**South Carolina General Assembly**

124th Session, 2021-2022

**H. 4046**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Hill, Gilliam, McCabe, Jones, Long, Magnuson, Morgan and Trantham

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Introduced in the House on March 9, 2021

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

Summary: Unborn Victims of Violence Act of 2021

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/9/2021 House Introduced and read first time ([House Journal‑page 33](file:///h:\hj\20210309.docx))

3/9/2021 House Referred to Committee on **Judiciary** ([House Journal‑page 33](file:///h:\hj\20210309.docx))

5/11/2021 House Member(s) request name added as sponsor: Gilliam

1/12/2022 House Member(s) request name added as sponsor: McCabe

1/19/2022 House Member(s) request name added as sponsor: Jones, Long, Magnuson

1/25/2022 House Member(s) request name added as sponsor: Morgan

2/10/2022 House Member(s) request name added as sponsor: J.E.Johnson

3/1/2022 House Member(s) request name added as sponsor: Trantham

3/30/2022 House Member(s) request name removed as sponsor: J.E.Johnson

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**VERSIONS OF THIS BILL**

[3/9/2021](file:///p:\pprever\2021-22\4046_20210309.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA UNBORN VICTIMS OF VIOLENCE ACT OF 2021” BY ADDING ARTICLE 21 TO CHAPTER 3, TITLE 16 SO AS TO PROVIDE THAT THE DELIBERATE TERMINATION OF AN UNBORN CHILD BY ANY MEANS OR AT ANY STAGE OF DEVELOPMENT IS MURDER; TO CREATE CRIMINAL PENALTIES; TO DECLARE CERTAIN ABORTION‑RELATED UNITED STATES SUPREME COURT DECISIONS VOID AND UNENFORCEABLE IN THE STATE OF SOUTH CAROLINA; TO PROHIBIT STATE OFFICIALS FROM ENFORCING COURT ORDERS CONTRARY TO THE PROVISIONS OF THIS ARTICLE AND TO SUBJECT STATE OFFICIALS WHO VIOLATE THE PROVISIONS OF THIS ARTICLE TO PROFESSIONAL DISCIPLINE; AND FOR OTHER PURPOSES.

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

SECTION 1. This act is known and may be cited as the “South Carolina Unborn Victims of Violence Act of 2021”.

SECTION 2. The General Assembly finds the following:

(1) The life of an individual human being begins at conception.

(2) The State of South Carolina has a compelling interest in providing equal protection of the lives of all unborn children within the State from violence.

(3) “The Constitution [of the United States] does not constrain the States’ ability to regulate or even prohibit abortion.” June Med. Servs. v. Russo, 140 S. Ct. 2103, 2149 (2020) (Thomas, J., dissenting).

(4) The members of the General Assembly have solemnly sworn to the best of their abilities to “discharge the duties of our office and preserve, protect, and defend the Constitution of this State and of the United States. So help us God.”

(5) Article VI of the United States Constitution states in part: “This United States Constitution, and the Laws of the United States which shall be made in Pursuance thereof…shall be the supreme Law of the Land...”

(6) The Tenth Amendment of the United States Constitution states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

(7) Though prudence dictates that states should not declare actions of the federal judiciary void for light or indefinite causes, the federal judiciary is not infallible nor are its powers unlimited.

(8) Nothing in the Constitution of the United States provides for any right to take the life of or to inflict harm upon an unborn child.

(9) The concept of the federal judiciary compelling states to allow the practice of taking the life of unborn children runs completely contrary to the text and principles of the Constitution of the United States.

(10) Taking the life of more than sixty‑two million unborn children over the last forty‑eight years and counting constitutes genocide, and authorizing genocide is not within the legitimate powers of the federal judiciary.

(11) Any action of the federal judiciary that purports to provide a right to kill an unborn child is not made in pursuance of the Constitution of the United States, is not the supreme law of the land, and is not binding upon this State.

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

“Article 21

Violence to Unborn Children

Section 16‑3‑2310. As used in this article:

(1) ‘Unborn child’ means a living member of the species homo sapiens, at any state of development from fertilization until birth.

