

115TH CONGRESS
1ST SESSION

H. R. 1192

To amend title 18, United States Code, to prohibit dismemberment abortions,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2017

Mr. SMITH of New Jersey (for himself, Mr. FRANKS of Arizona, Ms. FOXX, Mrs. HARTZLER, Mr. JONES, Mrs. WAGNER, Mr. STEWART, Mr. ADERHOLT, Mr. HILL, Mr. FARENTHOLD, Mr. YODER, Mr. WILSON of South Carolina, Mr. BABIN, Mr. WENSTRUP, Mr. BRIDENSTINE, Mr. LUETKEMEYER, Mr. PALAZZO, Mr. MOONEY of West Virginia, Mr. YOHO, Mr. BANKS of Indiana, Mr. MARSHALL, Mr. RUSSELL, Mr. OLSON, Mr. WEBSTER of Florida, Mr. HUIZENGA, Mr. PITTENGER, and Mr. JOHNSON of Ohio) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to prohibit
dismemberment abortions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dismemberment Abor-
5 tion Ban Act of 2017”.

1 **SEC. 2. DISMEMBERMENT ABORTION BAN.**

2 (a) IN GENERAL.—Chapter 74 of title 18, United
3 States Code, is amended by inserting after section 1531
4 the following:

5 **“§ 1532. Dismemberment abortion ban**

6 “(a) DISMEMBERMENT ABORTION PROHIBITED.—
7 Any physician who, in or affecting interstate or foreign
8 commerce, knowingly performs a dismemberment abortion
9 and thereby kills an unborn child shall be fined under this
10 title or imprisoned not more than 2 years, or both. This
11 subsection does not apply to a dismemberment abortion
12 that is necessary to save the life of a mother whose life
13 is endangered by a physical disorder, physical illness, or
14 physical injury, including a life-endangering physical con-
15 dition caused by or arising from the pregnancy itself.

16 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be construed to limit abortions performed for
18 any reason, including when the pregnancy is a result of
19 rape or incest, if performed by a method other than dis-
20 memberment abortion.

21 “(c) CIVIL REMEDIES.—

22 “(1) CIVIL ACTION BY A WOMAN ON WHOM AN
23 ABORTION IS PERFORMED.—A woman upon whom
24 an abortion has been performed in violation of any
25 provision of this section may, in a civil action

1 against any person who committed the violation, ob-
2 tain appropriate relief.

3 “(2) CIVIL ACTION BY A PARENT OF A MINOR
4 ON WHOM AN ABORTION IS PERFORMED.—A parent
5 of a minor upon whom an abortion has been per-
6 formed in violation of any provision of this section
7 may, in a civil action against any person who com-
8 mitted the violation obtain appropriate relief, unless
9 the pregnancy resulted from the plaintiff’s criminal
10 conduct.

11 “(3) APPROPRIATE RELIEF.—Appropriate relief
12 in a civil action under this subsection includes—

13 “(A) objectively verifiable money damages
14 for all injuries, psychological and physical, occa-
15 sioned by the violation;

16 “(B) statutory damages equal to three
17 times the cost of the abortion; and

18 “(C) punitive damages.

19 “(4) ATTORNEYS FEES FOR PLAINTIFF.—The
20 court shall award a reasonable attorney’s fee as part
21 of the costs to a prevailing plaintiff in a civil action
22 under this subsection.

23 “(5) ATTORNEYS FEES FOR DEFENDANT.—If a
24 defendant in a civil action under this subsection pre-
25 vails and the court finds that the plaintiff’s suit was

1 frivolous, the court shall award a reasonable attor-
2 ney's fee in favor of the defendant against the plain-
3 tiff.

4 “(6) AWARDS AGAINST WOMAN.—Except under
5 paragraph (5), in a civil action under this sub-
6 section, no damages, attorney's fee or other mone-
7 tary relief may be assessed against the woman upon
8 whom the abortion was performed or attempted.

9 “(d) IMMUNITY FROM PROSECUTION FOR WOMAN
10 UPON WHOM A DISMEMBERMENT ABORTION IS PER-
11 FORMED.—A woman upon whom a dismemberment abor-
12 tion is performed may not be prosecuted under this sec-
13 tion, for a conspiracy to violate this section, or for an of-
14 fense under section 2, 3, or 4 of this title based on a viola-
15 tion of this section.

16 “(e) DEFINITIONS.—In this section—

17 “(1) ABORTION.—The term ‘abortion’ means
18 the use or prescription of any instrument, medicine,
19 drug, or any other substance or device—

20 “(A) to intentionally kill the unborn child
21 of a woman known to be pregnant; or

22 “(B) to intentionally terminate the preg-
23 nancy of a woman known to be pregnant, with
24 an intention other than—

1 “(i) after viability to produce a live
2 birth and preserve the life and health of
3 the child born alive; or

4 “(ii) to remove a dead unborn child.

5 “(2) DISMEMBERMENT ABORTION.—The term
6 ‘dismemberment abortion’—

7 “(A) means, with the purpose of causing
8 the death of an unborn child, knowingly dis-
9 membering a living unborn child and extracting
10 such unborn child one piece at a time or intact
11 but crushed from the uterus through the use of
12 clamps, grasping forceps, tongs, scissors or
13 similar instruments that, through the conver-
14 gence of two rigid levers, slice, crush or grasp
15 a portion of the unborn child’s body in order to
16 cut or rip it off or crush it; but

17 “(B) does not include an abortion which
18 uses suction to dismember the body of the un-
19 born child by sucking fetal parts into a collec-
20 tion container unless the actions described in
21 subparagraph (A) are used to cause the death
22 of an unborn child but suction is subsequently
23 used to extract fetal parts after the death of the
24 unborn child.

1 “(3) MINOR.—The term ‘minor’ means an indi-
2 vidual who has not attained the age of 18 years.

3 “(4) PHYSICIAN.—The term ‘physician’ means
4 a doctor of medicine or osteopathy legally authorized
5 to practice medicine and surgery by the State in
6 which the doctor performs such activity, or any
7 other individual legally authorized by the State to
8 perform abortions: Provided, however, That any in-
9 dividual who is not a physician or not otherwise le-
10 gally authorized by the State to perform abortions,
11 but who nevertheless directly performs an abortion
12 prohibited in this section shall be subject to the pro-
13 visions of this section.

14 “(5) UNBORN CHILD.—The term ‘unborn child’
15 means an individual organism of the species homo
16 sapiens, beginning at fertilization, until the point of
17 being born alive as defined in section 8(b) of title
18 1.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of chapter 74 of title 18, United States
21 Code, is amended by adding at the end the following new
22 item:

 “1532. Dismemberment abortion ban.”.

23 (c) CHAPTER HEADING AMENDMENTS.—

24 (1) CHAPTER HEADING IN CHAPTER.—The
25 chapter heading for chapter 74 of title 18, United

1 States Code, is amended by striking “**PARTIAL-**
2 **BIRTH ABORTIONS**” and inserting “**ABOR-**
3 **TIONS**”.

4 (2) TABLE OF CHAPTERS FOR PART I.—The
5 item relating to chapter 74 in the table of chapters
6 at the beginning of part I of title 18, United States
7 Code, is amended by striking “**Partial-birth**
8 **abortions**” and inserting “**Abortions**”.

○