

and Gynecologists, and the American Public Health Association state that the bill “. . . injects politicians into the patient-provider relationship, disregarding providers’ training and clinical judgement and undermining their ability to determine the best course of action with their patients.” The American Civil Liberties Union states that the bill “. . . shows a callous disregard for patients in need of compassionate, evidence-based care when they face difficult decisions.”

The majority of Americans want more access to reproductive healthcare, not less. More than 7 in 10 Americans do not want women to lose access to safe, legal abortion. In 1991, a majority of voters in the State of Washington passed the Washington Abortion Rights Initiative, declaring that a woman has a right to an abortion.

S. 311 is another misguided attempt to reduce women and families’ access to reproductive healthcare. I strongly oppose S. 311 and urge my colleagues to vote no.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. SASSE. Mr. President, I ask unanimous consent to speak for less than 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SASSE. Mr. President, over the course of this afternoon, we have heard a whole bunch of things about what is supposedly in this bill. I know that a lot of people who are opposed to this bill, the Born-Alive Abortion Survivors Protection Act, sincerely believe the talking points that they read from their staffs, but, humbly, we have heard speech after speech after speech about things that have absolutely nothing to do with what is actually in this bill.

So as you get ready to cast this vote, I urge my colleagues to picture a baby who has already been born, who is outside the womb, and who is gasping for air. That is the only thing that today’s vote is actually about. We are talking about babies who have already been born. Nothing in this bill touches abortion access.

Thank you.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 17, S. 311, a bill to amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion.

Mitch McConnell, David Perdue, Mike Crapo, Pat Roberts, John Cornyn, Johnny Isakson, James M. Inhofe,

Thom Tillis, Roger F. Wicker, Lindsey Graham, Ben Sasse, Roy Blunt, John Thune, John Boozman, John Barrasso, Joni Ernst, James E. Risch.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum calls have been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 311, a bill to amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Dakota (Mr. CRAMER), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from South Carolina (Mr. SCOTT).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 27 Leg.]

#### YEAS—53

Alexander	Fischer	Paul
Barrasso	Gardner	Perdue
Blackburn	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hawley	Roberts
Braun	Hoeven	Romney
Burr	Hyde-Smith	Rounds
Capito	Inhofe	Rubio
Casey	Isakson	Sasse
Cassidy	Johnson	Scott (FL)
Collins	Jones	Shelby
Cornyn	Kennedy	Sullivan
Cotton	Lankford	Thune
Crapo	Lee	Tillis
Cruz	Manchin	Toomey
Daines	McConnell	Wicker
Enzi	McSally	Young
Ernst	Moran	

#### NAYS—44

Baldwin	Hassan	Sanders
Bennet	Heinrich	Schatz
Blumenthal	Hirono	Schumer
Booker	Kaine	Shaheen
Brown	King	Sinema
Cantwell	Klobuchar	Smith
Cardin	Leahy	Stabenow
Carper	Markey	Tester
Coons	Menendez	Udall
Cortez Masto	Merkley	Van Hollen
Duckworth	Murphy	Warner
Durbin	Murray	Warren
Feinstein	Peters	Whitehouse
Gillibrand	Reed	Wyden
Harris	Rosen	

#### NOT VOTING—3

Cramer	Murkowski	Scott (SC)
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The PRESIDING OFFICER. As a reminder, expressions of approval or disapproval are not in order.

On this vote, the yeas are 53, the nays are 44.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Eric D. Miller, of Washington, to be United States Circuit Judge for the Ninth Circuit.

Mitch McConnell, David Perdue, Mike Crapo, Johnny Isakson, John Cornyn, Pat Roberts, James M. Inhofe, Thom Tillis, Roger F. Wicker, Lindsey Graham, Roy Blunt, John Thune, John Boozman, John Barrasso, James E. Risch, Richard Burr, John Hoeven.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Eric D. Miller, of Washington, to be United States Circuit Judge for the Ninth Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Dakota (Mr. CRAMER) and the Senator from Alaska (Ms. MURKOWSKI).

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

The PRESIDING OFFICER (Mr. SULLIVAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 46, as follows:

[Rollcall Vote No. 28 Leg.]

#### YEAS—51

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Isakson	Scott (FL)
Collins	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sullivan
Crapo	Lee	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Paul	Young

#### NAYS—46

Baldwin	Hassan	Rosen
Bennet	Heinrich	Schatz
Blumenthal	Hirono	Schumer
Booker	Jones	Shaheen
Brown	Kaine	Sinema
Cantwell	King	Smith
Cardin	Klobuchar	Stabenow
Carper	Leahy	Tester
Casey	Manchin	Udall
Coons	Markey	Van Hollen
Cortez Masto	Menendez	Warner
Duckworth	Merkley	Warren
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden
Gillibrand	Peters	
Harris	Reed	

#### NOT VOTING—3

Cramer	Murkowski	Sanders
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The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 46.

The motion is agreed to.

## EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Eric D. Miller, of Washington, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 311

Mrs. MURRAY. Mr. President, I am on the floor to talk about a vote that simply should not have taken place this evening. It was a vote on yet another attack from our Republican colleagues on women's health and their right to access safe, legal abortions—this time in the form of an anti-doctor, anti-woman, anti-family piece of legislation that medical experts strongly oppose. Republicans have spread a lot of misinformation about this bill, so let's be clear what it is not about and what it is actually about.

