

1 HB491
2 201222-2
3 By Representatives Shaver and Ledbetter
4 RFD: Health
5 First Read: 23-APR-19

1 (b) For purposes of this section the following terms
2 shall have the meanings set forth below:

3 (1) ABORTION. The use or prescription of any
4 instrument, medicine, drug, or any other substance or device
5 with the intent to terminate the pregnancy of a woman known to
6 be pregnant with knowledge that the termination by those means
7 will with reasonable likelihood cause the death of the unborn
8 child. The term does not include these activities if done with
9 the intent to save the life or preserve the health of an
10 unborn child, remove a dead unborn child, to deliver the
11 unborn child prematurely to avoid a serious health risk to the
12 unborn child's mother, or to preserve the health of her unborn
13 child. The term does not include a procedure or act to
14 terminate the pregnancy of a woman with an ectopic pregnancy,
15 nor does it include the procedure or act to terminate the
16 pregnancy of a woman when the unborn child has a lethal
17 anomaly.

18 (2) ABORTION OR REPRODUCTIVE HEALTH CENTER. A
19 facility defined and regulated as an abortion or reproductive
20 health center by the rules of the Alabama State Board of
21 Health.

22 (3) BORN ALIVE. The complete expulsion or extraction
23 from its mother of a product of conception, irrespective of
24 the duration of pregnancy, which, after separation, breathes
25 or has a heart beat, pulsation of the umbilical cord, or
26 definite movement of voluntary muscles, whether or not the
27 umbilical cord has been cut or the placenta is attached.

1 (4) ECTOPIC PREGNANCY. Any pregnancy resulting from
2 either a fertilized egg that has implanted or attached outside
3 the uterus or a fertilized egg implanted inside the cornu of
4 the uterus.

5 (5) LETHAL ANOMALY. A condition from which an unborn
6 child would die after birth or shortly thereafter or be
7 stillborn.

8 (6) PHYSICIAN. An individual licensed to practice
9 medicine and surgery or osteopathic medicine and surgery in
10 Alabama.

11 (7) SERIOUS HEALTH RISK TO THE UNBORN CHILD'S
12 MOTHER. In reasonable medical judgment, the child's mother has
13 a condition that so complicates her medical condition that it
14 necessitates the termination of her pregnancy to avert her
15 death or to avert serious risk of substantial physical
16 impairment of a major bodily function. This term does not
17 include a condition based on a claim that the woman is
18 suffering from an emotional condition or a mental illness
19 which will cause her to engage in conduct that intends to
20 result in her death or the death of her unborn child. However,
21 the condition may exist if a second physician who is licensed
22 in Alabama as a psychiatrist, with a minimum of three years of
23 clinical experience, examines the woman and documents that the
24 woman has a diagnosed serious mental illness and because of
25 it, there is reasonable medical judgment that she will engage
26 in conduct that could result in her death or the death of her
27 unborn child. If the mental health diagnosis and likelihood of

1 conduct is confirmed as provided in this section, and it is
2 determined that a termination of her pregnancy is medically
3 necessary to avoid the conduct, the termination may be
4 performed and shall be only performed by a physician licensed
5 in Alabama in a hospital as defined in the Alabama
6 Administrative Code and to which he or she has admitting
7 privileges.

8 (c) (1) A child born alive after an abortion or
9 attempted abortion in an abortion or reproductive health
10 center shall be entitled to the same physician patient
11 relationship that is currently available for any other
12 individual in need of medical care at any location in this
13 state. Nothing in this section shall be construed to establish
14 a new or separate standard of care for hospitals or physicians
15 and their patients or otherwise modify, amend, or supersede
16 any provision of the Alabama Medical Liability Act of 1987 or
17 the Alabama Medical Liability Act of 1996, or any amendment or
18 judicial interpretation of either act.

19 (2) If a child is born alive following an abortion
20 or attempted abortion in an abortion or reproductive health
21 center, the physician who performed the abortion or attempted
22 the abortion in the abortion or reproductive health center
23 shall exercise the same degree of professional skill, care,
24 and diligence to preserve the life and health of the child as
25 a reasonably diligent and conscientious physician would render
26 to any other child born alive at any other location in this
27 state at the same gestational age. Failure to preserve the

1 life and health of the child is a Class B felony and is
2 punishable by not less than 20 years in state prison and a
3 fine of not less than one hundred thousand dollars (\$100,000).

4 (3) The Office of the Attorney General may bring an
5 action to enforce this subsection. Any funds collected from
6 fines pursuant to this act shall be deposited in the General
7 Fund.

8 (d) A woman on whom an abortion is performed or
9 attempted to be performed may not be held liable under this
10 section.

11 (e) An individual who has knowledge of failure by a
12 physician to comply with this section shall report this
13 knowledge to the Office of the Attorney General. The identity
14 of the individual making the report shall be kept
15 confidential.

16 (f) All of the provisions of this act, including all
17 obligations, duties, and rights created under this act, shall
18 only apply to a physician who performs an abortion or
19 attempted abortion in an abortion or reproductive health
20 center.

21 Section 3. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 4. This act shall become effective
4 immediately following its passage and approval by the
5 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 23-APR-19

Read for the second time and placed
on the calendar..... 08-MAY-19

Read for the third time and passed
as amended..... 21-MAY-19

Yeas 66, Nays 18, Abstains 0

Jeff Woodard
Clerk