

1 HB45
2 173055-4
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
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8 SYNOPSIS: This bill would create the Unborn Infants
9 Dignity of Life Act to allow parents of deceased
10 unborn infants to provide a dignified final
11 disposition of the bodily remains of these infants.

12 This bill would prohibit the sale of the
13 bodily remains of a deceased unborn infant under
14 certain conditions and provides criminal penalties
15 for violations.

16 This bill would also prohibit the use of an
17 unborn infant, living or deceased, or the fetal
18 tissue, organs, or bodily remains of a deceased
19 unborn infant in research or experimentation and
20 provides criminal penalties for violations.

21 Amendment 621 of the Constitution of Alabama
22 of 1901, now appearing as Section 111.05 of the
23 Official Recompilation of the Constitution of
24 Alabama of 1901, as amended, prohibits a general
25 law whose purpose or effect would be to require a
26 new or increased expenditure of local funds from
27 becoming effective with regard to a local

1 governmental entity without enactment by a 2/3 vote
2 unless: it comes within one of a number of
3 specified exceptions; it is approved by the
4 affected entity; or the Legislature appropriates
5 funds, or provides a local source of revenue, to
6 the entity for the purpose.

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

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To create the Unborn Infants Dignity of Life Act; to
20 define terms; to allow parents of deceased unborn infants to
21 provide a dignified final disposition of the bodily remains of
22 these infants; to prohibit the sale or other unlawful
23 disposition of the bodily remains of a deceased unborn infant
24 under certain conditions; to prohibit the use of an unborn
25 infant, living or deceased, or the fetal tissue, organs, or
26 bodily remains of a deceased unborn infant in research or
27 experimentation; to provide criminal penalties; to provide for

1 recovery of certain damages in a civil action; to provide for
2 disciplinary action against certain health care providers in
3 violation of the act; and in connection therewith would have
4 as its purpose or effect the requirement of a new or increased
5 expenditure of local funds within the meaning of Amendment 621
6 of the Constitution of Alabama of 1901, now appearing as
7 Section 111.05 of the Official Recompilation of the
8 Constitution of Alabama of 1901, as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

16 (2) The laws of this state do not ensure that
17 deceased unborn infants receive proper burials or final
18 disposition.

19 (3) Alabama does not specifically prohibit the sale
20 or transfer of bodily remains of deceased unborn infants for
21 compensation.

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

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

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

4 (2) Prohibit the sale or other unlawful disposition
5 of the bodily remains of a deceased unborn infant, or the
6 exchange of any compensation or payment for the transfer or
7 distribution of the bodily remains of a deceased unborn
8 infant.

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

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

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

4 (3) ECTOPIC PREGNANCY. Any pregnancy resulting from
5 a fertilized egg that has implanted or attached outside the
6 uterus. The term also includes a pregnancy resulting from a
7 fertilized egg implanting inside the cornu of the uterus.

8 (4) EXPERIMENT or EXPERIMENTATION. The use of an
9 unborn infant, living or deceased, or such bodily remains in
10 any trial, test, procedure, or observation carried out with
11 the goal of verifying, refuting, or establishing the validity
12 of a hypothesis, but does not include diagnostic or remedial
13 tests, procedures, or observations which have the purpose of
14 determining or improving the life or health of the unborn
15 infant or preserving the life or health of the unborn infant
16 or the unborn infant's mother or pathological study. The terms
17 do not include the use of the bodily remains of an unborn
18 infant pursuant to the Revised Uniform Anatomical Gift Act.

19 (5) FINAL DISPOSITION. The burial, interment,
20 cremation, or other legal disposition of the bodily remains of
21 a deceased unborn infant.

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

24 (7) PATHOLOGICAL STUDY. The examination of body
25 tissue for diagnostic or forensic purposes.

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

4 (9) RESEARCH. A systematic investigation, including
5 research development, testing and evaluation, designed to
6 develop or contribute to generalized knowledge but does not
7 include 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. The term does
12 not include the use of the bodily remains of an unborn infant
13 pursuant to the Revised Uniform Anatomical Gift Act.

14 (10) UNBORN INFANT. A human being in utero at any
15 stage of development regardless of viability.

