

113TH CONGRESS  
1ST SESSION

# H. R. 447

To prohibit discrimination against the unborn on the basis of sex or race,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2013

Mr. FRANKS of Arizona (for himself, Mr. LIPINSKI, Mr. PETERSON, Mr. ALEXANDER, Mr. AMODEI, Mrs. BACHMANN, Mr. BACHUS, Mr. BENISHEK, Mr. BILIRAKIS, Mr. BISHOP of Utah, Mrs. BLACK, Mrs. BLACKBURN, Mr. GIBBS, Mr. BONNER, Mr. BOUSTANY, Mr. BRADY of Texas, Mr. BROUN of Georgia, Mr. BUCHANAN, Mr. BUCSHON, Mr. CARTER, Mr. CASSIDY, Mr. CHABOT, Mr. COLE, Mr. CONAWAY, Mr. COTTON, Mr. CRAMER, Mr. CULBERSON, Mr. DAINES, Mr. DESJARLAIS, Mr. DUNCAN of Tennessee, Mr. DUNCAN of South Carolina, Mrs. ELLMERS, Mr. FARENTHOLD, Mr. FINCHER, Mr. FLEMING, Mr. FLORES, Mr. FORBES, Mr. FORTENBERRY, Mr. GARRETT, Mr. GOHMERT, Mr. GOWDY, Mr. GRAVES of Georgia, Mr. GRIFFIN of Arkansas, Mr. GRIMM, Mr. GUTHRIE, Mr. HALL, Mr. HARRIS, Mrs. HARTZLER, Mr. HUELSKAMP, Mr. HUIZENGA of Michigan, Mr. HULTGREN, Ms. JENKINS, Mr. JOHNSON of Ohio, Mr. JONES, Mr. JORDAN, Mr. KELLY, Mr. KING of Iowa, Mr. LAMALFA, Mr. LAMBORN, Mr. LATTA, Mr. LONG, Mr. LUETKEMEYER, Mr. MARCHANT, Mr. McCAUL, Mr. MCKINLEY, Mr. MICA, Mr. MILLER of Florida, Mr. MULLIN, Mr. MULVANEY, Mr. NEUGEBAUER, Mr. NUGENT, Mr. NUNNELEE, Mr. OLSON, Mr. PALAZZO, Mr. PEARCE, Mr. PITTS, Mr. POE of Texas, Mr. POMPEO, Mrs. ROBY, Mr. ROE of Tennessee, Mr. ROGERS of Alabama, Mr. SALMON, Mr. SCHWEIKERT, Mr. SMITH of Texas, Mr. STEWART, Mr. STIVERS, Mr. WALBERG, Mr. WEBER of Texas, Mr. WESTMORELAND, Mr. WILSON of South Carolina, and Mr. YODER) introduced the following bill; which was referred to the Committee on the Judiciary

# A BILL

To prohibit discrimination against the unborn on the basis of sex or race, 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 “Prenatal Non-  
5 discrimination Act (PRENDA) of 2013”.

6 **SEC. 2. FINDINGS AND CONSTITUTIONAL AUTHORITY.**

7       (a) FINDINGS.—The Congress makes the following  
8 findings:

9           (1) SEX DISCRIMINATION FINDINGS.—

10           (A) Women are a vital part of American  
11 society and culture and possess the same funda-  
12 mental human rights and civil rights as men.

13           (B) United States law prohibits the dis-  
14 similar treatment of males and females who are  
15 similarly situated and prohibits sex discrimina-  
16 tion in various contexts, including the provision  
17 of employment, education, housing, health in-  
18 surance coverage, and athletics.

19           (C) Sex is an immutable characteristic as-  
20 certainable at the earliest stages of human de-  
21 velopment through existing medical technology  
22 and procedures commonly in use, including ma-

1 ternal-fetal bloodstream DNA sampling,  
2 amniocentesis, chorionic villus sampling or  
3 “CVS”, and obstetric ultrasound. In addition to  
4 medically assisted sex determination, a growing  
5 sex-determination niche industry has developed  
6 and is marketing low-cost commercial products,  
7 widely advertised and available, that aid in the  
8 sex determination of an unborn child without  
9 the aid of medical professionals. Experts have  
10 demonstrated that the sex-selection industry is  
11 on the rise and predict that sex selection will  
12 continue to be a growing trend in the United  
13 States. Sex determination is always a necessary  
14 step to the procurement of a sex-selection abor-  
15 tion.

