

116TH CONGRESS
1ST SESSION

H. R. 3985

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

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. FLORES (for himself and Mrs. LESKO) 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 “Every New Heart De-
5 serves a Chance Act of 2019”.

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. **Certain abortions prohibited**

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

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

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

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

18 shall be fined under this title or imprisoned not more than
19 5 years, or both. For purposes of this subsection, the pres-
20 ence of a fetal heartbeat may be detected through the use
21 of transabdominal ultrasonograph.

22 “(b) DEFENDANT MAY SEEK HEARING.—A defend-
23 ant indicted for an offense under this section may seek
24 a hearing before the State Medical Board on whether the
25 physician’s conduct was necessary to save the life of the

1 mother whose life was endangered by a physical disorder,
2 physical illness, or physical injury, including a life-endan-
3 gering physical condition caused by or arising from the
4 pregnancy itself, but not including psychological or emo-
5 tional conditions. The findings on that issue are admissible
6 on that issue at the trial of the defendant. Upon a motion
7 of the defendant, the court shall delay the beginning of
8 the trial for not more than 30 days to permit such a hear-
9 ing to take place.

10 “(c) EXCEPTIONS.—Subsection (a) does not apply
11 if—

12 “(1) in reasonable medical judgment, the abor-
13 tion is necessary to save the life of a pregnant
14 woman whose life is endangered by a physical dis-
15 order, physical illness, or physical injury, including
16 a life-endangering physical condition caused by or
17 arising from the pregnancy itself, but not including
18 psychological or emotional conditions;

19 “(2) the pregnancy is the result of rape against
20 an adult woman, and at least 48 hours prior to the
21 abortion—

22 “(A) she has obtained counseling for the
23 rape; or

24 “(B) she has obtained medical treatment
25 for the rape or an injury related to the rape; or

1 “(3) the pregnancy is a result of rape against
2 a minor or incest against a minor, and the rape or
3 incest has been reported at any time prior to the
4 abortion to either—

5 “(A) a government agency legally author-
6 ized to act on reports of child abuse; or

7 “(B) a law enforcement agency.

8 “(d) NO LIABILITY FOR THE MOTHER ON WHOM
9 ABORTION IS PERFORMED.—A mother upon whom an
10 abortion is performed may not be prosecuted under this
11 section, for a conspiracy to violate this section, or for an
12 offense under section 2, 3, or 4 of this title based on a
13 violation of this section.

14 “(e) REQUIREMENT FOR DATA RETENTION.—The
15 physician shall include in the medical file of the mother
16 documentation of the determination, according to stand-
17 ard medical practice, of whether the fetus has a detectable
18 heartbeat, the results of that determination, notification
19 of the mother of those results, and any information en-
20 tered into evidence in any proceedings under subsection
21 (b). Paragraph (j)(2) of section 164.530 of title 45, Code
22 of Federal Regulations, shall apply to such documentation.

23 “(f) SEVERABILITY.—If any provision of this section
24 or the application of such provision to any person or cir-
25 cumstance is held to be invalid, the remainder of this sec-

1 tion and the application of the provisions of the remainder
2 to any person or circumstance shall not be affected there-
3 by.”; and

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

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

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

“74. Abortions 1531”.