(2) ‘Roe v. Wade’ means the opinions and judgments of the Supreme Court of the United States in Roe v. Wade, 410 U.S. 113 (1973), and its judicial progeny, past and future, including, but not limited to, Planned Parenthood v. Casey, 505 U.S. 833 (1992) and June Med. Servs. v. Russo, 140 S. Ct. 2103 (2020).

Section 16‑3‑2320. (A) The deliberate termination of an unborn child by any means or at any stage of development is murder under Section 16‑3‑10.

(B) Medical treatment provided by a licensed physician that results in the accidental or unintentional injury or death of the unborn child does not constitute a violation of this section.

Section 16‑3‑2330. (A) A person who commits a violent crime, as defined in Section 16‑1‑60, that causes the death of, or bodily injury to, an unborn child at the time that the violent crime was committed, is guilty of a separate offense under this section.

(B) The punishment for a separate offense under this section is the same as the punishment provided for that criminal offense had the death or bodily injury occurred to the unborn child’s mother.

(C) Prosecution of an offense under this section does not require proof that:

(1) the person committing the violent offense had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

(2) the defendant intended to cause the death of, or bodily injury to, the unborn child.

Section 16‑3‑2340. Any person may be compelled to testify in any action or prosecution initiated pursuant to this article; provided, however, that such testimony may not be used in any other action or prosecution against such witness and the witness is forever exempt from any prosecution for the act concerning which the witness testifies, except prosecution for perjury.

Section 16‑3‑2350. South Carolina hereby exercises its sovereign authority, consistent with the Constitution of the United States, to declare and treat as void the opinions and judgments of the Supreme Court of the United States in Roe v. Wade that claim to prohibit states from providing the equal protection of the laws to any unborn child.

Section 16‑3‑2360. (A) This State and all political subdivisions of this State shall enforce this article without regard to Roe v. Wade.

(B) This State and all political subdivisions of this State are prohibited from using any personnel or financial resources to enforce, administer, or cooperate with Roe v. Wade to prevent this State or its political subdivisions from protecting the lives of people who have not yet been born.

(C) No governmental agency or official of this State or its political subdivisions, including any sheriff, deputy sheriff, or other law enforcement officer, shall give force or effect to any court order that conflicts with this section. Cooperative agreements with federal agencies notwithstanding, no law enforcement agency or law enforcement officer in this State shall assist or cooperate in any way with the arrest or imprisonment of any governmental official or individual who complies with this section and refuses to comply with any contrary court order. Such contrary orders include, but are not limited to, any order to levy upon property, seize bank accounts, arrest the person, or serve process for the purpose of causing any person to violate this section, or for the purpose of punishing any person for the failure to comply with an order contrary to this section. A federal officer or agent who arrests any state or local governmental official for compliance with this section is subject to arrest by state or local law enforcement.

(D) The Attorney General shall, upon a request of an employee or former employee of the State or a political subdivision thereof, provide for the defense of any action brought against such employee or former employee on account of an act or omission in the scope of employment relating to this section.

(E) A person who violates subsection (B) or (C) is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

(F) A person who commits a violation described in subsection (E) while acting in the person’s official capacity is subject to termination from employment to the extent allowable under state law and, if the person is a public servant at the time of conviction, forfeits the person’s office.

(G) Any aggrieved party may bring a private cause of action against a person who commits a violation described in subsection (E).”

SECTION 4. The provisions of this act supersede the following:

(1) Section 14‑8‑200(b)(7) of the 1976 Code;

(2) Section 16‑3‑1083 of the 1976 Code:

(3) Chapter 41, Title 44 of the 1976 Code; and

(4) Any provision of the 1976 Code that could otherwise be construed to allow for the deliberate termination of an unborn child, without limiting common law defenses of duress, necessity, or mistake of fact.

SECTION 5. This State and its political subdivisions, and agents thereof, are not required to enter an appearance, special or otherwise, in any federal suit challenging this act.

SECTION 6. Pursuant to the powers granted to the General Assembly by Article XV of the South Carolina Constitution, 1895, any judge of this State who purports to enjoin, stay, overrule, or void any provision of this act is subject to impeachment or removal from office.

SECTION 7. This act takes effect upon approval by the Governor.

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