16 (D) A “sex-selection abortion” is an abor-  
17 tion undertaken for purposes of eliminating an  
18 unborn child of an undesired sex. Sex-selection  
19 abortion is barbaric, and described by scholars  
20 and civil rights advocates as an act of sex-based  
21 or gender-based violence, predicated on sex dis-  
22 crimination. Sex-selection abortions are typi-  
23 cally late-term abortions performed in the 2d or  
24 3rd trimester of pregnancy, often after the un-  
25 born child has developed sufficiently to feel

1 pain. Substantial medical evidence proves that  
2 an unborn child can experience pain at 20  
3 weeks after conception, and perhaps substan-  
4 tially earlier. By definition, sex-selection abor-  
5 tions do not implicate the health of the mother  
6 of the unborn, but instead are elective proce-  
7 dures motivated by sex or gender bias.

8 (E) The targeted victims of sex-selection  
9 abortions performed in the United States and  
10 worldwide are overwhelmingly female. The se-  
11 lective abortion of females is female infanticide,  
12 the intentional killing of unborn females, due to  
13 the preference for male offspring or “son pref-  
14 erence”. Son preference is reinforced by the low  
15 value associated, by some segments of the world  
16 community, with female offspring. Those seg-  
17 ments tend to regard female offspring as finan-  
18 cial burdens to a family over their lifetime due  
19 to their perceived inability to earn or provide fi-  
20 nancially for the family unit as can a male. In  
21 addition, due to social and legal convention, fe-  
22 male offspring are less likely to carry on the  
23 family name. “Son preference” is one of the  
24 most evident manifestations of sex or gender  
25 discrimination in any society, undermining fe-

1 male equality, and fueling the elimination of fe-  
2 males' right to exist in instances of sex-selection  
3 abortion.

4 (F) Sex-selection abortions are not ex-  
5 pressly prohibited by United States law or the  
6 laws of 46 States. Sex-selection abortions are  
7 performed in the United States. In a March  
8 2008 report published in the Proceedings of the  
9 National Academy of Sciences, Columbia Uni-  
10 versity economists Douglas Almond and Lena  
11 Edlund examined the sex ratio of United  
12 States-born children and found “evidence of sex  
13 selection, most likely at the prenatal stage”.  
14 The data revealed obvious “son preference” in  
15 the form of unnatural sex-ratio imbalances  
16 within certain segments of the United States  
17 population, primarily those segments tracing  
18 their origins to countries where sex-selection  
19 abortion is prevalent. The evidence strongly  
20 suggests that some Americans are exercising  
21 sex-selection abortion practices within the  
22 United States consistent with discriminatory  
23 practices common to their country of origin, or  
24 the country to which they trace their ancestry.  
25 While sex-selection abortions are more common

1 outside the United States, the evidence reveals  
2 that female feticide is also occurring in the  
3 United States.

4 (G) The American public supports a prohi-  
5 bition of sex-selection abortion. In a March  
6 2006 Zogby International poll, 86 percent of  
7 Americans agreed that sex-selection abortion  
8 should be illegal, yet only four States proscribe  
9 sex-selection abortion. In a 2012 poll conducted  
10 by the Charlotte Lozier Institute, 80 percent of  
11 Americans agreed that sex-selection abortion  
12 should be illegal.

13 (H) Despite the failure of the United  
14 States to proscribe sex-selection abortion, the  
15 United States Congress has expressed repeat-  
16 edly, through Congressional resolution, strong  
17 condemnation of policies promoting sex-selec-  
18 tion abortion in the “Communist Government  
19 of China”. Likewise, at the 2007 United Na-  
20 tion’s Annual Meeting of the Commission on  
21 the Status of Women, 51st Session, the United  
22 States delegation spearheaded a resolution call-  
23 ing on countries to condemn sex-selective abor-  
24 tion, a policy directly contradictory to the per-  
25 missiveness of current United States law, which

1 places no restriction on the practice of sex-se-  
2 lection abortion. The United Nations Commis-  
3 sion on the Status of Women has urged govern-  
4 ments of all nations “to take necessary meas-  
5 ures to prevent . . . prenatal sex selection”.

