

Pursuant to House Resolution 5, the previous question is ordered on the resolution.

The question is on adoption of the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NADLER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

BORN-ALIVE ABORTION SURVIVORS PROTECTION ACT

Mr. JORDAN. Madam Speaker, pursuant to House Resolution 5, I call up the bill (H.R. 26) 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, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 5, the bill is considered read.

The text of the bill is as follows:

H.R. 26

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 "Born-Alive Abortion Survivors Protection Act".

SEC. 2. FINDINGS; CONSTITUTIONAL AUTHORITY.

(a) FINDINGS.—Congress finds as follows:

(1) If an abortion results in the live birth of an infant, the infant is a legal person for all purposes under the laws of the United States, and entitled to all the protections of such laws.

(2) Any infant born alive after an abortion or within a hospital, clinic, or other facility has the same claim to the protection of the law that would arise for any newborn, or for any person who comes to a hospital, clinic, or other facility for screening and treatment or otherwise becomes a patient within its care.

(b) CONSTITUTIONAL AUTHORITY.—In accordance with the above findings, Congress enacts the following pursuant to Congress' power under—

(1) section 5 of the 14th Amendment, including the power to enforce the prohibition on government action denying equal protection of the laws; and

(2) section 8 of article I to make all laws necessary and proper for carrying into execution the powers vested by the Constitution of the United States, including the power to regulate commerce under clause 3 of such section.

SEC. 3. BORN-ALIVE INFANTS PROTECTION.

(a) REQUIREMENTS PERTAINING TO BORN-ALIVE ABORTION SURVIVORS.—Chapter 74 of title 18, United States Code, is amended by inserting after section 1531 the following:

“§1532. Requirements pertaining to born-alive abortion survivors

“(a) REQUIREMENTS FOR HEALTH CARE PRACTITIONERS.—In the case of an abortion or attempted abortion that results in a child born alive (as defined in section 8 of title 1,

United States Code (commonly known as the ‘Born-Alive Infants Protection Act’):

“(1) DEGREE OF CARE REQUIRED; IMMEDIATE ADMISSION TO A HOSPITAL.—Any health care practitioner present at the time the child is born alive shall—

“(A) exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as a reasonably diligent and conscientious health care practitioner would render to any other child born alive at the same gestational age; and

“(B) following the exercise of skill, care, and diligence required under subparagraph (A), ensure that the child born alive is immediately transported and admitted to a hospital.

“(2) MANDATORY REPORTING OF VIOLATIONS.—A health care practitioner or any employee of a hospital, a physician's office, or an abortion clinic who has knowledge of a failure to comply with the requirements of paragraph (1) shall immediately report the failure to an appropriate State or Federal law enforcement agency, or to both.

“(b) PENALTIES.—

“(1) IN GENERAL.—Whoever violates subsection (a) shall be fined under this title or imprisoned for not more than 5 years, or both.

“(2) INTENTIONAL KILLING OF CHILD BORN ALIVE.—Whoever intentionally performs or attempts to perform an overt act that kills a child born alive described under subsection (a), shall be punished as under section 1111 of this title for intentionally killing or attempting to kill a human being.

“(c) BAR TO PROSECUTION.—The mother of a child born alive described under subsection (a) may not be prosecuted under this section, for conspiracy to violate this section, or for an offense under section 3 or 4 of this title based on such a violation.

“(d) CIVIL REMEDIES.—

“(1) CIVIL ACTION BY A WOMAN ON WHOM AN ABORTION IS PERFORMED.—If a child is born alive and there is a violation of subsection (a), the woman upon whom the abortion was performed or attempted may, in a civil action against any person who committed the violation, obtain appropriate relief.

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

“(A) objectively verifiable money damage for all injuries, psychological and physical, occasioned by the violation of subsection (a);

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

“(C) punitive damages.

“(3) ATTORNEY'S FEE FOR PLAINTIFF.—The court shall award a reasonable attorney's fee to a prevailing plaintiff in a civil action under this subsection.

“(4) ATTORNEY'S FEE FOR DEFENDANT.—If a defendant in a civil action under this subsection prevails and the court finds that the plaintiff's suit was frivolous, the court shall award a reasonable attorney's fee in favor of the defendant against the plaintiff.

“(e) DEFINITIONS.—In this section the following definitions apply:

“(1) ABORTION.—The term ‘abortion’ means the use or prescription of any instrument, medicine, drug, or any other substance or device—

“(A) to intentionally kill the unborn child of a woman known to be pregnant; or

“(B) to intentionally terminate the pregnancy of a woman known to be pregnant, with an intention other than—

“(i) after viability, to produce a live birth and preserve the life and health of the child born alive; or

“(ii) to remove a dead unborn child.

“(2) ATTEMPT.—The term ‘attempt’, with respect to an abortion, means conduct that,

under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in performing an abortion.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 74 of title 18, United States Code, is amended by inserting after the item pertaining to section 1531 the following:

“1532. Requirements pertaining to born-alive abortion survivors.”.

