

1 HB45
2 173055-6
3 By Representatives Weaver, Mooney, Nordgren, Fridy, Harper,
4 Lee, Wood, Johnson (K), Collins, Boothe, Martin, Ball,
5 Garrett, Pettus, Williams (JD), Wilcox, McCutcheon,
6 Sanderford, Standridge, Greer, Millican, Beckman, Holmes (M),
7 Baker, Poole, Carns, Shedd, Hubbard, Faulkner and South
8 RFD: Health
9 First Read: 02-FEB-16
10 PFD: 02/01/2016

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

To create the Unborn Infants Dignity of Life Act; to define terms; to allow parents of deceased unborn infants to provide a dignified final disposition of the bodily remains of these infants; to prohibit the sale or other unlawful disposition of the bodily remains of a deceased unborn infant under certain conditions; to prohibit the use of an unborn infant, living or deceased, or the fetal tissue, organs, or bodily remains of a deceased unborn infant in research or experimentation; to provide criminal penalties; to provide for recovery of certain damages in a civil action; to provide for disciplinary action against certain health care providers in violation of the act; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Unborn Infants Dignity of Life Act.

1 Section 2. (a) The Legislature of the State of
2 Alabama finds and declares that:

3 (1) Deceased unborn infants deserve the same respect
4 and dignity as other human beings.

5 (2) The laws of this state do not ensure that
6 deceased unborn infants receive proper burials or final
7 disposition.

8 (3) Alabama does not specifically prohibit the sale
9 or transfer of bodily remains of deceased unborn infants for
10 compensation.

11 (4) The dignity and value of life, especially the
12 lives of children, born or unborn, has been and continues to
13 be a public policy and often sacred concern of the highest
14 order for the people of this state.

15 (b) Based on the findings in subsection (a), the
16 purposes of this act are to:

17 (1) Allow parents of deceased unborn infants to
18 provide a dignified final disposition of the bodily remains of
19 these infants.

20 (2) Prohibit the sale or other unlawful disposition
21 of the bodily remains of a deceased unborn infant, or the
22 exchange of any compensation or payment for the transfer or
23 distribution of the bodily remains of a deceased unborn
24 infant.

25 Section 3. For the purpose of this act, the
26 following words and phrases shall have the following meanings:

1 (1) ABORTION. The use or prescription of any
2 instrument, medicine, drug, or any other substance or device
3 with the intent to terminate the pregnancy of a woman known to
4 be pregnant with knowledge that the termination by those means
5 will with reasonable likelihood cause the death of the unborn
6 child. Such use or prescription is not an abortion if done
7 with the intent to save the life or preserve the health of an
8 unborn child, remove a dead unborn child, or to deliver the
9 unborn child prematurely in order to preserve the health of
10 both the mother (pregnant woman) and her unborn child. The
11 term "abortion" as used in this act, does not include a
12 procedure or act to terminate the pregnancy of a woman with an
13 ectopic pregnancy, nor does it include the procedure or act to
14 terminate the pregnancy of a woman when the unborn child has a
15 lethal anomaly.

16 (2) BODILY REMAINS. The physical remains, corpse, or
17 body parts of a dead unborn infant who has been expelled or
18 extracted from his or her mother.

19 (3) ECTOPIC PREGNANCY. Any pregnancy resulting from
20 a fertilized egg that has implanted or attached outside the
21 uterus. The term also includes a pregnancy resulting from a
22 fertilized egg implanting inside the cornu of the uterus.

23 (4) EXPERIMENT or EXPERIMENTATION. The use of an
24 unborn infant, living or deceased, or such bodily remains in
25 any trial, test, procedure, or observation carried out with
26 the goal of verifying, refuting, or establishing the validity
27 of a hypothesis, but does not include treatment, medication,

1 diagnostic or remedial tests, surgical procedures, or
2 observations which have the purpose of determining or
3 improving the life or health of the unborn infant or
4 preserving the life or health of the unborn infant or the
5 unborn infant's mother or pathological study. The terms do not
6 include the use of the bodily remains of an unborn infant
7 pursuant to the Revised Uniform Anatomical Gift Act.

8 (5) FINAL DISPOSITION. The burial, interment,
9 cremation, or other legal disposition of the bodily remains of
10 a deceased unborn infant.

11 (6) LETHAL ANOMALY. A child would die at birth or be
12 still born.

13 (7) PATHOLOGICAL STUDY. The examination of body
14 tissue for diagnostic or forensic purposes, and any related
15 activities necessary to perform such study. The term includes
16 any study or test, genetic or otherwise, to determine the
17 cause of death.

18 (8) PREGNANT OR PREGNANCY. A fetal reproductive
19 condition of having an unborn infant or infants in the woman's
20 uterus.

21 (9) RESEARCH. A systematic investigation, including
22 research development, testing and evaluation, designed to
23 develop or contribute to generalized knowledge but does not
24 include treatment, medication, diagnostic or remedial tests,
25 surgical procedures, or observations which have the purpose of
26 determining or improving the life or health of the unborn
27 infant or preserving the life or health of the unborn infant

1 or the unborn infant's mother or pathological study. The term
2 does not include the use of the bodily remains of an unborn
3 infant pursuant to the Revised Uniform Anatomical Gift Act.

4 (10) THERAPY or THERAPEUTIC. Intended to treat or
5 cure a disease or disorder by remedial agents or methods. The
6 term does not include either of the following:

7 a. Diagnostic or remedial tests, procedures, or
8 observations which have the purpose of determining or
9 improving the life or health of the unborn infant or
10 preserving the life or health of the unborn infant or the
11 unborn infant's mother or pathological study.

