

By: Representative Currie

To: Public Health and Human  
Services

## HOUSE BILL NO. 531

1 AN ACT TO CREATE THE UNBORN INFANTS DIGNITY ACT; TO PROVIDE  
2 CERTAIN DEFINITIONS; TO REQUIRE THE RELEASE OF CERTAIN REMAINS TO  
3 THE MOTHER UPON REQUEST; TO REQUIRE A MOTHER OR HER AUTHORIZED  
4 REPRESENTATIVE TO PROVIDE A WRITTEN AUTHORIZATION FOR THE FINAL  
5 DISPOSITION OF CERTAIN REMAINS; TO PROVIDE FOR FETAL DEATH  
6 CERTIFICATES; TO PROHIBIT THE BUYING, SELLING AND EXPERIMENTATION  
7 ON UNBORN INFANTS OR BODILY REMAINS RESULTING FROM ABORTION; TO  
8 PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ACT; TO PROVIDE  
9 CIVIL REMEDIES FOR CERTAIN VIOLATIONS OF THIS ACT; TO AMEND  
10 SECTIONS 73-25-29, 41-39-1 AND 41-39-3, MISSISSIPPI CODE OF 1972,  
11 IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED  
12 PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** Sections 1 through 10 of this act shall be known  
15 and may be cited as the "Unborn Infants Dignity Act."

16 **SECTION 2.** (1) The Legislature of the State of Mississippi  
17 finds that:

18 (a) Deceased unborn infants deserve the same respect  
19 and dignity as other human beings;

20 (b) The laws of the State of Mississippi do not ensure  
21 that miscarried, stillborn or aborted infants receive proper  
22 burials or final disposition;



23 (c) Mississippi also fails to require fetal death  
24 reporting and the issuance of fetal death certificates except  
25 under limited circumstances;

26 (d) Further, while the loss of an unborn infant at any  
27 stage of development is often devastating to parents, Mississippi  
28 only offers certificates of birth resulting in stillbirth to  
29 parents for those fetal deaths;

30 (e) Mississippi does not explicitly prohibit the sale,  
31 transfer, distribution, or donation of the bodily remains of  
32 unborn infants resulting from abortion for experimentation; and

33 (f) It is the public policy of the State of Mississippi  
34 to promote childbirth over abortion. Permitting the sale,  
35 transfer, distribution, or donation of the bodily remains of  
36 unborn infants resulting from abortion, particularly for pecuniary  
37 gain, and the use of the bodies of aborted infants for  
38 experimentation violate Mississippi's public policy.

39 (2) Based on the findings in subsection (1) of this  
40 section, the purposes of this act are to:

41 (1) Ensure that the mother of a deceased unborn infant  
42 is given the opportunity to bury or dispose of the bodily remains  
43 of her infant with dignity and respect;

44 (2) Require institutions where deceased unborn infants  
45 are delivered or where unborn infants are aborted to provide a  
46 dignified final disposition of the bodily remains of these  
47 infants;



(3) Require fetal death reports for all fetal deaths as defined in this act;

(4) Ensure that parents of all stillborn infants are offered the opportunity to obtain a certificate of birth resulting in stillbirth;

(5) Prohibit the sale, transfer, distribution, or other unlawful disposition of an infant, an unborn infant, or bodily remains resulting from an abortion;

(6) Prohibit the use of bodily remains resulting from an abortion for experimentation; and

(7) Ensure that the bodily remains of an unborn infant resulting from an occurrence other than an abortion are not sold, transferred, or distributed for experimentation without the mother's informed, written consent.

**SECTION 3.** As used in this act, the following terms shall have the meanings ascribed in this section unless the context indicates otherwise:

(a) "Abortion" has the same meaning as provided in Section 41-41-105;

(b) "Bodily remains" means the physical remains, corpse or body parts of a dead unborn infant who has been expelled or extracted from his or her mother and who has reached a stage of development so that there are cartilaginous structures and/or fetal or skeletal parts, whether or not the remains have been obtained by induced, spontaneous, or accidental means. The death



is indicated by the fact that, after such expulsion or extraction, the unborn infant does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles.

(c) "Infant" means a human being who has been completely expelled or extracted from his or her mother, regardless of the state of gestational development, that, after expulsion or extraction, whether or not the umbilical cord has been cut or the placenta is attached, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section or induced abortion, shows any evidence of life, including, but not limited to, one or more of the following:

- (i) Breathing;
- (ii) A heartbeat;
- (iii) Umbilical cord pulsation; or
- (iv) Definite movement of voluntary muscles.

