S.988: Abortion Ban and Personhood Bill

S.988 Would Impact All Pregnant People and People Who Want to Be Pregnant. This Act Would Take Away the Rights and Personhood of People Who Can Become Pregnant. This bill is extreme and incredibly dangerous. S.988 uses language referring to a fertilized egg as a person, meaning that a fertilized egg has all the same rights and protections as a living, breathing human. The bill would ban all abortions in South Carolina immediately if Roe v. Wade is overturned completely or otherwise dismantled. The only exception would be extremely limited cases where the life of the pregnant person is in immediate danger. This bill calls for the criminal prosecution of any person who obtains an abortion and the medical professionals who provide abortion care. They could be charged with murder and could face the death penalty.

Who Will Be Hurt?

People Who Need IVF (fertility treatment)

- If the bill passes, in vitro fertilization and other infertility treatments (IVF) could be severely restricted. IVF requires fertilizing more eggs and creating more embryos than will be implanted. Since the Act requires protection of the rights of fertilized eggs and embryos, disposing of fertilized eggs and embryos created for IVF that are not implanted would violate criminal homicide, abuse, and assault laws, and the donors, providers, and facility would be at risk of criminal or civil punishment for denying embryos the right to life.

People Who Experience Stillbirth or Miscarriage

- There is a 15–20% chance of miscarriage or stillbirth in every pregnancy. If the Act passes, any person who loses a pregnancy could be investigated, interrogated, arrested, and prosecuted if someone believes they could have or should have done something to prevent that loss. As numerous well-documented cases from around the country prove, people have already been arrested and charged with crimes (murder, depraved heart homicide, manslaughter, feticide) because they experienced miscarriages and stillbirths, or because the person was unable to “guarantee” that the child they gave birth to would survive.

People Who Do Anything That “Risks” Harm to Fertilized Eggs, Embryos, or Fetuses

- Because pregnancy occurs inside of a pregnant person’s body, everything they do or do not do could possibly have an impact on their future child. While there are many strong beliefs about what a person should and shouldn’t do to have a healthy pregnancy, there is more and more research challenging those beliefs and suggesting that what a person experiences in their life before ever becoming pregnant is the most important thing for a healthy pregnancy.

- If this bill passes, every law, including criminal and civil laws, could be used to arrest, lock up or detain a person believed to be taking action perceived to be risky or disapproved of by officials (such as smoking cigarettes, drinking alcohol, or missing a prenatal care appointment).
  - We know this to be true because even without this bill, the South Carolina State Supreme Court in the case of Cornelia Whitner interpreted one criminal law, criminal child neglect, to permit the prosecution of a woman for actions during pregnancy, prior to even giving birth to her child.

Patients Who Disagree with Their Doctor’s Advice

- Doctors know a lot, but they are not always right. Patients have the right to decide whether or not they will undergo an operation or take a recommended medication. If this Act passes, pregnant people would

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1 Whitner v. State, 492 S.E.2d 777 (S.C. 1997) (relying on unique South Carolina case law and the court’s common law authority to create new crimes, the court interpreted the word “child” in the Children’s Code to include viable fetuses, upheld conviction for child neglect of a woman who gave birth to a healthy newborn that tested positive for cocaine, and found no violation of due process or privacy rights.)
lose these rights. As actual cases from around the country prove, some doctors believe that a pregnant person who refuses recommended cesarean surgery is no different from a person who has a later term abortion. In their view, both decisions deprive fetuses of their right to life. Women and other pregnant people have been locked up, strapped down, and forcibly cut open based on the same principles that would be established under this Act. Similarly, women and other pregnant people who have intentionally and unintentionally given birth at home have also been taken into police custody.

Patients Who Should Be Able to Confide in Medical Providers

- The bill would undermine the trust pregnant people have in their health care providers by taking away patient confidentiality. South Carolina law allows medical providers to report suspected abuse or neglect of children to the authorities. If this bill passes, anything a pregnant person confides in their doctor that could be considered harmful to their future child—including an inability to quit smoking or to control their diet—could trigger an “unborn child” report.

Pregnant People Who Have or Attempt to Have an Abortion and Their Doctors

- Current federal law protects the right to choose to have an abortion. However, arrests that have already happened around the country show that if this bill passes, enterprising prosecutors are likely to start arresting people who have abortions (and/or the doctors or family members who help them) under this law instead of federal law.
- Such arrests would be for very serious crimes such as murder. In Georgia, a mother of two was arrested because she was suspected of seeking to end her pregnancy.

We must put people’s real-life needs first: living a safe and healthy life is a basic right and includes being able to get abortion care, whoever we are and wherever we live. We must commit to a future where abortion care is legal, available, and affordable no matter where you live.