

South Carolina General Assembly
125th Session, 2023-2024

STATUS INFORMATION

General Bill

Sponsors: _____

Document Path: _____

Companion/Similar bill(s): 3549

Introduced in the House on _____

Summary: Homicide by Prenatal Child Murder, or Manslaughter, or Involuntary Manslaughter Act

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
------	------	---

VERSIONS OF THIS BILL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-3-100 SO AS TO ENACT THE “HOMICIDE BY PRENATAL CHILD MURDER, OR MANSLAUGHTER, OR INVOLUNTARY MANSLAUGHTER ACT”; TO PROVIDE FINDINGS OF THE GENERAL ASSEMBLY; TO ACKNOWLEDGE AND MEMORIALIZE THAT THE RIGHT TO LIFE FOR EACH BORN AND PREBORN HUMAN BEING IS INHERENT AND UNALIENABLE BEGINNING AT FERTILIZATION; TO DEFINE THE WORDS ‘PERSON’, ‘HUMAN’, AND ‘HUMAN BEING’ TO MEAN A NATURAL PERSON CREATED IN THE IMAGE OF GOD, AT ANY STAGE OF DEVELOPMENT, BEGINNING AT FERTILIZATION, TO ACKNOWLEDGE AND MEMORIALIZE THAT NO PERSON SHALL BE DEPRIVED OF LIFE WITHOUT DUE PROCESS OF LAW NOR DENIED THE EQUAL PROTECTION OF THE LAWS, RIGHTS GUARANTEED BY SECTION 3, ARTICLE I OF THE CONSTITUTION OF THIS STATE; TO REPEAL CHAPTER 41, TITLE 44, RELATING TO “ABORTIONS”; TO PROHIBIT ALLOCATION OF PUBLIC FUNDS, ALLOCATION OF PERSONNEL OR PROPERTY, OR IMPLEMENTATION BY ANY OFFICIAL, OF THIS STATE, OR ANY POLITICAL SUBDIVISION OF THIS STATE, TO IMPLEMENTATION OR ENFORCEMENT OF ANY FEDERAL LAW, TREATY, EXECUTIVE ORDER, RULE, OR REGULATION DETERMINED BY THE ATTORNEY GENERAL TO PURPORT TO COMPEL LEGISLATIVE OR EXECUTIVE ACTION PURSUANT TO SECTION 4.; AND FOR OTHER PURPOSES.

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

5
6 Whereas, Section 3, Article I of the Constitution of the State of
7 South Carolina, 1895, guarantees that no person may be deprived of
8 life, liberty, or property without due process of law or be denied the
9 equal protection of the laws; and

10
11 Whereas, the General Assembly, in the exercise of its constitutional
12 powers and in carrying out its duties and responsibilities under the
13 law, finds it necessary and proper to ensure that the rights of its
14 citizens extend to each newly born and preborn human being. Now,
15 therefore,

16
17 Be it enacted by the General Assembly of the State of South
18 Carolina:

19
20 SECTION 1. Article 1, Chapter 3, Title 16 of the 1976 Code is
21 amended by adding:

22
23 “Section 16-3-100. (A) This section may be cited as the
24 ‘Homicide by Prenatal Child Murder, or Manslaughter, or
25 Involuntary Manslaughter Act’.

26 (B) The General Assembly finds as follows regarding the
27 sanctity of life:

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

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

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

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

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

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

7
8 (C)(1) The right to life for each born and preborn human being is
9 inherent and unalienable beginning at fertilization.

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

11 (a) The words 'person', 'human', and 'human being', mean
12 a natural person created in the image of God, at any stage of
13 development, beginning at fertilization.

14 (b) 'Fertilization' means the union of a human
15 spermatozoon with a human ovum.

16 (c) 'Conception' means fertilization.

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

20
21 (D)(1) Nothing in this section shall be construed to prohibit a
22 licensed physician from performing a medical procedure or
23 providing medical treatment designed or intended to prevent the
24 death of a pregnant woman, including delivering the child
25 prematurely if necessarily concomitant with the lifesaving
26 intervention. The physician shall act in accordance with the standard
27 of care, insofar as Section 16-3-100.(C) is not violated, to preserve
28 both the life of the mother and the life of the preborn human being.
29 Under such circumstances, the accidental or unintentional injury or
30 death to the preborn human being is not a violation of this section.
31 The provisions of this section must not be construed to authorize the
32 intentional killing of a preborn human being.

33
34 (2) Nothing in this section shall be construed to prohibit
35 contraception. As used in this item, 'contraception' is defined as the
36 prevention of fertilization. Any drug, device, or chemical which is
37 determined by the Department of Health and Environmental Control
38 (Department of Public Health, beginning July 1, 2024) to violate
39 Section 16-3-100.(C) is prohibited.

40
41 (3) Nothing in this section shall be construed to prohibit in
42 vitro fertilization procedures or assisted reproductive technology

1 procedures, which do not violate Section 16-3-100.(C). The
2 authority to regulate in vitro fertilization procedures and assisted
3 reproductive technology procedures is reserved by the Legislature.