(d) "Experiment" or "experimentation" means the use of an infant, unborn infant, or bodily remains of a dead unborn infant in any trial, test, procedure or observation carried out with the goal of verifying, refuting or establishing the validity of a hypothesis, but does not include diagnostic or remedial tests, procedures, or observations which have the purpose of determining the life or health of the infant or unborn infant or



97 preserving the life or health of the infant, unborn infant or the  
98 infant's mother or pathological study.

99 (e) "Fetal death" means death prior to expulsion or  
100 extraction from his or her mother of an unborn infant who has  
101 reached a stage of development so that there are cartilaginous  
102 structures and/or fetal or skeletal parts. The death is indicated  
103 by the fact that, after such expulsion or extraction, the unborn  
104 infant does not breathe or show any other evidence of life such as  
105 beating of the heart, pulsation of the umbilical cord, or definite  
106 movement of voluntary muscles.

107 (f) "Final disposition" means the burial, interment,  
108 cremation or other legal disposition of a dead unborn infant.

109 (g) "Incineration" means the combined burning of bodily  
110 remains with medical waste as defined in this act.

111 (h) "Medical waste" means discarded biologic product  
112 such as blood, tissue, or body parts removed from medical  
113 facilities, as well as bedding, bandages, syringes, and similar  
114 materials that have been used in treating patients. The term  
115 excludes "bodily remains" as defined in this act.

116 (i) "Miscarriage" means the spontaneous or accidental  
117 death of an unborn infant before he or she is able to survive  
118 independently that does not result in the birth of a live infant.  
119 The death is indicated by the fact that, after the expulsion of  
120 the unborn infant, he or she does not breathe or show any other



evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(j) "Pathological study" means the examination of body tissue for diagnostic or forensic purposes.

(k) "Physician" means any person licensed to practice medicine in this state, including medical doctors and doctors of osteopathy;

(l) "Pregnant" or "pregnancy" means that female reproductive condition of having an unborn infant in the woman's uterus.

(m) "Stillbirth" means the birth of a human being that has died in the uterus. The death is indicated by the fact that, after the expulsion of the unborn infant, he or she does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(n) "Therapeutic" means intended to treat or cure a disease or disorder by remedial agents or methods.

(o) "Unborn infant" means the offspring of human beings from conception until birth.

(p) "Valuable consideration" means anything that will confer benefit upon a person who performed or assisted with the performance of an abortion, or an institution where the bodily remains of an aborted infant were expelled or extracted, including, money, work, performance, assets or a promise.



**SECTION 4.**

(1) In every instance of fetal death, irrespective of the duration of pregnancy, the individual in charge of the institution where the bodily remains were expelled or extracted, upon request of the mother, shall release to the mother or the mother's authorized representative the bodily remains for final disposition:

(a) By burial, interment or cremation; or

(b) When the bodily remains are the result of a miscarriage or stillbirth, in compliance with Chapter 39, Title 41, Mississippi Code of 1972.

(2) Such request may be made by the mother or her authorized representative prior to or shortly after the expulsion or extraction of the bodily remains.

**SECTION 5.**

(1) In every instance of fetal death, irrespective of the duration of pregnancy, where a mother does not request the release of her dead unborn infant, the funeral director or other person assuming responsibility for the final disposition of the bodily remains shall obtain from the mother or her authorized representative a written authorization for final disposition on a form prescribed and furnished or approved by the Mississippi State Department of Health. The authorization may allow final disposition to be by a funeral director or the individual in charge of the institution where the bodily remains were expelled or extracted.



(2) The mother or her authorized representative may direct the final disposition of the bodily remains to be:

(a) Burial, interment, or cremation; or

(b) When the bodily remains are the result of a miscarriage or stillbirth, in compliance with Chapter 39, Title 41, Mississippi Code of 1972.

After final disposition, the funeral director, the individual in charge of the institution or other person making the final disposition shall retain the authorization for not less than seven (7) years.

(3) Irrespective of the duration of pregnancy, the individual in charge of the institution where the bodily remains were expelled or extracted must ensure that the final disposition of the bodily remains is:

(a) By burial, interment, or cremation; or

(b) When the bodily remains are the result of a miscarriage or stillbirth, in compliance with Chapter 39, Title 41, Mississippi Code of 1972. Final disposition of bodily remains may not be by incineration.

(4) If final disposition of the bodily remains is by cremation, the medical examiner of the county in which fetal death occurred shall sign the authorization for final disposition.

(5) Bodily remains may be moved from the place of death to be prepared for final disposition with the consent of the





physician or county medical examiner who certifies the cause of death.

(6) A permit for final disposition issued under the laws of another state that accompanies bodily remains brought into this state is authorization for final disposition of the bodily remains in this state.

