

115TH CONGRESS
1ST SESSION

H. R. 490

To amend title 18, United States Code, to prohibit abortion in cases where a fetal heartbeat is detectable.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2017

Mr. KING of Iowa (for himself 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 abortion in cases where a fetal heartbeat is detectable.

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 “Heartbeat Protection
5 Act of 2017”.

6 **SEC. 2. ABORTIONS PROHIBITED WITHOUT A CHECK FOR**
7 **FETAL HEARTBEAT, OR IF A FETAL HEART-**
8 **BEAT IS DETECTABLE.**

9 (a) ABORTIONS PROHIBITED WITHOUT A CHECK
10 FOR FETAL HEARTBEAT, OR IF A FETAL HEARTBEAT IS

1 DETECTABLE.—Chapter 74 of title 18, United States
2 Code, is amended—

3 (1) in the chapter heading, by striking “**PAR-**
4 **TIAL-BIRTH**”

5 (2) by inserting after section 1531 the fol-
6 lowing:

7 “§ 1532. **Abortions prohibited without a check for**
8 **fetal heartbeat, or if a fetal heartbeat is**
9 **detectable**

10 “(a) OFFENSE.—Any physician who knowingly per-
11 forms an abortion and thereby kills a human fetus—

12 “(1) without determining, according to stand-
13 ard medical practice, whether the fetus has a detect-
14 able heartbeat;

15 “(2) without informing the mother of the re-
16 sults of that determination; or

17 “(3) after determining, according to standard
18 medical practice, that the fetus has a detectable
19 heartbeat,

20 shall be fined under this title or imprisoned not more than
21 5 years, or both. This subsection does not apply to an
22 abortion that is necessary to save the life of a mother
23 whose life is endangered by a physical disorder, physical
24 illness, or physical injury, including a life-endangering
25 physical condition caused by or arising from the pregnancy

1 itself, but not including psychological or emotional condi-
2 tions.

3 “(b) DEFENDANT MAY SEEK HEARING.—A defend-
4 ant indicted for an offense under this section may seek
5 a hearing before the State Medical Board on whether the
6 physician’s conduct was necessary to save the life of the
7 mother whose life was endangered by a physical disorder,
8 physical illness, or physical injury, including a life-endan-
9 gering physical condition caused by or arising from the
10 pregnancy itself, but not including psychological or emo-
11 tional conditions. The findings on that issue are admissible
12 on that issue at the trial of the defendant. Upon a motion
13 of the defendant, the court shall delay the beginning of
14 the trial for not more than 30 days to permit such a hear-
15 ing to take place.

16 “(c) NO LIABILITY FOR THE MOTHER ON WHOM
17 ABORTION IS PERFORMED.—A mother upon whom an
18 abortion is performed may not be prosecuted under this
19 section, for a conspiracy to violate this section, or for an
20 offense under section 2, 3, or 4 of this title based on a
21 violation of this section.

22 “(d) REQUIREMENT FOR DATA RETENTION.—The
23 physician shall include in the medical file of the mother
24 documentation of the determination, according to stand-
25 ard medical practice, of whether the fetus has a detectable

1 heartbeat, the results of that determination, notification
 2 of the mother of those results, and any information en-
 3 tered into evidence in any proceedings under subsection
 4 (b). Paragraph (j)(2) of section 164.530 of title 45, Code
 5 of Federal Regulations, shall apply to such documentation.

6 “(e) SEVERABILITY.—If any provision of this section
 7 or the application of such provision to any person or cir-
 8 cumstance is held to be invalid, the remainder of this sec-
 9 tion and the application of the provisions of the remainder
 10 to any person or circumstance shall not be affected there-
 11 by.”; and

12 (3) in the table of sections, by inserting after
 13 the item pertaining to section 1841 the following:

“1532. Abortions prohibited without a check for fetal heartbeat, or if a fetal
 heartbeat is detectable.”.

14 (b) CLERICAL AMENDMENT.—The table of chapters
 15 for part I of title 18, United States Code, is amended,
 16 in the item relating to chapter 74, to read as follows:

“74. Abortions 1531”.

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