4
5 (E) A person is guilty of the homicide of a prenatal child under
6 this section, if the person:

- 7
8 (1) causes the death of a prenatal child by prenatal child murder; or
9 (2) causes the death of a prenatal child by prenatal child
10 manslaughter; or
11 (3) causes the death of a prenatal child by prenatal child involuntary
12 manslaughter; or
13 (4) knowingly aids and abets another person to cause the death of a
14 prenatal child by prenatal child murder; or
15 (5) knowingly aids and abets another person to cause the death of a
16 prenatal child by prenatal child manslaughter; or
17 (6) knowingly aids and abets another person to cause the death of a
18 prenatal child by prenatal child involuntary manslaughter;
19
20 as prenatal child murder, manslaughter, and involuntary
21 manslaughter are defined in this section.

22
23 (F) For purposes of this section, the following definitions apply:

- 24
25 (1) "prenatal child murder" is the killing of any prenatal person with
26 malice aforethought, either express or implied;
27 (2) "prenatal child manslaughter" is the unlawful killing of any
28 prenatal person without malice, express or implied;
29 (3) "prenatal child involuntary manslaughter" is the unlawful killing
30 of any prenatal person by criminal negligence. With regard to the
31 crime of prenatal child involuntary manslaughter,
32 criminal negligence is defined as the reckless disregard of the safety
33 of others. A person charged with the crime of prenatal child
34 involuntary manslaughter may be convicted
35 only upon a showing of criminal negligence as defined in this
36 section.

37
38 (G) A person who is convicted of or pleads guilty to
39 homicide by prenatal child murder, or manslaughter, or involuntary
40 manslaughter:

- 41 (1) under subsection (E)(1) must be punished by death, or by a
42 mandatory minimum term of imprisonment for thirty years to life;
43 or

1
2 (2) under subsection (E)(2) must be imprisoned not more than thirty
3 years or less than two years; or
4 (3) under subsection (E)(3) must be imprisoned must be imprisoned
5 not more than five years; or
6 (4) under subsection (E)(4) must be imprisoned not exceeding thirty
7 years nor less than fifteen years; or
8 (5) under subsection (E)(5) must be imprisoned not exceeding two
9 years nor less than one year; or
10 (6) under subsection (E)(6) must be imprisoned not exceeding one
11 year.

12
13 (H) In sentencing a person under this section, the judge must
14 consider any aggravating circumstances including, but not limited
15 to, a defendant's past pattern of prenatal child murder, manslaughter,
16 or involuntary manslaughter, and any mitigating circumstances.

17
18 (I) In a prosecution under this section, unless specifically
19 provided otherwise, solicitors and the Attorney General shall have
20 concurrent authority to prosecute criminal cases and to perform any
21 duty that necessarily relates to such prosecution.

22
23 (J) This section is enacted pursuant to the power reserved to this
24 State under the Tenth Amendment of the United States
25 Constitution.”

26
27 SECTION 2. (A) Chapter 41, Title 44 of the 1976 Code is repealed.

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

30
31 SECTION 3. The provisions of this act supercede the following:

- 32 (A) Section 1-13-30(1) of the 1976 Code;
33 (B) Section 14-8-200(b)(7) of the 1976 Code;
34 (C) Section 16-3-1083 of the 1976 Code; and
35 (D) Any provision of the 1976 Code that could otherwise be
36 construed to violate Section 16-3-100.(C).

37
38 SECTION 4. (A) The State of South Carolina, and its political
39 subdivisions, cannot be compelled by the federal government to take
40 any legislative or executive action to implement or enforce a federal
41 law, treaty, executive order, rule, or regulation related to a person's
42 right to life enshrined in the Fifth and Fourteenth Amendments to
43 the United States Constitution, or in Article I, Section 3 of the

1 Constitution of this State, that violates the right of persons to not be
2 deprived of life without due process of law, or that violates the right
3 of persons to not be denied the equal protection of the laws, as
4 provided in Section 16-3-100 .

5 (B) Any federal law, treaty, executive order, rule, or regulation
6 related to a person's right to life enshrined in the Fifth and
7 Fourteenth Amendments to the United States Constitution, or in
8 Article I, Section 3 of the Constitution of this State, must be
9 evaluated by the Attorney General. The Attorney General shall issue
10 a written opinion of whether the law, treaty, executive order, rule,
11 or regulation purports to compel legislative or executive action
12 prohibited pursuant to subsection (A).

13 (C) If the Attorney General renders an opinion that a federal law,
14 treaty, executive order, rule, or regulation purports to compel
15 legislative or executive action prohibited pursuant to subsection (A),
16 then:

17 (1) no public funds of this State, or any political subdivision of this
18 State, shall be allocated for the implementation or enforcement of
19 that federal law, treaty, executive order, rule, or regulation;

20 (2) no personnel or property of this State, or any political
21 subdivision of this State, shall be allocated to the implementation or
22 enforcement of that federal law, treaty, executive order, rule, or
23 regulation; and

24 (3) no official, agent, or employee of the State of South Carolina, or
25 any political subdivision of it, shall implement, attempt to
26 implement, enforce, or attempt to enforce that federal law, treaty,
27 executive order, rule, or regulation.

28
29 SECTION 5. If any portion of this act is finally and
30 constitutionally adjudicated invalid, then the entire act is void.

31
32 SECTION 6. This act takes effect upon approval by the Governor.

33 ----XX----

34