**SECTION 6.** (a) A fetal death certificate for each fetal death which occurs in this state shall be filed with the State Registrar of Vital Records, within three (3) days after such delivery, miscarriage or abortion.

(b) The funeral director or person assuming responsibility for the final disposition of the bodily remains shall file the fetal death certificate. In the absence of such a person, the physician in attendance at or after the expulsion or extraction of bodily remains shall file the certificate of fetal death. The physician shall obtain the personal data from the next of kin or the best qualified person or source available, complete the certificate as to personal data, and deliver the certificate to the person responsible for completing the medical certification of the cause of death within twenty-four (24) hours after the expulsion or extraction of bodily remains.

(c) The medical certification shall be completed and signed within forty-eight (48) hours after delivery by the physician in attendance at or after the expulsion or extraction, except when inquiry into the cause of death is required by Sections 41-61-63



and 41-61-59. This certification shall record the sex of the infant when it can be determined.

**SECTION 7.** (1) No person shall knowingly sell, transfer, distribute, give away, accept, use or attempt to use an infant, unborn infant or bodily remains resulting from an abortion.

(2) No person shall aid or abet any such sale, transfer, distribution, other unlawful disposition, acceptance, use or attempted use of an infant, unborn infant, or bodily remains resulting from an abortion.

(3) No person shall use an infant, unborn infant or bodily remains resulting from an abortion in animal or human research, experimentation or study, or for transplantation, except:

(a) For diagnostic or remedial tests, procedures, or observations which have the purpose of determining the life or health of the infant or unborn infant or preserving the life or health of the infant, unborn infant or the infant's mother; or

(b) For pathological study.

(4) No person shall experiment upon an unborn infant who is intended to be aborted unless the experimentation is therapeutic to the unborn infant.

(5) No person shall perform or offer to perform an abortion where part or all of the justification or reason for the abortion is that the bodily remains may be used for animal or human research, experimentation or transplantation.



**SECTION 8.**

(1) An individual in charge of an institution where bodily remains were expelled or extracted who violates Section 4 of this act shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of Five Thousand Dollars (\$5,000.00) for each violation.

(2) The person assuming responsibility for the final disposition of bodily remains or an individual in charge of an institution where bodily remains were expelled or extracted who violates Section 5 of this act shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of Five Thousand Dollars (\$5,000.00) for each violation.

(3) Any person who knowingly sells, transfers, distributes, gives away, accepts, uses, or attempts to use an infant, unborn infant, or bodily remains resulting from an abortion in violation of this act or who aids or abets any such sale, transfer, distribution, other unlawful disposition, acceptance, use, or attempted use of an infant, unborn infant, or bodily remains resulting from an abortion in violation of Section 8 of this act shall be guilty of a felony and upon conviction shall be subject to a fine of Five Thousand Dollars (\$5,000.00) or imprisonment not exceeding two (2) years, or both, for each violation.

(4) Any person who, (a) experiments upon an infant, unborn infant, or bodily remains resulting from an abortion, (b) experiments upon an unborn infant who is intended to be aborted, or (c) performs or offers to perform an abortion where part or all



of the justification or reason for the abortion is that the bodily remains may be used for animal or human research, experimentation, study, or for transplantation, in violation of Section 7 of this act, shall be guilty of a felony and upon conviction shall be subject to a fine of Five Thousand Dollars (\$5,000.00) or imprisonment not exceeding two (2) years, or both, for each violation.

**SECTION 9.** In addition to whatever remedies are available under the statutory or common law of this state, failure to comply with the requirements of this act shall:

(a) Provide a basis for recovery for the parent(s) of the infant or unborn infant or the parent(s) or guardian(s) of the mother, if the mother is a minor, for the unlawful disposition of or experimentation upon an infant, unborn infant, or bodily remains. Such relief shall include:

(i) Money damages for all psychological injuries occasioned by the violation(s) of this act; and

(ii) Statutory damages equal to three (3) times the cost of the mother's delivery or abortion.

(b) Provide a basis for professional disciplinary action by the State Board Of Medical Licensure for the suspension or revocation of any license for physicians, licensed vocational and registered nurses, or other licensed or regulated healthcare providers.



(c) Any conviction of any healthcare provider for any failure to comply with the requirements of this act shall result in the automatic suspension of his or her license for a period of at least one (1) year and said license shall be reinstated after that time only under such conditions as the State Board of Medical Licensure shall require to ensure compliance with this act.

**SECTION 10.** The Mississippi State Department of Health shall promulgate rules and regulations to carry out this provisions of Sections 1 through 10 of this act.

**SECTION 11.** Section 73-25-29, Mississippi Code of 1972, is amended as follows:

73-25-29. The grounds for the nonissuance, suspension, revocation or restriction of a license or the denial of reinstatement or renewal of a license are:

(1) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.