6 (I) A 1990 report by Harvard University  
7 economist Amartya Sen, estimated that more  
8 than 100 million women were “demographically  
9 missing” from the world as early as 1990 due  
10 to sexist practices, including sex-selection abor-  
11 tion. Many experts believe sex-selection abortion  
12 is the primary cause. More recent estimates of  
13 women missing from the world range in the  
14 hundreds of millions.

15 (J) Countries with longstanding experience  
16 with sex-selection abortion—such as the Repub-  
17 lic of India, the United Kingdom, and the Peo-  
18 ple’s Republic of China—have enacted restric-  
19 tions on sex selection, and have steadily contin-  
20 ued to strengthen prohibitions and penalties.  
21 The United States, by contrast, has no law in  
22 place to restrict sex-selection abortion, estab-  
23 lishing the United States as affording less pro-  
24 tection from sex-based feticide than the Repub-  
25 lic of India or the People’s Republic of China,

1           whose recent practices of sex-selection abortion  
2           were vehemently and repeatedly condemned by  
3           United States congressional resolution and by  
4           the United States Ambassador to the Commis-  
5           sion on the Status of Women. Public state-  
6           ments from within the medical community re-  
7           veal that citizens of other countries come to the  
8           United States for sex-selection procedures that  
9           would be criminal in their country of origin. Be-  
10          cause the United States permits abortion on the  
11          basis of sex, the United States may effectively  
12          function as a “safe haven” for those who seek  
13          to have American physicians do what would  
14          otherwise be criminal in their home countries—  
15          a sex-selection abortion, most likely late-term.

16                 (K) The American medical community op-  
17                 poses sex selection. The American Congress of  
18                 Obstetricians and Gynecologists (“ACOG”)   
19                 stated in its 2007 Ethics Committee Opinion,  
20                 Number 360, that sex selection is inappropriate  
21                 because it “ultimately supports sexist prac-  
22                 tices”. The American Society of Reproductive  
23                 Medicine (“ASRM”) published a 2004 Ethics  
24                 Committee Opinion, noting that central to the  
25                 controversy of sex selection in the use of as-



1           sisted reproductive technology (“ART”) is the  
2           potential for “inherent gender discrimination”,  
3           . . . the “risk of psychological harm to sex-se-  
4           lected offspring (i.e., by placing on them expec-  
5           tations that are too high),” . . . and “rein-  
6           forcement of gender bias in society as a whole.”  
7           Sex selection in ART remains “vulnerable to  
8           the judgment that no matter what its basis,  
9           [the method] identifies gender as a reason to  
10          value one person over another, and it supports  
11          socially constructed stereotypes of what gender  
12          means.” In doing so, it not only “reinforces  
13          possibilities of unfair discrimination, but may  
14          trivialize human reproduction by making it de-  
15          pend on the selection of nonessential features of  
16          offspring.” The ASRM ethics opinion continues,  
17          “ongoing problems with the status of women in  
18          the United States make it necessary to take ac-  
19          count of concerns for the impact of sex-selection  
20          on goals of gender equality.” The American As-  
21          sociation of Pro-Life Obstetricians and Gyne-  
22          cologists, an organization with hundreds of  
23          members—many of whom are former abortion-  
24          ists—makes the following declaration: “Sex se-  
25          lection abortions are more graphic examples of

1 the damage that abortion inflicts on women. In  
2 addition to increasing premature labor in subse-  
3 quent pregnancies, increasing suicide and major  
4 depression, and increasing the risk of breast  
5 cancer in teens who abort their first pregnancy  
6 and delay childbearing, sex selection abortions  
7 are often targeted at fetuses simply because the  
8 fetus is female. As physicians who care for both  
9 the mother and her unborn child, the American  
10 Association of Pro-Life Obstetricians and Gyne-  
11 cologists vigorously opposes aborting fetuses be-  
12 cause of their gender.” The President’s Council  
13 on Bioethics published a Working Paper stating  
14 the council’s belief that society’s respect for re-  
15 productive freedom does not prohibit the regu-  
16 lation or prohibition of “sex control”, defined as  
17 the use of various medical technologies to  
18 choose the sex of one’s child. The publication  
19 expresses concern that “sex control might lead  
20 to . . . dehumanization and a new eugenics”.