16 Section 4. The mother, father, or authorized
17 representative may request the release of the bodily remains
18 to the mother, father, or authorized representative for
19 dignified final disposition by burial, interment, or
20 cremation. The request may be made by the mother, father, or
21 authorized representative prior to or shortly after the
22 expulsion or extraction of the bodily remains. Any expenses
23 associated with preparation of and disposal of the bodily
24 remains as requested by the mother, father, or authorized
25 representative shall be at his or her own expense. Nothing in
26 this act shall prevent donation of bodily remains pursuant to
27 the Revised Uniform Anatomical Gift Act.

1 Section 5. (a) (1) No person shall knowingly accept
2 compensation or payment for the sale, transfer, distribution,
3 acceptance, use, or attempted use of the fetal organs, tissue,
4 or bodily remains of a deceased unborn infant for research or
5 experimentation.

6 (2) No institution, entity, or individual shall
7 knowingly provide any compensation or payment to any other
8 person, organization, or entity for the removal, transfer,
9 storage, processing, preservation, quality control,
10 implantation, transportation, distribution, disposal, or other
11 manner of disposition of the bodily remains of a deceased
12 unborn infant for research, experimentation, or any other
13 prohibited purpose under this act.

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

16 (c) No person shall use an unborn infant, living or
17 deceased, or bodily remains of a deceased unborn infant in
18 research or experimentation. Nothing in this section shall
19 affect the use described herein pursuant to the Revised
20 Uniform Anatomical Gift Act.

21 (d) No person shall perform or offer to perform an
22 abortion where part or all of the justification or reason for
23 the abortion is that the bodily remains may be used for
24 research or experimentation.

25 Section 6. (a) Except as provided in subsection (c),
26 any person who knowingly violates any provision of Section 5
27 shall be guilty of a Class D felony for each violation.

1 (b) Any person who experiments on a living unborn
2 infant or the bodily remains of a deceased unborn infant,
3 experiments upon an unborn infant who is intended to be
4 aborted, or performs or offers to perform an abortion where
5 part or all of the justification or reason for the abortion is
6 that the bodily remains may be used for research or
7 experimentation in violation of Section 5 shall be guilty of a
8 Class C felony.

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

12 (1) Provide a basis for recovery in a civil action
13 for the parent or parents of the infant or the parent,
14 parents, or guardian of the mother, if the mother is a minor,
15 for experimentation upon bodily remains. Any relief awarded
16 shall include:

17 a. Money damages for all psychological injuries
18 occasioned by any violation of this act.

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

21 (2) Provide a basis for professional disciplinary
22 action by regulatory bodies for the suspension or revocation
23 of any license for physicians, licensed vocational and
24 registered nurses, or other licensed or regulated health care
25 providers.

26 (b) Any conviction of any health care provider for
27 any failure to comply with the requirements of this act shall

1 result in the automatic suspension of his or her license for a
2 period of at least one year and the license shall be
3 reinstated after that time only under such conditions as the
4 appropriate state regulatory body shall require to ensure
5 compliance with this act.

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

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

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

13 Section 9. Nothing in this act shall modify, amend,
14 repeal, or supersede any provision of Section 6-5-333, Code of
15 Alabama 1975, or the "Alabama Medical Liability Act of 1987"
16 commencing with Section 6-5-540, Code of Alabama 1975, or the
17 Alabama Medical Liability Act of 1996, commencing with Section
18 6-5-548, Code of Alabama 1975, or any amendment to any of the
19 foregoing, or any judicial interpretation of any of the
20 foregoing.

21 Section 10. Sections 5, 6, and 7 of this act shall
22 not apply to a physician who in good faith believes that a
23 deceased unborn infant, bodily remains, fetal remains, or
24 fetal tissue were donated in accordance with the Revised
25 Uniform Anatomical Gift Act.

26 Section 11. Although this bill would have as its
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further
2 requirements and application under Amendment 621, now
3 appearing as Section 111.05 of the Official Recompilation of
4 the Constitution of Alabama of 1901, as amended, because the
5 bill defines a new crime or amends the definition of an
6 existing crime.

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