- 1 HB314
- 2 198038-1
- By Representatives Collins, Rowe, Mooney, Wilcox, Estes,
- 4 Lipscomb, Isbell, Ellis, Lee, Allen, Faust, Brown (K), Pettus,
- 5 Greer, Kiel, Nordgren, Reynolds, Drake, Wood (R), Ball, Fridy,
- Rich, Ingram, Shiver, Wood (D), Simpson, Kitchens, Marques,
- 7 Weaver, South, Faulkner, Shaver, Holmes, McMillan, Whorton,
- 8 Farley, Hurst, Standridge, Crawford, Sorrell, Brown (C),
- 9 Robertson, Whitt, Moore (P), Wheeler, Carns, Oliver, Garrett,
- 10 Sullivan, Gaston, Blackshear, Fincher, Wingo, Hill, Ledbetter,
- Baker, Dismukes, Stadthagen, Poole, Clouse, McCutcheon, Shedd,
- 12 Sorrells, Pringle, Harbison, Hanes and Easterbrook
- 13 RFD: Judiciary
- 14 First Read: 02-APR-19

1	198038-1:n:03/20/2019:AHP*/tj LSA2019-980	
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8	SYNOPSIS:	This bill would make abortion and attempted
9		abortion felony offenses except in cases where
10		abortion is necessary in order to prevent a serious
11		health risk to the unborn child's mother.
12		This bill would provide that a woman who
13		receives an abortion will not be held criminally
14		culpable or civilly liable for receiving the
15		abortion.
16		Amendment 621 of the Constitution of Alabama
17		of 1901, now appearing as Section 111.05 of the
18		Official Recompilation of the Constitution of
19		Alabama of 1901, as amended, prohibits a general
20		law whose purpose or effect would be to require a
21		new or increased expenditure of local funds from
22		becoming effective with regard to a local
23		governmental entity without enactment by a 2/3 vote
24		unless: it comes within one of a number of
25		specified exceptions; it is approved by the
26		affected entity; or the Legislature appropriates

funds, or provides a local source of revenue, to
the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

11 A BILL

TO BE ENTITLED

13 AN ACT

2.0

Relating to abortion; to make abortion and attempted abortion felony offenses except in cases where abortion is necessary in order to prevent a serious health risk to the unborn child's mother; to provide that a woman who receives an abortion will not be held criminally culpable or civilly liable for receiving the abortion; 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 as The Alabama

Human Life Protection Act.

Section 2. Legislative Findings.

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- (a) This state's statute criminalizing abortion,
 Section 13A-13-7, Code of Alabama 1975, has never been
 repealed. It has remained unenforceable as a result of the
 U.S. Supreme Court decision in Roe v. Wade, 410 U.S. 113
 (1973) and its progeny, which struck down as unconstitutional
 a Texas statute criminalizing abortion and which effectively
 repealed by implication and made unenforceable all other state
 statutes criminalizing abortion.
- (b) On November 6, 2018, electors in this state approved by a majority vote a constitutional amendment to the Constitution of Alabama of 1901 declaring and affirming the public policy of the state to recognize and support the sanctity of unborn life and the rights of unborn children. The amendment made it clear that the Constitution of Alabama of 1901 does not include a right to an abortion or require the funding of abortions using public funds.
- (c) In present state law, Section 13A-6-1, Code of Alabama 1975, defines a person for homicide purposes to include an unborn child in utero at any stage of development, regardless of viability.
- (d) In the United States Declaration of
 Independence, the principle of natural law that "all men are
 created equal" was articulated. The self-evident truth found
 in natural law, that all human beings are equal from creation,

was at least one of the bases for the anti-slavery movement,
the women's suffrage movement, the Nuremberg war crimes

trials, and the American civil rights movement. If those

movements had not been able to appeal to the truth of

universal human equality, they could not have been successful.

- (e) Abortion advocates speak to women's rights, but they ignore the unborn child, while medical science has increasingly recognized the humanity of the unborn child.
- (f) Recent medical advances prove a baby's heart starts to beat at around six weeks. At about eight weeks, the heartbeat can be heard through an ultrasound examination. A fetal Doppler can detect a fetal heartbeat as early as 10 weeks.
- (g) Ultrasound imaging shows the developing child in utero.
- (h) As early as six weeks after fertilization, fetal photography shows the clear development of a human being. The Alabama Department of Public Health publication "Did You Know . . ." demonstrates through actual pictures at two-week intervals throughout the entire pregnancy the clear images of a developing human being.
- (i) It is estimated that 6,000,000 Jewish people were murdered in German concentration camps during World War II; 3,000,000 people were executed by Joseph Stalin's regime in Soviet gulags; 2,500,000 people were murdered during the Chinese "Great Leap Forward" in 1958; 1,500,000 to 3,000,000 people were murdered by the Khmer Rouge in Cambodia during the

1970s; and approximately 1,000,000 people were murdered during the Rwandan genocide in 1994. All of these are widely acknowledged to have been crimes against humanity. By comparison, more than 50 million babies have been aborted in the United States since the Roe decision in 1973, more than three times the number who were killed in German death camps, Chinese purges, Stalin's gulags, Cambodian killing fields, and the Rwandan genocide combined.