21 (L)(i) Sex-selection abortions are often co-  
22 coerced, and therefore, the opposite of “choice”.  
23 Researchers at the University of California at  
24 Berkeley and the University of California at  
25 San Francisco completed a study of Indian-

1 American women who had undergone sex-selec-  
2 tion abortions in the United States. The study  
3 found that sex-selection abortions are often the  
4 product of violent coercion.

5 (ii) Women who carried a female unborn  
6 child to term said they were subject to varying  
7 degrees of verbal and physical abuse, which  
8 may be to the point of actually inducing a sex-  
9 selection abortion. A woman may be denied  
10 food, water, and rest to induce an abortion  
11 where the family determines that the woman is  
12 carrying a female unborn child. Some women  
13 described being hit, pushed, choked and kicked  
14 in the abdomen in a husband's attempt to fore-  
15 ibly terminate a female unborn child. Preg-  
16 nancy is already a vulnerable time for women;  
17 the most common cause of death for pregnant  
18 women in the United States is homicide, often  
19 at the hands of the unborn child's father.

20 (iii) The study concluded that sex selection  
21 can be the product of an abusive environment  
22 created by marital partners, an extended fam-  
23 ily, or both. One-third of the women in the  
24 study reported that a history of family violence  
25 exacerbated when they did not give birth to a

1 son. Notably, because the researchers had rea-  
2 son to fear for the participants' exposure to  
3 marital violence, all subjects received informa-  
4 tion on local South Asian women's organiza-  
5 tions offering assistance for victims of family vi-  
6 olence. The failure to bear a son is a serious  
7 matter; the birth of a daughter could result in  
8 violence or a brutal death for the mother at the  
9 hands of the father and mother-in-law. For ex-  
10 ample, photojournalist Walter Astrada's re-  
11 nowned documentary tells the story of an In-  
12 dian woman who was tortured and abandoned  
13 by her husband and mother-in-law for refusing  
14 to abort twin girls. Sex-selection abortion has  
15 long been considered a form of violence against  
16 women, and the study proved that both the  
17 women and the unborn daughter are victims of  
18 violence where sex-selection abortion is legally  
19 available but not sought by the mother. Forty  
20 percent of the women had terminated prior  
21 pregnancies when they learned that the unborn  
22 child was female. Of the women who discovered  
23 they were pregnant with a girl during the inter-  
24 view period, 89 percent underwent a sex-selec-  
25 tion abortion. Among those that did not abort

1 their unborn daughters, 100 percent expressed  
2 ambivalence about prior sex-selection abortions.  
3 Further, 100 percent cited physical and psycho-  
4 logical trauma from the past abortions as rea-  
5 sons for not seeking another. Most tragically,  
6 100 percent expressed guilt, shame and sadness  
7 over their inability to “save” the daughters they  
8 had aborted.

9 (iv) Coercive sex-selection abortions are  
10 suspected in other western countries as well.  
11 Following a 2012 investigation of sex-selection  
12 abortion in the United Kingdom, Dr. Tony Fal-  
13 coner, President of the Royal College of Obstet-  
14 rics and Gynaecology, raised the specter that  
15 women may be experiencing violence and coer-  
16 cion to force sex-selection abortions.

17 (v) A growing body of research documents  
18 the relationship between intimate partner vio-  
19 lence and reproductive coercion.

20 (M) Sex-selection abortion harms women.  
21 Researchers at the University of California  
22 found that women in the United States who un-  
23 dergo sex-selection abortions are at increased  
24 risk for psychological and physical morbidity,  
25 documented by their descriptions of depression,

1 anxiety, chronic pain, physical abuse, closely  
2 spaced pregnancies, and “forced abortions”.  
3 Further, 100 percent of the study participants  
4 who chose to carry unborn baby girls cited  
5 physical and psychological trauma from past  
6 abortions as reasons for not seeking another.  
7 Similarly, Indian-Canadian counselor, Aruna  
8 Papp, stated publicly that in her 30 years of ex-  
9 perience treating Indian-Canadian women, she  
10 has found that sex-selection abortion is the  
11 leading cause of mental illness among women in  
12 the Punjabi Health Services, Peel region, and  
13 the leading cause of depression and attempted  
14 suicide in the South Asian Settlement Services  
15 in Scarborough. Some of Papp’s patients ob-  
16 tained their sex-selection abortions in Michigan  
17 and New York. Papp also reports “many other  
18 physical ailments that are related to two, three,  
19 or four abortions”.

