

116TH CONGRESS
1ST SESSION

S. 1035

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

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2019

Mr. ROUNDS (for himself, Mr. LANKFORD, Mr. CRAMER, Mr. INHOFE, Mr. HAWLEY, Mrs. HYDE-SMITH, Mr. RISCH, Mr. DAINES, Mrs. BLACKBURN, Ms. ERNST, Mr. ENZI, Mr. THUNE, Mr. MORAN, and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and 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 2019”.

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 “(1) OFFENSE.—Any physician who, in or af-
4 fecting interstate or foreign commerce, knowingly
5 performs a dismemberment abortion and thereby
6 kills an unborn child shall be fined under this title,
7 imprisoned not more than 2 years, or both.

8 “(2) LIMITATION.—Paragraph (1) shall not
9 apply to a dismemberment abortion that is necessary
10 to save the life of a mother whose life is endangered
11 by a physical disorder, physical illness, or physical
12 injury, including a life-endangering physical condi-
13 tion caused by or arising from the pregnancy itself.

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

19 “(c) CIVIL REMEDIES.—

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

1 “(2) CIVIL ACTION BY A PARENT OF A MINOR
2 ON WHOM AN ABORTION IS PERFORMED.—A parent
3 of a minor upon whom an abortion has been per-
4 formed in violation of any provision of this section
5 may, in a civil action against any person who com-
6 mitted the violation, obtain appropriate relief, unless
7 the pregnancy resulted from the plaintiff’s criminal
8 conduct.

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

11 “(A) objectively verifiable money damages
12 for all injuries, psychological and physical, occa-
13 sioned by the violation;

14 “(B) statutory damages equal to 3 times
15 the cost of the abortion; and

16 “(C) punitive damages.

17 “(4) ATTORNEY’S FEES FOR PLAINTIFF.—The
18 court shall award a reasonable attorney’s fee as part
19 of the costs to a prevailing plaintiff in a civil action
20 under this subsection.

21 “(5) ATTORNEY’S FEES FOR DEFENDANT.—If a
22 defendant in a civil action under this subsection pre-
23 vails and the court finds that the plaintiff’s suit was
24 frivolous, the court shall award a reasonable attor-

1 ney’s fee in favor of the defendant against the plain-
2 tiff.

3 “(6) AWARDS AGAINST WOMAN.—Except as
4 provided in paragraph (5), in a civil action under
5 this subsection, no damages, attorney’s fee, or other
6 monetary relief may be assessed against the woman
7 upon whom the abortion was performed or at-
8 tempted.

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

16 “(e) DEFINITIONS.—In this section—

17 “(1) ABORTION.—The term ‘abortion’ means
18 the use or prescription of any instrument, medicine,
19 drug, or any 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) DISMEMBERMENT ABORTION.—The term
6 ‘dismemberment abortion’—

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

17 “(B) does not include an abortion that
18 uses suction to dismember the body of the un-
19 born child by sucking fetal parts into a collec-
20 tion container unless the actions described in
21 subparagraph (A) are used to cause the death
22 of an unborn child but suction is subsequently
23 used to extract fetal parts after the death of the
24 unborn child.

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

3 “(4) PHYSICIAN.—The term ‘physician’ means
4 a doctor of medicine or osteopathy legally authorized
5 to practice medicine and surgery by the State in
6 which the doctor performs such activity, or any
7 other individual legally authorized by the State to
8 perform abortions. Any individual who is not a phy-
9 sician or not otherwise legally authorized by the
10 State to perform abortions, but who nevertheless di-
11 rectly performs an abortion prohibited in this section
12 shall be subject to the provisions of this section.

13 “(5) UNBORN CHILD.—The term ‘unborn child’
14 means an individual organism of the species homo
15 sapiens, beginning at fertilization, until the point of
16 being born alive as defined in section 8(b) of title
17 1.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 74 of title 18, United States Code, is amended
20 by adding at the end the following:

“1532. Dismemberment abortion ban.”.

21 (c) CHAPTER HEADING AMENDMENTS.—

22 (1) CHAPTER HEADING IN CHAPTER.—The
23 chapter heading for chapter 74 of title 18, United
24 States Code, is amended by striking “**PARTIAL-**

1 **BIRTH ABORTIONS**” and inserting “**ABOR-**
2 **TIONS**”.

3 (2) TABLE OF CHAPTERS FOR PART I.—The
4 item relating to chapter 74 in the table of chapters
5 at the beginning of part I of title 18, United States
6 Code, is amended by striking “**Partial-birth**
7 **abortions**” and inserting “**Abortions**”.

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