(2) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.

(3) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.

(4) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic



317 drug or any drug considered a controlled substance under state or  
318 federal law, a certified copy of the conviction order or judgment  
319 rendered by the trial court being prima facie evidence thereof,  
320 notwithstanding the pendency of any appeal.

321 (5) Procuring, or attempting to procure, or aiding in,  
322 an abortion that is not medically indicated.

323 (6) Conviction of a felony or misdemeanor involving  
324 moral turpitude, a certified copy of the conviction order or  
325 judgment rendered by the trial court being prima facie evidence  
326 thereof, notwithstanding the pendency of any appeal.

327 (7) Obtaining or attempting to obtain a license by  
328 fraud or deception.

329 (8) Unprofessional conduct, which includes, but is not  
330 limited to:

331 (a) Practicing medicine under a false or assumed  
332 name or impersonating another practitioner, living or dead.

333 (b) Knowingly performing any act which in any way  
334 assists an unlicensed person to practice medicine.

335 (c) Making or willfully causing to be made any  
336 flamboyant claims concerning the licensee's professional  
337 excellence.

338 (d) Being guilty of any dishonorable or unethical  
339 conduct likely to deceive, defraud or harm the public.

340 (e) Obtaining a fee as personal compensation or  
341 gain from a person on fraudulent representation of a disease or



injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the board upon request.

(f) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.

(g) Failing to identify a physician's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.

(9) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice medicine in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(10) Surrender of a license or authorization to practice medicine in another state or jurisdiction or surrender of



membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this section.

(11) Final sanctions imposed by the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, based upon a finding of incompetency, gross misconduct or failure to meet professionally recognized standards of health care; a certified copy of the notice of final sanction being prima facie evidence thereof. As used in this paragraph, the term "final sanction" means the written notice to a physician from the United States Department of Health and Human Services, Officer of Inspector General or any successor federal agency or office, which implements the exclusion.

(12) Failure to furnish the board, its investigators or representatives information legally requested by the board.

(13) Violation of any provision(s) of the Medical Practice Act or the rules and regulations of the board or of any order, stipulation or agreement with the board.

(14) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2016.





(15) Performing or inducing an abortion on a woman in violation of any provision of Sections 41-41-131 through 41-41-145.

(16) Violations(s) of the provisions of Sections 1 through 10 of this act.

In addition to the grounds specified above, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**SECTION 12.** Section 41-39-1, Mississippi Code of 1972, is amended as follows:

41-39-1. Any physician removing or otherwise acquiring any tissue of the human body may, in his discretion, after making or causing to be made such scientific examination of the same as he may deem appropriate or as may be required by law, custom or rules and regulations of the hospital or other institution in which the



tissue may have been removed or acquired, authorize disposition of the same by incineration, cremation, burial or other sanitary method approved by the state board of health, unless he shall have been furnished prior to removal or acquisition of the tissue, or at any time prior to its disposal, a written request that the same be delivered to the patient or someone in his behalf or, if death has occurred, to the person claiming the dead body for burial or cremation. No such tissue shall be delivered, however, except as may be permitted by rules and regulations of the state board of health. Any hospital or other institution acquiring possession of any such tissue, and not having written instructions to the contrary from the attending physician, the patient or the person claiming a dead body for burial or cremation, or someone in their behalf, may immediately dispose of the same as hereinabove provided.

However, no external member of the human body may be so disposed of within forty-eight hours of its removal or acquisition unless consent thereto be obtained in writing from the patient or the person authorizing the medical or surgical treatment of the patient, and no dead \* \* \* unborn infant shall be so disposed of \* \* \* unless such disposition complies with Sections 1 through 10 of this act. For the purposes of this section, an external member of the human body is defined as an arm or one or more joints thereof, a hand, a finger or one or more joints thereof, a leg or one or more joints thereof, a foot, a toe or one or more



442 joints thereof, an ear or the greater part thereof, or the nose or  
443 the greater part thereof. For the purposes of this section and  
444 the succeeding section, a dead \* \* \* unborn infant has the same  
445 meaning as provided in Sections 1 through 10 of this act \* \* \*.

446       **SECTION 13.** Section 41-39-3, Mississippi Code of 1972, is  
447 amended as follows:

448       41-39-3. The State Board of Health may provide by rules and  
449 regulations for the disposition of any dead \* \* \* unborn infant  
450 acquired by any hospital or by any midwife or person acting as a  
451 midwife, such disposition to be in a manner consistent with the  
452 provisions of \* \* \* Sections 1 through 10 of this act.

453       **SECTION 14.** This act shall take effect and be in force from  
454 and after July 1, 2016.

