

DRAFT PROPOSED REVISED TEXT TO S381 **(with new language in red, but without deletions from original S381)**

South Carolina General Assembly
124th Session, 2021-2022

S. 381

STATUS INFORMATION

General Bill

Sponsors: ~~Senators Cash and Rice~~

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Companion/Similar bill(s): ~~3568~~

Introduced in the Senate on ~~January 12, 2021~~

Currently residing in the Senate Committee on **Judiciary**

Summary: Personhood Act of SC

HISTORY OF LEGISLATIVE ACTIONS

| <u>Date</u> | <u>Body</u> | <u>Action Description with journal page number</u> |
|----------------------|-------------------|--|
| 12/9/2020 | Senate | Prefiled |
| 12/9/2020 | Senate | Referred to Committee on Judiciary |
| 1/12/2021 | Senate | Introduced and read first time (Senate Journal page 292) |
| 1/12/2021 | Senate | Referred to Committee on Judiciary (Senate Journal page 292) |

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VERSIONS OF THIS BILL

[12/9/2020](#)

1 **A BILL**

2 **TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,**
3 **1976, BY ADDING ARTICLE 5 TO CHAPTER 1, TITLE 1 SO**
4 **AS TO ENACT THE “PERSONHOOD ACT OF SOUTH**
5 **CAROLINA”;** **TO PROVIDE FINDINGS OF THE GENERAL**
6 **ASSEMBLY; TO ACKNOWLEDGE AND MEMORIALIZE**
7 **THAT THE RIGHT TO LIFE FOR EACH BORN AND**
8 **PREBORN HUMAN BEING IS INHERENT AND**
9 **UNALIENABLE BEGINNING AT FERTILIZATION; TO**
10 **DEFINE THE WORDS ‘PERSON’, ‘HUMAN’, AND ‘HUMAN**
11 **BEING’ TO MEAN A NATURAL PERSON CREATED IN**
12 **THE IMAGE OF GOD, AT ANY STAGE OF BIOLOGICAL**
13 **DEVELOPMENT, BEGINNING AT FERTILIZATION; TO**
14 **ACKNOWLEDGE AND MEMORIALIZE THAT EACH AND**
15 **EVERY HUMAN BEING IS A PERSON BEGINNING AT**
16 **FERTILIZATION AND THAT NO PERSON SHALL BE**
17 **DEPRIVED OF LIFE WITHOUT DUE PROCESS OF LAW**
18 **NOR DENIED THE EQUAL PROTECTION OF THE LAWS,**
19 **RIGHTS GUARANTEED BY ARTICLE I, SECTION 3 OF THE**
20 **CONSTITUTION OF THIS STATE; TO REPEAL CHAPTER**
21 **41, TITLE 44, RELATING TO “ABORTIONS”;** **TO**
22 **PROHIBIT ALLOCATION OF PUBLIC FUNDS,**
23 **ALLOCATION OF PERSONNEL OR PROPERTY, OR**
24 **IMPLEMENTATION BY ANY OFFICIAL, OF THIS STATE,**
25 **OR ANY POLITICAL SUBDIVISION OF THIS STATE, TO**
26 **IMPLEMENTATION OR ENFORCEMENT OF ANY**
27 **FEDERAL LAW, TREATY, EXECUTIVE ORDER, RULE,**
28 **OR REGULATION DETERMINED BY THE ATTORNEY**
29 **GENERAL TO PURPORT TO COMPEL LEGISLATIVE OR**
30 **EXECUTIVE ACTION PURSUANT TO SECTION 1-1-**
31 **370.(A); TO APPLY CERTAIN SECTIONS TO CHAPTER 3,**
32 **TITLE 16 OF THE 1976 CODE; AND FOR OTHER**
33 **PURPOSES.**

34
35 Whereas, the General Assembly, under Article III, Section 1A of the
36 Constitution of the State of South Carolina, 1895, is empowered to
37 assemble to make new laws, as the common good may require; and
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39 Whereas, Article I, Section 3 of the Constitution of the State of
40 South Carolina, 1895, guarantees that no person may be deprived of
41 life, liberty, or property without due process of law or be denied the
42 equal protection of the laws; and

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2 Whereas, the General Assembly, in the exercise of its constitutional
3 powers and in carrying out its duties and responsibilities under the
4 law, finds it necessary and proper to ensure that the rights of its
5 citizens extend to each newly born and preborn human being. Now,
6 therefore,

7

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

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11 SECTION 1. This act must be known and may be cited as the
12 “Personhood Act of South Carolina”.

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14 SECTION 2. Chapter 1, Title 1 of the 1976 Code is amended by
15 adding:

16

17 “ARTICLE 5

18

19 Personhood

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21 Section 1-1-310. The General Assembly finds as follows
22 regarding the sanctity of life:

23 (1) The General Assembly acknowledges that the July 4, 1776
24 Declaration of Independence is one of the organic laws of the United
25 States of America found in the United States Code.

26 (2) The General Assembly acknowledges that all persons are
27 endowed by their Creator with certain unalienable rights, **the**
28 **foremost of which is the right to life.**

29 (3) The General Assembly acknowledges that personhood is
30 God-given, as all men are created in the image of God.

31 (4) The General Assembly finds that the Preamble to the
32 Constitution of the State of South Carolina contains the sovereign
33 peoples’ acknowledgment of God as the source of constitutional
34 liberty, saying, ‘We the people of the State of South Carolina, in
35 Convention assembled, grateful to God for our liberties, do ordain
36 and establish this Constitution for the preservation and perpetuation
37 of the same’.