20 (N) Sex-selection abortion results in an un-  
21 natural sex-ratio imbalance. An unnatural sex-  
22 ratio imbalance is undesirable, due to the in-  
23 ability of the numerically predominant sex to  
24 find mates. Experts worldwide document that a  
25 significant sex-ratio imbalance in which males

1 numerically predominate can be a cause of in-  
2 creased violence and militancy within a society.  
3 Likewise, an unnatural sex-ratio imbalance  
4 gives rise to the commoditization of humans in  
5 the form of human trafficking, and a con-  
6 sequent increase in kidnapping and other vio-  
7 lent crime.

8 (O) Sex-selection abortions have the effect  
9 of diminishing the representation of women in  
10 the American population, and therefore, the  
11 American electorate.

12 (P) Sex-selection abortion reinforces sex  
13 discrimination and has no place in a civilized  
14 society.

15 (2) RACIAL DISCRIMINATION FINDINGS.—

16 (A) Minorities are a vital part of American  
17 society and culture and possess the same funda-  
18 mental human rights and civil rights as the ma-  
19 jority.

20 (B) United States law prohibits discrimi-  
21 nation on the basis of race in various contexts,  
22 including employment, education, housing,  
23 health insurance coverage, and athletics.

24 (C) A “race-selection abortion” is an abor-  
25 tion performed for purposes of eliminating an

1 unborn child because the child or a parent of  
2 the child is of an undesired race. Race-selection  
3 abortion is barbaric, and described by civil  
4 rights advocates as an act of race-based vio-  
5 lence, predicated on race discrimination. By  
6 definition, race-selection abortions do not impli-  
7 cate the health of mother of the unborn, but in-  
8 stead are elective procedures motivated by race  
9 bias.

10 (D) A thorough review of the history of the  
11 American population control movement and its  
12 close affiliation with the American Eugenics So-  
13 ciety reveals a history of targeting certain racial  
14 or ethnic groups for “family planning”. This  
15 history likely contributes to the current statistic  
16 that a Black baby is five times as likely to be  
17 aborted as a White baby, often in a federally  
18 subsidized clinic.

19 (E) Abortion is the leading cause of death  
20 in the Black community. With approximately  
21 450,000 Black abortions per year, more Black  
22 Americans lose their lives each year to abortion  
23 than to cancer, heart disease, diabetes, AIDS,  
24 and violence combined. These statistics are de-  
25 rived by comparing the abortion statistics of the



1 Alan Guttmacher Institute (formerly the re-  
2 search arm of Planned Parenthood) to the Na-  
3 tional Vital Statistics annual reports showing  
4 the number of deaths by cause and race. The  
5 numbers for each of these variables have re-  
6 mained relatively constant from year to year,  
7 since 2005.

8 (F) Only one State, Arizona, has enacted  
9 law to proscribe the performance of race-selec-  
10 tion abortions.

11 (G) Race-selection abortions have the ef-  
12 fect of diminishing the number of minorities in  
13 the American population and therefore, the  
14 American electorate.

15 (H) Race-selection abortion reinforces ra-  
16 cial discrimination and has no place in a civ-  
17 ilized society.

18 (3) GENERAL FINDINGS.—

19 (A) The history of the United States in-  
20 cludes examples of both sex discrimination and  
21 race discrimination. The people of the United  
22 States ultimately responded in the strongest  
23 possible legal terms by enacting constitutional  
24 amendments correcting elements of such dis-  
25 crimination. Women, once subjected to sex dis-

1           crimination that denied them the right to vote,  
2           now have suffrage guaranteed by the 19th  
3           Amendment. African-Americans, once subjected  
4           to race discrimination through slavery that de-  
5           nied them equal protection of the laws, now  
6           have that right guaranteed by the 14th Amend-  
7           ment. The elimination of discriminatory prac-  
8           tices has been and is among the highest prior-  
9           ities and greatest achievements of American  
10          history.

