

1 HB490
2 158596-3
3 By Representatives McClurkin, Baughn, Rich, Weaver, Hill,
4 Harper, Farley, Johnson (W), Sessions, Wilcox, Roberts,
5 Butler, Williams (D), Nordgren, Collins, Johnson (K), Greer,
6 Henry, Moore (B), Tuggle, Lee, Carns, Wallace, Buttram,
7 Chesteen, Jones and Williams (J)
8 RFD: Health
9 First Read: 13-FEB-14

1 Section 2. An abortion is defined as the use or
2 prescription of any instrument, medicine, drug, or any other
3 substance or device with the intent to terminate the pregnancy
4 of a woman known to be pregnant with knowledge that the
5 termination by those means will with reasonable likelihood
6 cause the death of the unborn child. The use or prescription
7 is not an abortion if done with the intent to save the life or
8 preserve the health of an unborn child, remove a dead unborn
9 child, or to deliver the unborn child prematurely in order to
10 preserve the health of both the mother (pregnant woman) and
11 her unborn child. The term "abortion" as used in these rules,
12 does not include a procedure or act to terminate the pregnancy
13 of a woman with an ectopic pregnancy, nor does it include the
14 procedure or act to terminate the pregnancy of a woman when
15 the unborn child has a lethal anomaly. For the purposes of
16 this act, a "lethal anomaly" means that the child has been
17 diagnosed before birth with a condition that, with reasonable
18 medical certainty, will result in the death of the child
19 within three months after birth, or would die at birth or be
20 stillborn. For the purposes of this act, the term "ectopic
21 pregnancy" means any pregnancy resulting from a fertilized egg
22 that has implanted or attached outside the uterus. The term
23 "ectopic pregnancy" also includes a pregnancy resulting from a
24 fertilized egg implanted inside the cornu of the uterus.

25 Section 3. A physician shall not perform an abortion
26 on a pregnant woman without first determining if the unborn
27 child the pregnant woman is carrying has a detectable

1 heartbeat. The procedure for detecting the heartbeat shall be
2 pursuant to the applicable medical standard of care.

3 Section 4. A physician shall not perform an abortion
4 on a pregnant woman whose unborn child's heartbeat has been
5 detected according to the requirements of this act.

6 Section 5. It is not in violation of this act to
7 perform an abortion on a pregnant woman if a physician has
8 performed a procedure for the presence of a heartbeat in the
9 unborn child utilizing the applicable medical standard of care
10 and that procedure does not reveal a heartbeat in the unborn
11 child. The physician shall document in writing the procedure
12 used to determine the existence of the heartbeat in the unborn
13 child, the date the procedure was performed and the results of
14 the procedure.

15 Section 6. Notwithstanding that a detectable
16 heartbeat has been determined, it shall not be a violation of
17 this act if an abortion is performed by a physician pursuant
18 to the applicable medical standard of care for treatment of a
19 condition that, absent an abortion, is likely to result in the
20 death of the pregnant woman or is likely to result in
21 substantial and irreversible impairment of a major bodily
22 function of the pregnant woman, not including psychological or
23 emotional conditions.

24 Section 7. A physician who performs a medical
25 procedure which results in an abortion, notwithstanding that a
26 detectable heartbeat has been determined, shall declare in
27 writing that the medical procedure is necessary, and is

1 performed pursuant to the applicable medical standard of care
2 for treatment of a condition that, absent an abortion, is
3 likely to result in the death of the pregnant woman or is
4 likely to result in substantial and irreversible impairment of
5 a major bodily function of the pregnant woman, not including
6 psychological or emotional conditions. A physician shall
7 document in the writing the medical condition of the pregnant
8 woman, the reason why the medical procedure resulting in an
9 abortion was necessary, and the medical rationale for the
10 conclusion that the abortion was necessary to prevent the
11 death of the pregnant woman or substantial and irreversible
12 impact of a major bodily function of the pregnant woman, not
13 including psychological or emotional conditions.

14 Section 8. Documentation required by this act shall
15 be maintained in the same manner as other similar medical
16 records, such as those used to claim medical reimbursement or
17 used to demonstrate compliance with statutory and regulatory
18 requirements. The documentation shall be maintained for a
19 period of not less than seven years, and copies shall be made
20 available to the affected patient, state health regulators,
21 and state licensure authorities upon request. Records and
22 documentation may be created electronically, maintained
23 electronically, or both, so long as the records are readily
24 reproducible in paper format.

25 Section 9. Nothing in this act shall prohibit the
26 sale, use, prescription, or administration of a measure, drug,
27 or chemical designed for contraceptive purposes.

1 Section 10. Except for the exemptions provided for
2 herein, and subject to the provisions of Section 26-23A-8,
3 Code of Alabama 1975, † it shall be a Class C felony for a
4 physician to fail to perform a procedure to determine the
5 presence of a heartbeat in the unborn child or to perform an
6 abortion on an unborn child whose heartbeat has been
7 determined. The pregnant woman shall not be prosecuted for
8 violation of this act or for conspiracy to violate this act.

9 Section 11. Except for the exemptions provided for
10 herein, and subject to the provisions of Section 26-23A-8,
11 Code of Alabama 1975, † if a physician fails to perform a
12 procedure to determine the heartbeat of the unborn child or
13 performs an abortion of a child having established its
14 heartbeat, he or she shall have his or her license revoked and
15 shall be subject to such additional disciplinary action as
16 shall be determined by the appropriate regulatory authority.

17 Section 12. Although this bill would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds, the bill is excluded from further
20 requirements and application under Amendment 621, now
21 appearing as Section 111.05 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended, because the
23 bill defines a new crime or amends the definition of an
24 existing crime.

25 Section 13. The provisions of this act are
26 severable. If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not effect the part
2 which remains.

3 Section 14. This law shall become effective 30 days
4 after signing 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 13-FEB-14

Read for the second time and placed
on the calendar 1 amendment 25-FEB-14

Read for the third time and passed
as amended..... 04-MAR-14

Yeas 73, Nays 29, Abstains 0

Jeff Woodard
Clerk