

1 HB491
2 199508-1
3 By Representatives Shaver and Ledbetter
4 RFD: Health
5 First Read: 23-APR-19

2
3
4
5
6
7
8 SYNOPSIS: This bill would require a physician to
9 exercise reasonable care to preserve the life of a
10 child born alive after an abortion or attempted
11 abortion.

12 This bill would establish criminal penalties
13 for violations.

14 Amendment 621 of the Constitution of Alabama
15 of 1901, now appearing as Section 111.05 of the
16 Official Recompilation of the Constitution of
17 Alabama of 1901, as amended, prohibits a general
18 law whose purpose or effect would be to require a
19 new or increased expenditure of local funds from
20 becoming effective with regard to a local
21 governmental entity without enactment by a 2/3 vote
22 unless: it comes within one of a number of
23 specified exceptions; it is approved by the
24 affected entity; or the Legislature appropriates
25 funds, or provides a local source of revenue, to
26 the entity for the purpose.

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

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to abortion; to require a physician to
14 exercise reasonable care to preserve the life of a child who
15 is born alive after an abortion or attempted abortion; to
16 establish criminal penalties for violations; and in connection
17 therewith would have as its purpose or effect the requirement
18 of a new or increased expenditure of local funds within the
19 meaning of Amendment 621 of the Constitution of Alabama of
20 1901, now appearing as Section 111.05 of the Official
21 Recompilation of the Constitution of Alabama of 1901, as
22 amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. This act shall be known and may be cited
25 as Gianna's Law.

26 Section 2. (a) A living human child born alive after
27 an abortion or premature birth is entitled to the same rights,

1 powers, and privileges as are granted by the laws of this
2 state to any other child born alive after the normal gestation
3 period.

4 (b) For purposes of this act, "born alive" means the
5 complete expulsion or extraction from its mother of a product
6 of conception, irrespective of the duration of pregnancy,
7 which, after separation, breathes or shows any other evidence
8 of life such as beating of the heart, pulsation of the
9 umbilical cord, or definite movement of voluntary muscles,
10 whether or not the umbilical cord has been cut or the placenta
11 is attached.

12 (c) (1) For purposes of this section, a
13 physician-patient relationship is established between a child
14 born alive after an abortion or attempted abortion and the
15 physician who performed or attempted the abortion.

16 (2) If a child is born alive following an abortion
17 or attempted abortion, the physician who performed the
18 abortion or attempted the abortion shall exercise the same
19 degree of professional skill, care, and diligence to preserve
20 the life and health of the child as a reasonably diligent and
21 conscientious physician would render to any other child born
22 alive at the same gestational age. Failure to do so is a Class
23 B felony and is punishable by not less than 20 years in state
24 prison and a fine of not less than one hundred thousand
25 dollars (\$100,000).

26 (3) The Office of the Attorney General may bring an
27 action to enforce this subsection. Any funds collected from

1 fines pursuant to this act shall be deposited in the General
2 Fund.

3 (d) A woman on whom an abortion is performed or
4 attempted to be performed may not be held liable under this
5 act.

6 (e) A person who has knowledge of failure by a
7 physician to comply with this act shall report this knowledge
8 to the Office of the Attorney General. The identity of the
9 person making the report shall be kept confidential.

10 Section 3. Although this bill would have as its
11 purpose or effect the requirement of a new or increased
12 expenditure of local funds, the bill is excluded from further
13 requirements and application under Amendment 621, now
14 appearing as Section 111.05 of the Official Recompilation of
15 the Constitution of Alabama of 1901, as amended, because the
16 bill defines a new crime or amends the definition of an
17 existing crime.

18 Section 4. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.