

114TH CONGRESS
1ST SESSION

H. R. 3515

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2015

Mr. SMITH of New Jersey (for himself, Mrs. HARTZLER, Ms. FOXX, and Mr. FRANKS of Arizona) 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 2015”.

6 **SEC. 2. DISMEMBERMENT ABORTION BAN.**

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

1 **“§ 1532. Dismemberment abortion ban**

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

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

17 “(c) CIVIL REMEDIES.—

18 “(1) CIVIL ACTION BY A WOMAN ON WHOM AN
19 ABORTION IS PERFORMED.—A woman upon whom
20 an abortion has been performed in violation of any
21 provision of this section may, in a civil action
22 against any person who committed the violation, ob-
23 tain appropriate relief.

24 “(2) CIVIL ACTION BY A PARENT OF A MINOR
25 ON WHOM AN ABORTION IS PERFORMED.—A parent
26 of a minor upon whom an abortion has been per-

1 formed in violation of any provision of this section
2 may, in a civil action against any person who com-
3 mitted the violation obtain appropriate relief, unless
4 the pregnancy resulted from the plaintiff's criminal
5 conduct.

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

8 “(A) objectively verifiable money damages
9 for all injuries, psychological and physical, occa-
10 sioned by the violation;

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

13 “(C) punitive damages.

14 “(4) ATTORNEYS FEES FOR PLAINTIFF.—The
15 court shall award a reasonable attorney's fee as part
16 of the costs to a prevailing plaintiff in a civil action
17 under this subsection.

18 “(5) ATTORNEYS FEES FOR DEFENDANT.—If a
19 defendant in a civil action under this subsection pre-
20 vails and the court finds that the plaintiff's suit was
21 frivolous, the court shall award a reasonable attor-
22 ney's fee in favor of the defendant against the plain-
23 tiff.

24 “(6) AWARDS AGAINST WOMAN.—Except under
25 paragraph (5), in a civil action under this sub-

1 section, no damages, attorney's fee or other mone-
 2 tary relief may be assessed against the woman upon
 3 whom the abortion was performed or attempted.

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

11 “(e) DEFINITIONS.—In this section—

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

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

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

20 “(i) after viability to produce a live
 21 birth and preserve the life and health of
 22 the child born alive; or

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

24 “(2) DISMEMBERMENT ABORTION.—The term
 25 ‘dismemberment abortion’—

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

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

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

21 “(4) PHYSICIAN.—The term ‘physician’ means
22 a doctor of medicine or osteopathy legally authorized
23 to practice medicine and surgery by the State in
24 which the doctor performs such activity, or any
25 other individual legally authorized by the State to

1 perform abortions: Provided, however, That any in-
2 dividual who is not a physician or not otherwise le-
3 gally authorized by the State to perform abortions,
4 but who nevertheless directly performs an abortion
5 prohibited in this section shall be subject to the pro-
6 visions of this section.

7 “(5) UNBORN CHILD.—The term ‘unborn child’
8 means an individual organism of the species homo
9 sapiens, beginning at fertilization, until the point of
10 being born alive as defined in section 8(b) of title
11 1.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of chapter 74 of title 18, United States
14 Code, is amended by adding at the end the following new
15 item:

“1532. Dismemberment abortion ban.”.

16 (c) CHAPTER HEADING AMENDMENTS.—

17 (1) CHAPTER HEADING IN CHAPTER.—The
18 chapter heading for chapter 74 of title 18, United
19 States Code, is amended by striking “**PARTIAL-**
20 **BIRTH ABORTIONS**” and inserting “**ABOR-**
21 **TIONS**”.

22 (2) TABLE OF CHAPTERS FOR PART I.—The
23 item relating to chapter 74 in the table of chapters
24 at the beginning of part I of title 18, United States

- 1 Code, is amended by striking “**Partial-birth**
- 2 **abortions**” and inserting “**Abortions**”.

○