(c) CHAPTER HEADING AMENDMENTS.—

(1) CHAPTER HEADING IN CHAPTER.—The chapter heading for chapter 74 of title 18, United States Code, is amended by striking “Partial-Birth Abortions” and inserting “Abortions”.

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

The SPEAKER pro tempore. The bill shall be debatable for 1 hour equally dividing the control by the majority leader and minority leader or their respective designees.

The gentleman from Ohio (Mr. JORDAN) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. JORDAN).

GENERAL LEAVE

Mr. JORDAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to enter extraneous materials on H.R. 26.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. JORDAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 26, the Born-Alive Abortion Survivors Protection Act. In simple terms: Life is precious, life is sacred, all life, including unborn children, but that is not what this legislation is about.

This legislation is about those kids who are born alive making sure they get protected. For over 40 years, the decision in *Roe v. Wade*, as Justice Alito has stated, inflamed debate and deepened division over the issue of abortion in this country.

We have seen that play out over the last year, but what should be undisputed is the care of a child who is born alive after an attempted abortion.

Unfortunately, as evidenced by comments from prominent Democrats, not everyone believes that a child born alive should be protected.

We all know in 2019, then-Governor Northam of the State of Virginia stated this: The infant would be delivered, the infant would be kept comfortable, the infant would be resuscitated if that is what the mother and the family desired, and then a discussion would ensue between the physicians and the mother.

Think about that. It is not just anybody saying that. It is the Governor of one of our largest States. The cavalier

attitude he displayed toward human life is just wrong.

H.R. 26 would require healthcare practitioners to give the same level of care to a child born alive after an abortion or an attempted abortion as the child at that same gestational age. Work to save the kid's life, work to help that newborn. It would also require the immediate transfer of the surviving infant to a hospital.

This legislation requires healthcare practitioners or other employees to report any violations of this provision to State or Federal law enforcement for criminal prosecution.

In addition, H.R. 26 provides the mother of an abortion survivor with a civil right of action against the healthcare practitioner who fails to provide the required level of care.

It is simple. Infants born alive following an abortion are kids. They are children. All newborns deserve the same level of care.

In the Declaration of Independence, our Founding Fathers declared that it was life, liberty, and the pursuit of happiness that are the unalienable rights bestowed on us by our Creator.

Congress has a duty to protect these fundamental rights. This should be an easy vote for all Members.

I thank my colleagues, Representatives ANN WAGNER and KAT CAMMACK, for their diligent work on this legislation, and I urge all Members to support it.

Madam Speaker, I reserve the balance of my time.

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Mr. NADLER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong opposition to H.R. 26, the so-called Born-Alive Abortion Survivors Protection Act.

Despite what its supporters would have us believe, this legislation would do nothing to enhance protections or the quality of healthcare if an infant is born after an attempted abortion. What it would do, however, is directly interfere with a doctor's medical judgment and dictate a medical standard of care that may not be appropriate in all circumstances, which could, in fact, put infants' lives at greater risk.

Finally, by beginning this new Congress with a bill to restrict women's healthcare nationwide, House Republicans have made clear that they will not stop until they reach their ultimate goal, a nationwide ban on abortion.

It has always been the law that healthcare providers cannot deliberately harm newborn infants and that they must exercise reasonable care in their treatment of such infants. The bill's implication that providers who perform abortions routinely act in a callous or a criminal manner that would result in an infant's death, or that a provider who performs an abortion somehow cannot be trusted to

take adequate measures to save a living baby's life, is insulting and untrue.

In opposing this bill, I do not oppose, in any way, proper medical treatment for newborn infants, whatever the circumstances of their birth, but determining the proper treatment is for medical professionals to decide, not politicians in Congress.

When I supported the Born-Alive Infants Protection Act in 2002, my reasoning, and the reasoning of my pro-choice colleagues, was simple: Killing an infant who is born alive, either by an act of omission or commission, is infanticide. It was, is, and always should be against the law, and we saw no harm in reaffirming that fact.

That law passed Congress with bipartisan support precisely because it was harmless, even if it was also useless since it did not change the preexisting law in any way because, after all, murder is murder in every State.

The bill specifically just reiterated existing law in florid language and did nothing to interfere with doctors' medical judgment or to cause needless harm.

Unfortunately, the bill before us today puts children's lives and health at risk. It requires doctors to immediately ensure transportation and admission of the infant to a hospital in all cases, with no regard as to whether doing so is actually in the best interest of the child's health and well-being.

This mandate effectively overrides the careful case-by-case exercise of professional medical judgment by healthcare providers and replaces it with a blanket rule enforceable with criminal penalties. It may be, after all, in a given case, that it is more beneficial to the infant's health to be treated on the spot and not rushed to a hospital immediately.

Such a ham-fisted approach fails to consider the fact that, in many cases, it may be safer and more conducive to the infant's health to care for the infant where it was born rather than transporting it many miles away to a hospital.

This bill assumes that Congress knows better, and it imposes a new obligation on providers that, rather than saving lives, puts infants at risk.

Perhaps, if this bill had gone through regular order, we could have avoided this unfortunate situation. There has never been a committee markup or a hearing on this bill, not in this Congress or in any previous Congress.

