HB491

199508-1

By Representatives Shaver and Ledbetter

RFD: Health

First Read: 23-APR-19
SYNOPSIS: This bill would require a physician to exercise reasonable care to preserve the life of a child born alive after an abortion or attempted abortion.

This bill would establish criminal penalties for violations.

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, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the 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.

A BILL

TO BE ENTITLED

AN ACT

Relating to abortion; to require a physician to exercise reasonable care to preserve the life of a child who is born alive after an abortion or attempted abortion; to establish criminal penalties for violations; 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 and may be cited as Gianna's Law.

Section 2. (a) A living human child born alive after an abortion or premature birth is entitled to the same rights,
powers, and privileges as are granted by the laws of this
state to any other child born alive after the normal gestation
period.

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

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

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

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

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

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

Section 3. 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 4. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.