

**South Carolina General Assembly**  
124th Session, 2021-2022

**H. 5401**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Magnuson and McCabe

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Companion/Similar bill(s): 381, 1335, 3568

Introduced in the House on May 12, 2022

Currently residing in the House 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>
5/12/2022	House	Introduced and read first time ( <a href="#">House Journal-page 147</a> )
5/12/2022	House	Referred to Committee on <b>Judiciary</b> ( <a href="#">House Journal-page 147</a> )

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**VERSIONS OF THIS BILL**

[5/12/2022](#)

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**A BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-3-100 SO AS TO ENACT THE “PERSONHOOD ACT OF SOUTH CAROLINA”, TO ESTABLISH THAT THE RIGHT TO LIFE FOR EACH BORN AND PREBORN HUMAN BEING VESTS AT FERTILIZATION AND THAT THE RIGHTS OF DUE PROCESS AND EQUAL PROTECTION, GUARANTEED BY SECTION 3, ARTICLE I OF THE CONSTITUTION OF THIS STATE VEST AT FERTILIZATION FOR EACH BORN AND PREBORN HUMAN BEING; AND TO REPEAL CHAPTER 41 OF TITLE 44 RELATING TO ABORTION.

Whereas, the General Assembly, under Section 1A, Article III, of the Constitution of the State of South Carolina, 1895, is empowered to assemble to make new laws, as the common good may require; and

Whereas, Section 3, Article I 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 powers and in carrying out its duties and responsibilities under the law, finds it necessary and proper to ensure that the rights of its citizens extend to each newly born and preborn human being. Now, therefore,

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

1 SECTION 1. Article 1, Chapter 3, Title 16 of the 1976 Code is  
2 amended by adding:

3  
4 “Section 16-3-100.(A) This section may be cited as the  
5 ‘Personhood Act of South Carolina’.

6 (B) The General Assembly finds as follows regarding the  
7 sanctity of life:

8 (1) The General Assembly acknowledges that the July 4, 1776  
9 Declaration of Independence is one of the Organic Laws of the  
10 United States of America found in the United States Code.

11 (2) The General Assembly acknowledges that all persons are  
12 endowed by their Creator with certain unalienable rights.

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

15 (4) The General Assembly finds that the Preamble to the  
16 Constitution of the State of South Carolina contains the sovereign  
17 peoples’ acknowledgment of God as the source of constitutional  
18 liberty, saying: ‘We the people of the State of South Carolina, in  
19 Convention assembled, grateful to God for our liberties, do ordain  
20 and establish this Constitution for the preservation and perpetuation  
21 of the same’.

22 (5) The General Assembly finds that a human being is a  
23 person at fertilization.

24 (C)(1) The right to life for each born and preborn human being is  
25 inherent and unalienable beginning at fertilization.

26 (2) Definitions. As used in this section:

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

30 (b) ‘Fertilization’ means the union of a human  
31 spermatozoon with a human ovum.

32 (c) ‘Conception’ means fertilization.

33 (3) No person shall be deprived of life without due process of  
34 law nor denied the equal protection of the laws, rights guaranteed  
35 by Section 3, Article I of the Constitution of this State.

36 (D)(1) Nothing in this section shall be construed to prohibit a  
37 licensed physician from performing a medical procedure or  
38 providing medical treatment designed or intended to prevent the  
39 death of a pregnant woman. However, the physician shall make  
40 reasonable medical efforts under the circumstances to preserve both  
41 the life of the mother and the life of the preborn human being in a  
42 manner consistent with accepted medical standards. Under such  
43 circumstances, the accidental or unintentional injury or death to the

1 preborn human being is not a violation of this section. The threat of  
2 the death of a pregnant woman must not be based on a diagnosis or  
3 claim of a mental or emotional condition of the pregnant woman or  
4 a diagnosis or claim that the pregnant woman will purposefully  
5 engage in conduct that she intends to result in her death. The  
6 provisions of this section must not be construed to authorize the  
7 intentional killing of a preborn human being.

8 (2) Nothing in this section shall be construed to prohibit  
9 contraception. As used in this item, 'contraception' is defined as the  
10 prevention of fertilization.

11 (3) Nothing in this section shall be construed to prohibit in  
12 vitro fertilization or assisted reproductive technology. The authority  
13 to regulate in vitro fertilization and assisted reproductive technology  
14 procedures is reserved by the Legislature.

15 (E) This section is enacted pursuant to the power reserved to this  
16 State under the Tenth Amendment of the United States  
17 Constitution.”

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19 SECTION 2. Chapter 41, Title 44 of the 1976 Code is repealed.

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21 SECTION 3. The provisions contained in SECTION 1 and 2 shall  
22 take effect upon the certification by the Attorney General to the  
23 Governor, the President of the Senate, and the Speaker of the House  
24 of Representatives that:

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

29 (2) an amendment to the United States Constitution has been  
30 adopted that has the effect of restoring or granting to the State of  
31 South Carolina the authority to regulate abortion to the extent set  
32 forth in this act; or

33 (3) the United States Congress has enacted a law that has the 2  
34 effect of restoring or granting to the State of South Carolina the 3  
35 authority to regulate abortion to the extent set forth in this act.

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37 SECTION 4. If any portion of this act is finally and constitutionally  
38 6 adjudicated invalid, then the entire act is void.

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40 SECTION 5. This act takes effect upon approval by the Governor.

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