COMMITTEE REPORT

February 21, 2018

**S. 217**

Introduced by Senators Bryant, Rice, Cromer, Martin, Corbin, Verdin, Turner, Young, Timmons, Davis, Talley, Shealy, Grooms, Peeler, Goldfinch, Climer, Gambrell, Williams, Gregory, Cash and Hembree

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Read the first time January 10, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 217) to amend Chapter 1, Title 1 of the 1976 Code, relating to the administration of the government generally, by adding Article 5, to enact the Personhood Act of South, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 2, by striking lines 35 through 37 as contained in SECTION 1, and inserting therein the following:

/ Section 1‑1‑340. (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. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of the preborn human being in a manner consistent with accepted medical standards. Under such circumstances, the accidental or unintentional injury or death to the preborn human being is not a violation of this article. The threat of the death of a pregnant woman must not be based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or a diagnosis or claim that the pregnant woman will purposefully engage in conduct that she intends to result in her death. 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 or assisted reproductive technology. The authority to regulate in vitro fertilization and assisted reproductive technology procedures is reserved by the Legislature.

Section 1‑1‑350. This article is enacted pursuant to the power reserved to this State under the Tenth Amendment to the United States Constitution.” /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced January 10, 2017**

**State Expenditure**

This bill creates the Personhood Act of South Carolina stating that the constitutional right to due process of law and equal protection under the law vest at fertilization for each born and preborn human being.

**Department of Administration / Guardian ad Litem.** The department indicates that this bill would have an expenditure impact on the general fund and other funds for additional staff training and attorneys’ fees. This bill will increase demand for Guardian ad Litem (GAL) services requiring at least one additional attorney, for supervision and support, for every thirty GAL volunteers. Expenditures associated with one attorney (including salary, fringe, and operating expenses) are estimated at $46,905 in general fund dollars beginning in FY 2017-18. However, due to the uncertainty surrounding the number of new cases that might result from enactment of this bill, the department is unable to determine the full expenditure impact at this time.

The Department of Administration indicates that the Guardian ad Litem program currently has agreements in place with the Department of Social Services (DSS) that would allow DSS to reimburse the GAL program for a portion of eligible training expenses and attorney’s fees, provided federal funding is made available to DSS to match the increased expenditures. The amount of other funds reimbursement depends on the number of GAL attorneys that are needed and whether or not the federal government will make additional federal funds available to DSS.

All other fund reimbursements received by the GAL program would be used to offset attorney and operating expenditures.

**Judicial Department**. The department indicates that this bill is not expected to have an expenditure impact on the general fund, federal funds, or other funds. However, should this legislation result in a significant number of additional hearings or trials, the courts may experience an increase in expenditures and/or an increased backlog of cases.

**Department of Health and Environmental Control**. The department reports that this bill would have no immediate expenditure impact on the general fund, federal funds, or other funds. The impact of additional births on the public health system cannot be projected at this time.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND CHAPTER 1, TITLE 1 OF THE 1976 CODE, RELATING TO THE ADMINISTRATION OF THE GOVERNMENT GENERALLY, BY ADDING ARTICLE 5, 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 ARTICLE I, SECTION 3 OF THE CONSTITUTION OF THIS STATE, VEST AT FERTILIZATION FOR EACH BORN AND PREBORN HUMAN BEING.

Whereas, the General Assembly, under Article III, Section 1A 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, 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 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:

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

“Article 5

Personhood

Section 1‑1‑310. This article may be cited as the ‘Personhood Act of South Carolina.’

Section 1‑1‑320. The General Assembly finds as follows regarding the sanctity of life:

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

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

(C) The General Assembly acknowledges that personhood is God‑given, as all men are created in the image of God.

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

(E) The General Assembly finds that a human being is a person at fertilization.

Section 1‑1‑330. (A) The right to life for each born and preborn human being vests at fertilization.

(B) The rights guaranteed by Article I, Section 3 of the Constitution of this State, that no person shall be deprived of life without due process of law nor denied the equal protection of the laws, vest at fertilization for each born and preborn human being.

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.”

SECTION 2. This act takes effect upon approval by the Governor.

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