



STATE OF ARKANSAS  
ATTORNEY GENERAL  
LESLIE RUTLEDGE

### ***Act 180 of 2019 Certification***

Opinion No. 2022-26:

June 24, 2022

Dear Governor Asa Hutchinson, Lt. Governor Tim Griffin, Secretary John Thurston, Speaker Matthew Shepherd, and President Pro Tempore Jimmy Hickey:

Pursuant to Act 180 of 2019, I hereby certify that the United States Supreme Court has overruled “the central holding of *Roe v. Wade*, 410 U.S. 113 (1973), reaffirmed by *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).” Therefore, effective immediately, any person who “purposely perform[s] or attempt[s] to perform an abortion except to save the life of a pregnant woman in a medical emergency” will be guilty of “an unclassified felony with a fine not to exceed one hundred thousand dollars (\$100,000) or imprisonment not to exceed ten (10) years, or both.” Ark. Code Ann. 5-61-304(a)-(b).

In 2019, the General Assembly enacted Act 180. That provision prohibits abortions “except to save the life of a pregnant woman in a medical emergency” and provides criminal penalties for those who purposefully violate that prohibition. *Id.* At the same time, that provision also makes clear that it “does not . . . [a]uthorize the charging or conviction of a woman with any criminal offense in the death of her own unborn child.” *Id.* at 5-61-304(c)(1). Nor does it “[p]rohibit the sale, use, prescription, or administration of a contraceptive measure, drug, or chemical if the contraceptive measure, drug, or chemical is administered before the time when a pregnancy could be determined through conventional medical testing.” *Id.* at 5-61-304(c)(2). And that provision provides an affirmative defense where “a licensed physician provides medical treatment to a pregnant woman which results in the accidental or unintentional injury or death to the unborn child.” *Id.* at 5-61-304(d).

That “act becomes effective on and after the certification of the Attorney General that . . . [t]he United States Supreme Court overrules, in whole or in part, the central holding of *Roe v. Wade*, 410 U.S. 113 (1973), reaffirmed by *Planned Parenthood*

*of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992), thereby restoring to the State of Arkansas the authority to prohibit abortion.” Act 180 of 2019, Sec. 2.

This morning, the United States Supreme Court decided *Dobbs v. Jackson Women’s Health Organization*, No. 19-1392, and overruled *Roe’s* central holding creating a constitutional right to kill an unborn child. In particular, *Dobbs* holds, “procuring an abortion is not a fundamental constitutional right because such a right has no basis in the Constitution’s text or in our Nation’s history.” *Dobbs*, slip op. at 77. Thus, as *Dobbs* explains, “*Roe* was egregiously wrong from the start” because “[i]ts reasoning was exceptionally weak” and it rested on false foundations. *Id.* at 6; *accord id.* at 44 (“*Roe* was on a collision course with the Constitution from the day it was decided.”). And *Casey* did little more than “perpetuate[] [*Roe’s*] errors.” *Id.* at 44. Thus, the Court has “now overrule[d] those decisions.” *Id.* at 79. A complete and accurate copy of the Court’s slip opinion is attached.

Consistent with the Supreme Court’s decision “heed[ing] the Constitution and return[ing] the issue of abortion to the people’s elected representatives,” *id.* at 6, I certify that Act 180 is now in effect. That Act must immediately be enforced by prosecuting attorneys throughout Arkansas. My office will vigorously defend any challenge to that provision and stands by to assist those charged with enforcing that provision.

Today’s decision represents a decisive moment in American and Arkansas history, and it vindicates years of work by my office to defend Arkansas’s pro-life legislation. It is an honor to inform you that we have now prevailed in our efforts to protect the unborn.

Sincerely,

LESLIE RUTLEDGE  
Attorney General

