

South Carolina General Assembly
124th Session, 2021-2022

S. 988

STATUS INFORMATION

General Bill

Sponsors: Senators Cash and Rice

Document Path: I:\s-res\rjc\014proh.kmm.rjc.docx

Introduced in the Senate on January 13, 2022

Currently residing in the Senate Committee on **Medical Affairs**

Summary: Not yet available

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/13/2022	Senate	Introduced and read first time (Senate Journal-page 4)
1/13/2022	Senate	Referred to Committee on Medical Affairs (Senate Journal-page 4)

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VERSIONS OF THIS BILL

[1/13/2022](#)

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A BILL

TO ENACT THE EQUAL PROTECTION FOR UNBORN BABIES ACT; TO REPEAL CHAPTER 41, TITLE 44 OF THE 1976 CODE, RELATING TO THE REGULATION OF ABORTIONS; TO AMEND TITLE 44 OF THE 1976 CODE, RELATING TO HEALTH, BY ADDING CHAPTER 139 TO PROHIBIT THE PERFORMANCE OR INDUCTION OF ABORTIONS IN THIS STATE, TO PROVIDE PENALTIES FOR VIOLATING THE PROHIBITION, TO DEFINE NECESSARY TERMS; AND TO PROVIDE THAT THE PROVISIONS CONTAINED IN THIS ACT ARE EFFECTIVE UPON AN ACTION TAKEN BY THE FEDERAL GOVERNMENT THAT HAS THE EFFECT OF ACKNOWLEDGING THAT THE STATE OF SOUTH CAROLINA HAS THE AUTHORITY TO REGULATE ABORTION TO THE EXTENT SET FORTH IN THIS ACT.

Whereas, the General Assembly acknowledges that all human beings are created equal, and endowed by their Creator with certain unalienable rights, the foremost of which is the right to life; and

Whereas, Article I, Section 3 of the Constitution of the State of South Carolina, 1895, guarantees that no person may be deprived of life, liberty, or property without due process of law or be denied the equal protection of the laws; and

Whereas, the General Assembly, in the exercise of its constitutional duties and powers, has a compelling interest to establish justice and provide equal protection of life for all babies, both born and unborn.

Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

1
2 SECTION 1. This act may be referred to and cited as the “Equal
3 Protection for Unborn Babies Act.”

4
5 SECTION 2. Chapter 41, Title 44 of the 1976 Code, relating to
6 abortions, is repealed.

7
8 SECTION 3. Title 44 of the 1976 Code is amended by adding:

9
10 “Chapter 139
11 Prohibition of Abortions

12
13 Section 44-139-10. For the purposes of this chapter:

14 (1)(a) ‘Abortion’ means:

15 (i) the use or prescription of any instrument, medicine,
16 drug, or any other substance or device intended to intentionally kill
17 the unborn baby of a woman known or suspected to be pregnant;
18 and

19 (ii) an omission of a statutorily required act, that, under the
20 circumstances as the actor believes them to be, constitutes a
21 substantial step in a course of conduct planned to culminate in the
22 death of the unborn baby of a woman known or suspected to be
23 pregnant.

24 (b) The definition of ‘abortion’ does not include a medical
25 procedure performed by a physician to:

26 (i) save the life or preserve the health of an unborn baby;
27 (ii) remove a dead unborn baby caused by a spontaneous
28 abortion; or
29 (iii) treat an ectopic pregnancy.

30 (2) ‘Attempt to perform or induce an abortion’ means an act, or
31 an omission of a statutorily required act, that, under the
32 circumstances as the actor believes them to be, constitutes a
33 substantial step in a course of conduct planned to culminate in the
34 performance or induction of an abortion in this State in violation of
35 this article.

36 (3) ‘Fertilization’ means the fusion of a human spermatozoon
37 with a human ovum.

38 (3) ‘Physician’ means any person licensed to practice medicine
39 and surgery or osteopathic medicine and surgery in this State.

40 (4) ‘Unborn baby’ means an individual human being from
41 fertilization until live birth.

42 (5) ‘Woman’ means a female human being whether or not she
43 has reached the age of majority.

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2 Section 44-139-20. No person may perform or induce, or attempt
3 to perform or induce, an abortion in this State.

4

5 Section 44-139-30. A person convicted of performing or inducing
6 an abortion must be punished in the same manner as provided in
7 Section 16-3-20.

8

9 Section 44-139-40. A person convicted of attempting to perform
10 or induce an abortion must be punished in the same manner as
11 provided in Section 16-3-29.

12

13 Section 44-139-50.(A) Nothing in this chapter shall be
14 construed to prohibit a physician from performing a medical
15 procedure or providing medical treatment designed or intended to
16 prevent the death of a pregnant woman, including delivering the
17 unborn baby prematurely if necessarily concomitant with the
18 lifesaving intervention. However, a physician shall make reasonable
19 medical efforts under the circumstances to preserve both the life of
20 the mother and the life of the unborn baby in a manner consistent
21 with accepted medical standards. Under such circumstances, the
22 accidental or unintentional injury to or death of the unborn baby is
23 not a violation of this chapter. A physician's understanding of a risk
24 of death for a pregnant woman must not be based on a diagnosis or
25 claim of a mental or emotional condition of the pregnant woman or
26 a diagnosis or claim that the pregnant woman will purposefully
27 engage in conduct that she intends to result in her death. The
28 provisions of this section must not be construed to authorize the
29 intentional killing of an unborn baby.

30 (B) Nothing in this article shall be construed to prohibit
31 contraception. As used in this subsection, 'contraception' is defined
32 as the prevention of fertilization."

33

34 SECTION 4. The provisions contained in SECTIONS 1 and 2 shall
35 take effect upon the certification by the Attorney General to the
36 Governor, the President of the Senate, and the Speaker of the House
37 of Representatives that:

38 (1) the United States Supreme Court has overruled, in whole or
39 in part, *Roe v. Wade*, 410 U.S. 113 (1973), that has the effect of
40 acknowledging that the State of South Carolina has the authority to
41 regulate abortion to the extent set forth in this act;

42 (2) an amendment to the United States Constitution has been
43 adopted that has the effect of acknowledging that the State of South

1 Carolina has the authority to regulate abortion to the extent set forth
2 in this act; or

3 (3) the United States Congress has enacted a law that has the
4 effect of acknowledging that the State of South Carolina has the
5 authority to regulate abortion to the extent set forth in this act.

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7 SECTION 5. If any portion of this act is finally and constitutionally
8 adjudicated invalid, then the entire act is void.

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10 SECTION 6. This act takes effect upon approval by the Governor.

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