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116TH 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 11, 2019

Mr. KING of Iowa (for himself, Mr. MASSIE, Mr. GOSAR, Mr. DAVIDSON of Ohio, Mr. BIGGS, Mr. PALMER, Mr. FLEISCHMANN, Mr. DUNCAN, Mr. WEBER of Texas, Mr. PALAZZO, Mr. NORMAN, Mr. YOHO, Mr. MARSHALL, Mr. JONES, Mr. GOHMERT, Mr. CHABOT, Mr. WEBSTER of Florida, Mr. MEADOWS, Mr. HARRIS, Mr. LONG, Mr. CONAWAY, Mr. HILL of Arkansas, Mr. CLOUD, Mr. CRAWFORD, Mr. MOONEY of West Virginia, Mr. HIGGINS of Louisiana, Mr. KELLY of Mississippi, Mr. ABRAHAM, Mr. ADERHOLT, Mr. BANKS, Mr. BISHOP of Utah, Mr. PERRY, Mr. HICE of Georgia, Mr. ROUZER, Mr. WILLIAMS, Mr. CARTER of Texas, Mr. KELLY of Pennsylvania, Mr. GROTHMAN, Mr. HUDSON, Mr. AUSTIN SCOTT of Georgia, Mr. KUSTOFF of Tennessee, Mr. WESTERMAN, Mr. OLSON, Mr. HUIZENGA, Mr. LAMBORN, Mr. JORDAN, Mr. LATTA, Mr. ARRINGTON, Mr. BABIN, Mr. GUTHRIE, Mr. EMMER, Mr. BYRNE, Mr. RUTHERFORD, Mr. BILIRAKIS, Mr. WALKER, Mrs. LESKO, Mr. WOMACK, Mr. BACON, Mr. MOOLENAAR, Mr. RATCLIFFE, Mr. GIBBS, Mr. WITTMAN, Mr. ESTES, Mr. GIANFORTE, Mr. FORTENBERRY, Mr. HOLDING, Mr. BUDD, Mr. ALLEN, Mr. SMITH of Nebraska, Mr. LAHOOD, Mrs. WAGNER, Mr. DUNN, and Mr. CARTER of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Heartbeat Protection Act of 2019''.

SEC. 2. ABORTIONS PROHIBITED WITHOUT A CHECK FOR FETAL HEARTBEAT, OR IF A FETAL HEARTBEAT IS DETECTABLE.

(a) ABORTIONS PROHIBITED WITHOUT A CHECK FOR FETAL HEARTBEAT, OR IF A FETAL HEARTBEAT IS DETECTABLE.—Chapter 74 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking ''**PARTIAL-BIRTH**'';

(2) by inserting after section 1531 the following:

''§ 1532. Abortions prohibited without a check for fetal heartbeat, or if a fetal heartbeat is detectable

''(a) OFFENSE.—Any physician who knowingly performs an abortion and thereby kills a human fetus—

''(1) without determining, according to standard medical practice, whether the fetus has a detectable heartbeat;

''(2) without informing the mother of the results of that determination; or

''(3) after determining, according to standard medical practice, that the fetus has a detectable heartbeat,

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

''(b) DEFENDANT MAY SEEK HEARING.—A defendant indicted for an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, but not including psychological or emotional conditions. The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

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

''(d) REQUIREMENT FOR DATA RETENTION.—The physician shall include in the medical file of the mother documentation of the determination, according to standard medical practice, of whether the fetus has a detectable heartbeat, the results of that determination, notification of the mother of those results, and any information entered into evidence in any proceedings under subsection (b). Paragraph (j)(2) of section 164.530 of title 45, Code of Federal Regulations, shall apply to such documentation.

''(e) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be invalid, the remainder of this section and the application of the provisions of the remainder to any person or circumstance shall not be affected thereby.''; and

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

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

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

"74. Abortions ..... 1531".

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