- (j) The cases of Roe v. Wade and its progeny have engendered much civil litigation and legislative attempts to reign in so called abortion rights. Roe v. Wade attempted to define when abortion of an unborn child would be legal. Judges and legal scholars have disagreed and dissented with its finding.
- Section 3. As used in this act, the following terms shall have the following meanings:
- instrument, medicine, drug, or any other substance or device with the intent to terminate the pregnancy of a woman known to be pregnant with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. The term does not include these activities if done with the intent to save the life or preserve the health of an unborn child, remove a dead unborn child, to deliver the unborn child prematurely to avoid a serious health risk to the unborn child's mother, or to preserve the health of her unborn child. The term does not include a procedure or act to

terminate the pregnancy of a woman with an ectopic pregnancy,
nor does it include the procedure or act to terminate the
pregnancy of a woman when the unborn child has a lethal
anomaly.

- (2) ECTOPIC PREGNANCY. Any pregnancy resulting from either a fertilized egg that has implanted or attached outside the uterus or a fertilized egg implanted inside the cornu of the uterus.
- (3) LETHAL ANOMALY. A condition from which an unborn child would die after birth or shortly thereafter or be stillborn.
- (4) MEDICAL EMERGENCY. A condition which, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that her pregnancy must be terminated to avoid a serious health risk as defined in this act.
- (5) PHYSICIAN. A person licensed to practice medicine and surgery or osteopathic medicine and surgery in Alabama.
- (6) SERIOUS HEALTH RISK TO THE UNBORN CHILD'S MOTHER. In reasonable medical judgment, the child's mother has a condition that so complicates her medical condition that it necessitates the termination of her pregnancy to avert her death or to avert serious risk of substantial physical impairment of a major bodily function. This term does not include a condition based on a claim that the woman is suffering from an emotional condition or a mental illness

1 which will cause her to engage in conduct that intends to 2 result in her death or the death of her unborn child. However, the condition may exist if a second physician who is licensed 3 in Alabama as a psychiatrist, with a minimum of three years of 4 5 clinical experience, examines the woman and documents that the woman has a diagnosed serious mental illness and because of 6 7 it, there is reasonable medical judgment that she will engage in conduct that could result in her death or the death of her 9 unborn child. If the mental health diagnosis and likelihood of 10 conduct is confirmed as provided in this act, and it is determined that a termination of her pregnancy is medically 11 necessary to avoid the conduct, the termination may be 12 13 performed and shall be only performed by a physician licensed in Alabama in a hospital as defined in the Alabama 14 15 Administrative Code and to which he or she has admitting 16 privileges.

(7) UNBORN CHILD, CHILD or PERSON. A human being, specifically including an unborn child in utero at any stage of development, regardless of viability.

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- (8) WOMAN. A female human being, whether or not she has reached the age of majority.
- Section 4. (a) It shall be unlawful for any person to intentionally perform or attempt to perform an abortion except as provided for by subsection (b).
- (b) An abortion shall be permitted if an attending physician licensed in Alabama determines that an abortion is necessary in order to prevent a serious health risk to the

unborn child's mother. Except in the case of a medical
emergency as defined herein, the physician's determination
shall be confirmed in writing by a second physician licensed
in Alabama. The confirmation shall occur within 180 days after
the abortion is completed and shall be prima facie evidence
for a permitted abortion.

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Section 5. No woman upon whom an abortion is performed or attempted to be performed shall be criminally or civilly liable. Furthermore, no physician confirming the serious health risk to the child's mother shall be criminally or civilly liable for those actions.

Section 6. (a) An abortion performed in violation of this act is a Class A felony.

(b) An attempted abortion performed in violation of this act is a Class C felony.

Section 7. This act shall not apply to a physician licensed in Alabama performing a termination of a pregnancy or assisting in performing a termination of a pregnancy due to a medical emergency as defined by this act.

Section 8. The construction of existing statutes and regulations that regulate or recognize abortion in Alabama that are in conflict with or antagonistic to this act shall be repealed as null and void and shall recognize the prohibition of abortion as provided in this act. If this act is challenged and enjoined pending a final judicial decision, the existing statutes and regulations that regulate or recognize abortion shall remain in effect during that time.

Section 9. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

Section 10. This act shall become effective six months following its passage and approval by the Governor, or

its otherwise becoming law.