38 (5) **The General Assembly acknowledges that the State of**
39 **South Carolina has a God-ordained and constitutional duty to**
40 **establish justice and protect the right to life of human beings,**
41 **the first and primary end of civil government.**

42 (6) The General Assembly **acknowledges** that a human being
43 is a **natural** person **beginning** at fertilization.

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Section 1-1-320. (A) The right to life for each born and preborn human being **is inherent and unalienable beginning** at fertilization.

(B) As used in this chapter:

(1) The words ‘person’, ‘human’, and ‘human being’, mean a natural person created in the image of God, at any stage of biological development, beginning at fertilization.

(2) ‘Fertilization’ means the union of a human spermatozoon with a human ovum.

(3) ‘Conception’ means fertilization.

(C) Each and every human being is a person beginning at fertilization. No person shall be deprived of life without due process of law nor denied the equal protection of the laws, **rights guaranteed by Article I, Section 3 of the Constitution of this State.**

Section 1-1-330. (A) Nothing in this article shall be construed to prohibit a licensed physician from performing a medical procedure or providing medical treatment designed or intended to prevent the death of a pregnant woman, **including delivering the child prematurely if necessarily concomitant with the lifesaving intervention. The physician shall act in accordance with the standard of care, insofar as Section 1-1-320(A), (B), or (C) are not violated,** to preserve both the life of the mother and the life of the preborn human being. Under such circumstances, the accidental or unintentional injury to or death of the preborn human being is not a violation of this article. The provisions of this section must not be construed to authorize the intentional killing of a preborn human being.

(B) Nothing in this article shall be construed to prohibit contraception. As used in this subsection, ‘contraception’ is defined as the prevention of fertilization.

(C) Nothing in this article shall be construed to prohibit in vitro fertilization **procedures** or assisted reproductive technology **procedures, which do not violate Section 1-1-320(A), (B), or (C).** The authority to regulate in vitro fertilization **procedures** and assisted reproductive technology procedures is reserved by the Legislature.

Section 1-1-340. This article is enacted pursuant to the power reserved to this State under the Tenth Amendment to the United States Constitution.

1 **Section 1-1-350. Section 16-3-150. (A) Chapter 41 of Title 44**
2 **of the 1976 Code is repealed.**

3 **(B) Section 38-71-238(B) of the 1976 Code is repealed. Amend**
4 **section title to conform. Renumber subsection to conform.**

5
6 **Section 1-1-360. The provisions of this act supercede the**
7 **following: (A) Section 1-13-30(I) of the 1976 Code;**

8 **(B) Section 14-8-200(b)(7) of the 1976 Code;**

9 **(C) Section 16-3-1083 of the 1976 Code; and**

10 **(D) Any provision of the 1976 Code that could otherwise be**
11 **construed to violate Section 1-1-320(A), (B), or (C).**

12
13 **Section 1-1-370. (A) The State of South Carolina, and its**
14 **political subdivisions, cannot be compelled by the federal**
15 **government to take any legislative or executive action to**
16 **implement or enforce a federal law, treaty, executive order, rule,**
17 **or regulation related to a person's right to life enshrined in the**
18 **Fifth and Fourteenth Amendments to the United States**
19 **Constitution, or in Article I, Section 3 of the Constitution of this**
20 **State, that violates the right of persons to not be deprived of life**
21 **without due process of law, or that violates the right of persons**
22 **to not be denied the equal protection of the laws, as provided in**
23 **this chapter.**

24 **(B) Any federal law, treaty, executive order, rule, or**
25 **regulation related to a person's right to life enshrined in the**
26 **Fifth and Fourteenth Amendments to the United States**
27 **Constitution, or in Article I, Section 3 of the Constitution of this**
28 **State, must be evaluated by the Attorney General. The Attorney**
29 **General shall issue a written opinion of whether the law, treaty,**
30 **executive order, rule, or regulation purports to compel**
31 **legislative or executive action prohibited pursuant to**
32 **Subsection (A).**

33 **(C) If the Attorney General renders an opinion that a federal**
34 **law, treaty, executive order, rule, or regulation purports to**
35 **compel legislative or executive action prohibited pursuant to**
36 **Subsection (A), then:**

37 **(1) no public funds of this State, or any political subdivision of**
38 **this State, shall be allocated for the implementation or**
39 **enforcement of that federal law, treaty, executive order, rule, or**
40 **regulation;**

41 **(2) no personnel or property of this State, or any political**
42 **subdivision of this State, shall be allocated to the**

1 **implementation or enforcement of that federal law, treaty,**
2 **executive order, rule, or regulation; and**
3 **(3) no official, agent, or employee of the State of South Carolina,**
4 **or any political subdivision of it, shall implement, attempt to**
5 **implement, enforce, or attempt to enforce that federal law,**
6 **treaty, executive order, rule, or regulation.**

7
8 **Section 1-1-380. The provisions, words, phrases and clauses**
9 **of this act are declared to be inseverable.”**

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11 **Section 1-1-390. SECTION 1., and Sections 1-1-310,**
12 **1-1-320, 1-1-330, 1-1-340, and 1-1-370 shall apply to Chapter 3,**
13 **Title 16 of the 1976 Code; subject only to the Constitution of**
14 **the United States, and decisional interpretations thereof by the**
15 **United States Supreme Court and specific provisions to the**
16 **contrary in the statutes and Constitution of this State.**

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18 SECTION 3. This act takes effect upon approval by the Governor.

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