

117TH CONGRESS
1ST SESSION

S. 293

To protect the dignity of fetal remains, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 2021

Mr. BRAUN (for himself, Mr. DAINES, Mr. LANKFORD, Mr. THUNE, Mr. BLUNT, Mr. INHOFE, Mr. RUBIO, Mr. SCOTT of Florida, Mrs. BLACKBURN, Mr. WICKER, Mr. TILLIS, Mr. YOUNG, Ms. ERNST, Mr. PAUL, Mr. COTTON, Mr. RISCH, Mr. HAGERTY, Mr. HAWLEY, Mr. LEE, Mr. MORAN, and Mrs. HYDE-SMITH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To protect the dignity of fetal remains, 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 “Dignity for Aborted
5 Children Act”.

6 **SEC. 2. CONSTITUTIONAL AUTHORITY.**

7 Congress enacts the following pursuant to Congress’
8 power under—

1 (1) the Interstate Commerce Clause of section
2 8 of article I of the Constitution;

3 (2) section 5 of the 14th Amendment to the
4 Constitution of the United States, including the
5 power to enforce the prohibition on government ac-
6 tion denying equal protection of the laws; and

7 (3) section 8 of article I of the Constitution of
8 the United States to make all laws necessary and
9 proper for the carrying into execution of powers
10 vested by the Constitution in the Government of the
11 United States.

12 **SEC. 3. PROTECTION OF FETAL REMAINS.**

13 (a) IN GENERAL.—Part H of title IV of the Public
14 Health Service Act (42 U.S.C. 289 et seq.) is amended
15 by adding at the end the following:

16 **“SEC. 498F. PROTECTION OF FETAL REMAINS.**

17 “(a) CONSENT REQUIREMENT.—

18 “(1) IN GENERAL.—Any abortion provider,
19 after performing an abortion, shall provide the pa-
20 tient with an informed consent form, offering the
21 patient the following options for disposal of the
22 human fetal tissue from the abortion:

23 “(A) The patient may take possession of
24 the human fetal tissue and may choose to

1 transfer the tissue to an entity providing inter-
 2 ment or cremation services.

3 “(B) The patient may elect to release the
 4 human fetal tissue to the abortion provider,
 5 who shall be subject to the requirements of sub-
 6 section (b).

7 “(2) CONSENT REQUIREMENTS.—An abortion
 8 provider described in paragraph (1) shall—

9 “(A) obtain a patient signature on each
 10 consent form required under paragraph (1);
 11 and

12 “(B) retain each such form in the patient’s
 13 file.

14 “(b) PROVIDER DISPOSAL REQUIREMENT.—It shall
 15 be unlawful for any abortion provider who, after per-
 16 forming an abortion in which the woman on whom the
 17 abortion was performed elects, pursuant to subsection
 18 (a)(1)(B), to release the human fetal tissue to the abortion
 19 provider, to fail to provide for the final disposition of the
 20 human fetal tissue through interment or cremation, con-
 21 sistent with State law regarding the disposal of human
 22 remains, not later than 7 days after the date on which
 23 the abortion procedure was performed. Such final disposi-
 24 tion of human fetal tissue may be carried out through in-

1 terment or cremation of tissue from more than one abor-
2 tion procedure collectively.

3 “(c) PENALTIES.—

4 “(1) INFORMED CONSENT VIOLATIONS.—An
5 abortion provider who fails to maintain the docu-
6 mentation required under subsection (a)(2)(B) shall
7 be subject to civil monetary penalties in an amount
8 not to exceed \$50,000.

9 “(2) DISPOSAL VIOLATIONS.—Any abortion
10 provider who violates subsection (b) shall be fined in
11 accordance with title 18, United States Code, im-
12 prisoned not more than 5 years, or both.

13 “(3) BAR TO PROSECUTION.—A patient upon
14 whom an abortion in violation of subsection (b) is
15 performed or attempted may not be prosecuted
16 under, or for a conspiracy to violate, paragraph (1),
17 or for an offense under section 2, 3, or 4 of title 18,
18 United States Code, based on such a violation.

19 “(d) REPORTING.—Each abortion provider described
20 in subsection (a)(1) shall submit annual reports to the
21 Secretary indicating, with respect to the reporting pe-
22 riod—

23 “(1) the aggregate number of abortion proce-
24 dures performed by such abortion provider;

1 “(2) the gestational age at the time of each
2 such procedure; and

3 “(3) for abortions carried out using an abortion
4 method other than chemical abortion, the aggregate
5 number of fetal remains transferred for interment or
6 cremation and the number released to patients.

7 “(e) ANNUAL REPORTS BY THE SECRETARY.—The
8 Secretary shall submit to Congress an annual report on
9 the number of abortions by State, procedure type, and
10 method of disposal of human fetal tissue.

11 “(f) NON-PREEMPTION.—Nothing in this section
12 shall preempt any State requirement that, at a minimum,
13 requires interment or cremation in the same manner that
14 other human remains are required to be treated in such
15 State.

16 “(g) DEFINITIONS.—In this section—

17 “(1) the term ‘abortion’ means the use or pre-
18 scription of any instrument, medicine, drug, or any
19 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) the term ‘abortion provider’ means an in-
6 dividual or entity that performs abortions; and

7 “(3) the term ‘human fetal tissue’ has the
8 meaning given the term in section 498A(g).”.

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