11           (B) Implicitly approving the discriminatory  
12          practices of sex-selection abortion and race-se-  
13          lection abortion by choosing not to prohibit  
14          them will reinforce these inherently discrimina-  
15          tory practices, and evidence a failure to protect  
16          a segment of certain unborn Americans because  
17          those unborn are of a sex or racial makeup that  
18          is disfavored. Sex-selection and race-selection  
19          abortions trivialize the value of the unborn on  
20          the basis of sex or race, reinforcing sex and  
21          race discrimination, and coarsening society to  
22          the humanity of all vulnerable and innocent  
23          human life, making it increasingly difficult to  
24          protect such life. Thus, Congress has a compel-  
25          ling interest in acting—indeed it must act—to

1           prohibit sex-selection abortion and race-selec-  
2           tion abortion.

3           (b) CONSTITUTIONAL AUTHORITY.—In accordance  
4 with the above findings, Congress enacts the following  
5 pursuant to Congress’ power under—

6           (1) the Commerce Clause;

7           (2) section 2 of the 13th Amendment;

8           (3) section 5 of the 14th Amendment, including  
9 the power to enforce the prohibition on government  
10 action denying equal protection of the laws; and

11           (4) section 8 of article I to make all laws nec-  
12 essary and proper for the carrying into execution of  
13 powers vested by the Constitution in the Govern-  
14 ment of the United States.

15 **SEC. 3. DISCRIMINATION AGAINST THE UNBORN ON THE**  
16 **BASIS OF RACE OR SEX.**

17           (a) IN GENERAL.—Chapter 13 of title 18, United  
18 States Code, is amended by adding at the end the fol-  
19 lowing:

20 **“§ 250. Discrimination against the unborn on the**  
21 **basis of race or sex**

22           “(a) IN GENERAL.—Whoever knowingly—

23           “(1) performs an abortion knowing that such  
24 abortion is sought based on the sex, gender, color or

1 race of the child, or the race of a parent of that  
2 child;

3 “(2) uses force or the threat of force to inten-  
4 tionally injure or intimidate any person for the pur-  
5 pose of coercing a sex-selection or race-selection  
6 abortion;

7 “(3) solicits or accepts funds for the perform-  
8 ance of a sex-selection abortion or a race-selection  
9 abortion; or

10 “(4) transports a woman into the United States  
11 or across a State line for the purpose of obtaining  
12 a sex-selection abortion or race-selection abortion;  
13 or attempts to do so, shall be fined under this title or im-  
14 prisoned not more than 5 years, or both.

15 “(b) CIVIL REMEDIES.—

16 “(1) CIVIL ACTION BY WOMAN ON WHOM ABOR-  
17 TION IS PERFORMED.—A woman upon whom an  
18 abortion has been performed or attempted in viola-  
19 tion of subsection (a)(2) may in a civil action  
20 against any person who engaged in a violation of  
21 subsection (a) obtain appropriate relief.

22 “(2) CIVIL ACTION BY RELATIVES.—The father  
23 of an unborn child who is the subject of an abortion  
24 performed or attempted in violation of subsection  
25 (a), or a maternal grandparent of the unborn child

1 if the pregnant woman is an unemancipated minor,  
2 may in a civil action against any person who en-  
3 gaged in the violation, obtain appropriate relief, un-  
4 less the pregnancy or abortion resulted from the  
5 plaintiff’s criminal conduct or the plaintiff consented  
6 to the abortion.

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

9 “(A) objectively verifiable money damages  
10 for all injuries, psychological and physical, in-  
11 cluding loss of companionship and support, oc-  
12 casioned by the violation of this section; and

13 “(B) punitive damages.

14 “(4) INJUNCTIVE RELIEF.—

15 “(A) IN GENERAL.—A qualified plaintiff  
16 may in a civil action obtain injunctive relief to  
17 prevent an abortion provider from performing  
18 or attempting further abortions in violation of  
19 this section.

20 “(B) DEFINITION.—In this paragraph the  
21 term ‘qualified plaintiff’ means—

22 “(i) a woman upon whom an abortion  
23 is performed or attempted in violation of  
24 this section;

1                   “(ii) a maternal grandparent of the  
2                   unborn child if the woman upon whom an  
3                   abortion is performed or attempted in vio-  
4                   lation of this section is an unemancipated  
5                   minor;

6                   “(iii) the father of an unborn child  
7                   who is the subject of an abortion per-  
8                   formed or attempted in violation of sub-  
9                   section (a); or

10                   “(iv) the Attorney General.