This bill is not about protecting infants, as Republicans have claimed, because that is not up for debate, and it is already the law. This bill is also not at all about ensuring that appropriate medical care is delivered, because it would make it harder for healthcare providers to provide high-quality medical care that their patients need and deserve.

The leading nonpartisan organization of OB/GYNs in our country has said this bill should never become law. It calls it "gross legislative interference into the practice of medicine" and "part of a larger attempt to deny women access to safe, legal, evidence-based abortion care." In fact, 17 top health and medical organizations wrote to Congress to insist that Democrats and Republicans vote this bill down.

Since this bill is not about infants or appropriate medical care, I am sure many people are wondering what exactly it is about. What would this bill really mean for women and families and healthcare providers?

If you are a woman, this bill would mean, if you were one of the very, very few women who needed an abortion late in your pregnancy, you could be legally required to accept inappropriate, medically unnecessary care—care that may directly conflict with your wishes at a deeply personal, often incredibly painful moment in your life—because politicians in Washington decided their beliefs mattered more than yours.

If you are a medical provider, this bill would supersede your years of medical training and your oath to deliver the best possible medical treatment to your patients. It would apply a one-size-fits-all set of requirements that does not reflect the reality that every pregnancy is different, and it would subject you to criminal penalties if you

were to choose to let medical standards, not politics, drive the care you offer to your patients.

For families who struggle with the painful reality that the children they had hoped for could not survive, as is tragically the case in many of the cases we are discussing, this legislation would take precedence over families' wishes as they grieve.

This bill is government interference in women's healthcare, in families' lives, and in medicine on steroids. As I said, it is anti-doctor, anti-woman, and anti-family. It has no place in becoming law. Its proponents claim it would make something illegal that is already illegal. So why are we debating this legislation that would take women backward when there are so many ways we should be advancing medicine, improving women's healthcare, and supporting families? As far as I can tell, it is because this bill is about something that Republicans care about more than almost any other priority; that, unfortunately, is the rolling back of women's constitutionally protected rights and trying to take us back in time before the *Roe v. Wade* decision.

Since day No. 1 of the Trump-Pence administration, this party has pulled every possible stop to appeal to its extreme anti-abortion base. Just last week, the Trump-Pence administration put forward a rule that would prevent healthcare providers at clinics that are funded through the title X family planning program from so much as informing patients about where to get an abortion even if that patient directly asks them for advice. This rule means trusted medical providers across the country may not be able to serve women and men who rely on them for contraception, cancer screenings, and more—all because Republicans are determined to make abortion impossible in the United States. That is just one of many examples.

To recap, this bill is completely unnecessary. It is harmful to women and families, and it would criminalize doctors. It is intended to do nothing except to help Republicans advance their goal of denying women their constitutionally protected rights. I am against it in the strongest terms. Everybody who cares about women, families, and doctors and about upholding the Constitution should be too, so I am glad the Senate voted tonight to stop this anti-doctor, anti-woman, anti-family bill from going a single step further.

The next time Republicans want to have a conversation about protecting infants and children, I am happy to talk about the babies and children who have been separated from their parents at the border or about improving access to early childhood education or about making sure coverage for maternal healthcare and preexisting conditions is not taken away. These are problems that do exist and that do need to be solved, and we are just as ready and willing to work on those as we are to stand up and say "absolutely not" to this harmful bill.

## NOMINATION OF ERIC D. MILLER

Mr. President, in the very near future, my Senate colleagues will be asked to take an unprecedented vote—a vote that never should have been scheduled here in the first place.

Republican leaders are demanding that we move ahead and vote on President Trump's nominee to serve on the Ninth Circuit Court despite the fact that I and my colleague Senator CANTWELL have not returned our blue slips on behalf of our constituents in Washington State and despite the fact that the hearing for the nominee was a total sham. This is wrong, and it is a dangerous road for the Senate to go down. Not only did Republicans schedule this nominee's confirmation hearing during a recess period when just two Senators—both Republicans—were able to attend, but the hearing included less than 5 minutes of questioning—less questioning for a lifetime appointment than most students face for a book report in school.

Confirming this Ninth Circuit Court nominee without the consent or true input of both home State Senators and after a sham hearing would be a dangerous first for this Senate.

This is not a partisan issue. This is a question of the Senate's ability and commitment to properly review nominees. Yet, here we are on the Senate floor, barreling toward a vote to confirm a flawed nominee, who came to us following a flawed nomination process—all because a handful of my Republican colleagues will apparently stop at nothing to jam President Trump's extreme conservatives onto our courts, even if that means trampling all over precedent, all over process, or any semblance of our institutional norms.

Maybe Republican leaders are hoping most Americans aren't paying attention to what is happening right now in the Senate—that somehow tossing out Senate norms in order to move our country's courts to the far right will go unnoticed.

Well, I am standing here right now to make sure everyone knows because I, for one, fear the short- and long-term consequences of letting any President steamroll the Senate on something as critical as our judicial nominees—the very men and women who are tasked with interpreting our Nation's laws and making sure they serve justice for all Americans.

I fear the consequences of abandoning the blue-slip process and, instead, bending to the will of a President who has demonstrated time and again his ignorance and disdain for the Constitution and the rule of law.

At a time when we have a President whose policies keep testing the limits of law—from a ban on Muslims entering the United States to a family separation policy at our southern border—it is very important, more than ever, that we have well-qualified, consensus judges on the bench.

Let's be very clear. Trump cannot steamroll the Senate by himself. But in