subchapter:

(1)(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 (1)(A) of this section is not an abortion if the act is performed with the purpose to:

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

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

(iii) Remove an ectopic pregnancy;

(2) “Fertilization” means the fusion of a human spermatozoon with a human ovum;

(3)(A) “Medical emergency” means a condition in which, in reasonable medical judgment, complicates the medical condition of a pregnant woman to such an extent that termination of a pregnancy ~~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

itself. ~~and~~

(B) "Medical emergency" does not include:

(i) Conditions for which treatment is available that can, in reasonable medical judgement, be expected to preserve or sustain the life of the pregnant woman without ending the pregnancy;

(ii) A psychological or emotional condition; or

(iii) A medical diagnosis that is based on a claim made by the pregnant woman or based on a presumption that the pregnant woman will engage in conduct that could result in her death or that could cause substantial and irreversible physical impairment of a major bodily function of the pregnant woman;

(4) "Reasonable medical judgment" means a medical judgment that would be made or medical action that would be undertaken by a reasonably prudent, qualified physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved; and

~~(4)~~(5) "Unborn child" means an individual organism of the species Homo sapiens from fertilization until live birth.

SECTION 3. Arkansas Code § 5-61-304(d), concerning the prohibition within the Arkansas Human Life Protection Act, is amended to read as follows:

(d) It is ~~an affirmative defense to prosecution~~ not a violation under this section if a licensed physician provides medical treatment to a pregnant woman which results in the accidental or unintentional injury or death to the unborn child.

SECTION 4. Arkansas Code § 5-61-403 is amended to read as follows:

5-61-403. Definitions.

As used in this subchapter:

(1)(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 (1)(A) of this section is not an abortion if the act is performed with the purpose to:

(i) Save the life or preserve the health of the

unborn child;

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

(iii) Remove an ectopic pregnancy;

(2) "Fertilization" means the fusion of a human spermatozoon with a human ovum;

(3)(A) "Medical emergency" means a condition in which, in reasonable medical judgment, complicates the medical condition of a pregnant woman to such an extent that termination of a pregnancy 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 itself. ~~and~~

(B) "Medical emergency" does not include:

(i) Conditions for which treatment is available that can, in reasonable medical judgement, be expected to preserve or sustain the life of the pregnant woman without ending the pregnancy;

(ii) A psychological or emotional condition; or

(iii) A medical diagnosis that is based on a claim made by the pregnant woman or based on a presumption that the pregnant woman will engage in conduct that could result in her death or that could cause substantial and irreversible physical impairment of a major bodily function of the pregnant woman;

(4) "Reasonable medical judgment" means a medical judgment that would be made or medical action that would be undertaken by a reasonably prudent, qualified physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved; and

~~(4)~~(5) "Unborn child" means an individual organism of the species Homo sapiens from fertilization until live birth.

SECTION 5. Arkansas Code § 5-61-404(d), concerning the prohibition within the Arkansas Unborn Child Protection Act, is amended to read as follows:

(d) It is ~~an affirmative defense to prosecution~~ not a violation under this section if a licensed physician provides medical treatment to a pregnant woman which results in the accidental or unintentional physical injury or

death to the unborn child.

/s/Lundstrum