11                   “(5) ATTORNEYS FEES FOR PLAINTIFF.—The  
12                   court shall award a reasonable attorney’s fee as part  
13                   of the costs to a prevailing plaintiff in a civil action  
14                   under this subsection.

15                   “(c) EXCEPTION.—A woman upon whom a sex-selec-  
16                   tion or race-selection abortion is performed may not be  
17                   prosecuted or held civilly liable for any violation of this  
18                   section, or for a conspiracy to violate this section.

19                   “(d) LOSS OF FEDERAL FUNDING.—A violation of  
20                   subsection (a) shall be deemed for the purposes of title  
21                   VI of the Civil Rights Act of 1964 to be discrimination  
22                   prohibited by section 601 of that Act.

23                   “(e) REPORTING REQUIREMENT.—A physician, phy-  
24                   sician’s assistant, nurse, counselor, or other medical or  
25                   mental health professional shall report known or suspected

1 violations of any of this section to appropriate law enforce-  
2 ment authorities. Whoever violates this requirement shall  
3 be fined under this title or imprisoned not more than 1  
4 year, or both.

5 “(f) EXPEDITED CONSIDERATION.—It shall be the  
6 duty of the United States district courts, United States  
7 courts of appeal, and the Supreme Court of the United  
8 States to advance on the docket and to expedite to the  
9 greatest possible extent the disposition of any matter  
10 brought under this section.

11 “(g) PROTECTION OF PRIVACY IN COURT PRO-  
12 CEEDINGS.—

13 “(1) IN GENERAL.—Except to the extent the  
14 Constitution or other similarly compelling reason re-  
15 quires, in every civil or criminal action under this  
16 section, the court shall make such orders as are nec-  
17 essary to protect the anonymity of any woman upon  
18 whom an abortion has been performed or attempted  
19 if she does not give her written consent to such dis-  
20 closure. Such orders may be made upon motion, but  
21 shall be made sua sponte if not otherwise sought by  
22 a party.

23 “(2) ORDERS TO PARTIES, WITNESSES, AND  
24 COUNSEL.—The court shall issue appropriate orders  
25 to the parties, witnesses, and counsel and shall di-

1       rect the sealing of the record and exclusion of indi-  
2       viduals from courtrooms or hearing rooms to the ex-  
3       tent necessary to safeguard the identity of the  
4       woman described in paragraph (1) from public dis-  
5       closure.

6               “(3) PSEUDONYM REQUIRED.—In the absence  
7       of written consent of the woman upon whom an  
8       abortion has been performed or attempted, any  
9       party, other than a public official, who brings an ac-  
10      tion under this section shall do so under a pseu-  
11      donym.

12              “(4) LIMITATION.—This subsection shall not be  
13      construed to conceal the identity of the plaintiff or  
14      of witnesses from the defendant or from attorneys  
15      for the defendant.

16              “(h) DEFINITION.—In this section—

17              “(1) the term ‘abortion’ means the act of using  
18      or prescribing any instrument, medicine, drug, or  
19      any other substance, device, or means with the in-  
20      tent to terminate the clinically diagnosable preg-  
21      nancy of a woman, with knowledge that the termi-  
22      nation by those means will with reasonable likelihood  
23      cause the death of the unborn child, unless the act  
24      is done with the intent to—



1           “(A) save the life or preserve the health of  
2           the unborn child;

3           “(B) remove a dead unborn child caused  
4           by spontaneous abortion; or

5           “(C) remove an ectopic pregnancy;

6           “(2) the term ‘sex-selection abortion’ means an  
7           abortion undertaken for purposes of eliminating an  
8           unborn child of an undesired sex; and

9           “(3) the term ‘race-selection abortion’ means an  
10          abortion performed for purposes of eliminating an  
11          unborn child because the child or a parent of the  
12          child is of an undesired race.”.

13          (b) CLERICAL AMENDMENT.—The table of sections  
14          at the beginning of chapter 13 of title 18, United States  
15          Code, is amended by adding after the item relating to sec-  
16          tion 249 the following new item:

          “250. Discrimination against the unborn on the basis of race or sex.”.

17          **SEC. 4. SEVERABILITY.**

18          If any portion of this Act or the application thereof  
19          to any person or circumstance is held invalid, such inva-  
20          lidity shall not affect the portions or applications of this  
21          Act which can be given effect without the invalid portion  
22          or application.

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