12 b. The use of the bodily remains of an unborn infant
13 pursuant to the Revised Uniform Anatomical Gift Act

14 (11) TRANSPLANT or TRANSPLANTATION. Organs, tissues,
15 or cells taken from the body for grafting into another
16 individual or transference of an organ, tissues or cells,
17 alive or dead, between individuals. The term does not include
18 either of the following:

19 a. Diagnostic or remedial tests, procedures, or
20 observations which have the purpose of determining or
21 improving the life or health of the unborn infant or
22 preserving the life or health of the unborn infant or the
23 unborn infant's mother or pathological study.

24 b. The use of the bodily remains of an unborn infant
25 pursuant to the Revised Uniform Anatomical Gift Act.

26 ~~(10)~~ (12) UNBORN INFANT. A human being in utero at
27 any stage of development regardless of viability.

1 Section 4. The mother, father, or authorized
2 representative may request the release of the bodily remains
3 to the mother, father, or authorized representative for
4 dignified final disposition by burial, interment, or
5 cremation. The request may be made by the mother, father, or
6 authorized representative prior to or shortly after the
7 expulsion or extraction of the bodily remains. Any expenses
8 associated with preparation of and disposal of the bodily
9 remains as requested by the mother, father, or authorized
10 representative shall be at his or her own expense. Nothing in
11 this act shall prevent donation of bodily remains pursuant to
12 the Revised Uniform Anatomical Gift Act or prevent
13 pathological study when it is required.

14 Section 5. (a) (1) No person shall knowingly accept
15 compensation or payment for the sale, transfer, distribution,
16 acceptance, use, or attempted use of the fetal organs, tissue,
17 or bodily remains of a deceased unborn infant for research,
18 therapy, transplantation, or experimentation.

19 (2) No institution, entity, or individual shall
20 knowingly provide any compensation or payment to any other
21 person, organization, or entity for the removal, transfer,
22 storage, processing, preservation, quality control,
23 implantation, transportation, distribution, disposal, or other
24 manner of disposition of the bodily remains of a deceased
25 unborn infant for research, therapy, transplantation,
26 experimentation, or any other prohibited purpose under this
27 act.

1 (b) No person shall knowingly aid or abet in any
2 prohibited activity under subsection (a).

3 (c) No person shall use an unborn infant, living or
4 deceased, ~~or bodily remains of a deceased unborn infant~~ in
5 research or experimentation. Nothing in this section shall
6 affect the use described herein pursuant to the Revised
7 Uniform Anatomical Gift Act.

8 (d) No person shall perform or offer to perform an
9 abortion where part or all of the justification or reason for
10 the abortion is that the bodily remains may be used for
11 research, therapy, transplantation, or experimentation.

12 Section 6. (a) Except as provided in subsection ~~(c)~~
13 (b), any person who knowingly violates any provision of
14 Section 5 shall be guilty of a Class D felony for each
15 violation.

16 (b) Any person who experiments on a living unborn
17 infant or the bodily remains of a deceased unborn infant,
18 experiments upon an unborn infant who is intended to be
19 aborted, or performs or offers to perform an abortion where
20 part or all of the justification or reason for the abortion is
21 that the bodily remains may be used for research or
22 experimentation in violation of Section 5 shall be guilty of a
23 Class C felony.

24 Section 7. (a) In addition to other remedies
25 available under law or common law of this state, violation of
26 any provision of Section 5 shall:

1 (1) Provide a basis for recovery in a civil action
2 for the parent or parents of the infant or the parent,
3 parents, or guardian of the mother, if the mother is a minor,
4 for experimentation upon bodily remains. Any relief awarded
5 shall include:

6 a. Money damages for all psychological injuries
7 occasioned by any violation of this act.

8 b. Statutory damages equal to three times the cost
9 of the mother's delivery or abortion.

10 (2) Provide a basis for professional disciplinary
11 action by regulatory bodies for the suspension or revocation
12 of any license for physicians, licensed vocational and
13 registered nurses, or other licensed or regulated health care
14 providers.

15 (b) Any conviction of any health care provider for
16 any failure to comply with the requirements of this act shall
17 result in the automatic suspension of his or her license for a
18 period of at least one year and the license shall be
19 reinstated after that time only under such conditions as the
20 appropriate state regulatory body shall require to ensure
21 compliance with this act.

22 Section 8. (a) Nothing in this act shall be
23 construed to affect existing federal or state law regarding
24 abortion.

25 (b) Nothing in this act shall be construed as
26 creating or recognizing a right to abortion.

1 (c) Nothing in this act shall be construed to alter
2 generally accepted medical standards.

3 Section 9. Nothing in this act shall modify, amend,
4 repeal, or supersede any provision of Section 6-5-333, Code of
5 Alabama 1975, or the "Alabama Medical Liability Act of 1987"
6 commencing with Section 6-5-540, Code of Alabama 1975, or the
7 Alabama Medical Liability Act of 1996, commencing with Section
8 6-5-548, Code of Alabama 1975, or any amendment to any of the
9 foregoing, or any judicial interpretation of any of the
10 foregoing.

11 Further, nothing in this act shall be construed to
12 restrict or supersede criminal investigations of violations of
13 the laws of this state.

14 Section 10. Sections 5, 6, and 7 of this act shall
15 not apply to a physician, doctor, or other person working with
16 and under the direction of a physician or doctor, who in good
17 faith believes that a deceased unborn infant, bodily remains,
18 fetal remains, or fetal tissue were donated in accordance with
19 the Revised Uniform Anatomical Gift Act.

20 Section 11. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompile of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

1 Section 12. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Health 02-FEB-16

Read for the second time and placed
on the calendar..... 03-FEB-16

Read for the third time and passed
as amended..... 17-FEB-16

Yeas 76, Nays 24, Abstains 2

Jeff Woodard
Clerk