I would have welcomed the opportunity to hear from expert witnesses on best practices and standards of care for infants. Members could have offered amendments and perfected the bill to ensure that it achieves our common goal of providing the best, most medically appropriate care to infants and their mothers.

I am disappointed, but not surprised, that my colleagues rushed this bill to the floor when there is no evidence at all that doctors currently are failing to provide an appropriate level of care

and when a chorus of provider groups oppose this bill.

Sadly, rather than protecting infants, my Republican colleagues are putting them at greater risk in the service of politics. Indeed, by bringing this bill straight to the floor as one of the first measures to be considered by the 118th Congress, Republicans and the most extreme elements of the anti-abortion movement have signaled their determination to enact a nationwide ban on abortion.

I cannot support H.R. 26 because it mandates a particular course of treatment, the immediate transport to a hospital, which may not be appropriate and may be medically dangerous in certain cases. In doing so, it abandons the practice of considering the best medical interest of infants and their mothers.

Republicans have made clear where they stand about a woman's right to control her body. Make no mistake: This bill is another step in their plan to criminalize abortion nationwide.

Madam Speaker, I urge my colleagues to reject this ill-conceived legislation, and I reserve the balance of my time.

Mr. JORDAN. Madam Speaker, I point out this bill has passed multiple times in previous Congresses, the exact same language, and it has passed with bipartisan support.

Madam Speaker, I yield 5 minutes to the gentlewoman from the State of Missouri (Mrs. WAGNER), the sponsor of the legislation who has worked tirelessly on this good piece of legislation.

Mrs. WAGNER. Madam Speaker, I thank my good friend and colleague, a champion for life, our chair of the Judiciary Committee, JIM JORDAN.

I rise today, Madam Speaker, in support of H.R. 26, the Born-Alive Abortion Survivors Protection Act. I have championed this issue for decades, and I have been blessed and honored to lead this legislation since 2019.

I am so grateful to the co-leads of this bill, Representative KAT CAMMACK and our Majority Leader, STEVE SCALISE; to the leadership of this Congress; and especially to the thousands of champions of life across the country for their tireless work and support of the most vulnerable Americans, unborn and newborn infants.

Thanks to these efforts, after dozens of unanimous consent requests, two discharge petitions, and countless hours of advocacy work, the House will, at last, take action to ensure that every single baby born in the United States receives lifesaving medical care at their most vulnerable moment.

All children should be welcomed with joy and wonder, no matter the circumstances of their birth. Yet, too many of these sweet little ones are denied the medical care they need to survive and thrive simply because they were unwanted.

This commonsense legislation will require healthcare providers to administer the same level of care to the babies who survive abortions that they

would to any other child born at the same gestational age.

I hope that my colleagues on the other side of the aisle will, again, join me in supporting the Born-Alive Abortion Survivors Protection Act, as some did, as our chairman mentioned, when it passed the House in both 2015 and 2018 with bipartisan support.

To that point, I want to be absolutely clear that this bill has nothing to do with the Supreme Court's decision in *Dobbs* to return abortion to the States. Not a word of the born-alive act obstructs States' ability to implement *Dobbs* as they see fit.

I strongly believe that States should control pro-life policymaking, just as I support exceptions for rape, incest, and the life of the mother, but today, we are considering an entirely separate issue. We are considering the protection of infants that have been delivered alive after an attempted abortion. That is it, plain and simple.

I implore my Democratic colleagues to put aside politics and stand in support of lifesaving care for these innocent newborns.

We must remember today that children are not the only victims of born-alive abortions. Women, fathers, and whole families all suffer deeply from the loss of a child. Our communities are weaker because these bright young ones did not grow up to share their wisdom, laughter, and ingenuity with all of us.

Just down the hall a little bit later this afternoon, we will meet with extraordinary women who survived abortions. When they entered the world, they were not greeted with the profound love and all that I felt when I held my children and grandchildren for the first time. Instead, they were left to die.

They are alive today because of courage and grace, mostly of nurses who chose to act as they struggled for breath. Each of these women has built a happy, healthy life, bringing light and joy to their friends and families and enriching their communities. They inspire us all.

As a mother and grandmother, they affirm my belief in a culture of life for children, born and unborn, and their mothers and families. Every single newborn, regardless of the circumstances of their birth, deserves to share the miracle of life and have lifesaving medical care.

We must act with compassion to protect these little ones and give women a strong support system as they navigate the miracles and challenges of motherhood. This bill will save real lives, and it will give survivors a precious chance to build a future.

Madam Speaker, I urge every Member of the House to vote "yes" on H.R. 26, the Born-Alive Abortion Survivors Protection Act.

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentleman from New York (Mr. JEFFRIES), the distinguished minority leader of the House.

Mr. JEFFRIES. Madam Speaker, I thank the distinguished gentleman from New York for yielding and all my colleagues for their continued leadership on this incredibly important issue.

The 118th Congress has begun, and the differences between our side of the aisle and the other side of the aisle couldn't be any clearer.

Let me, of course, reiterate that, as Democrats, we look forward to trying to find common ground whenever and wherever possible to solve issues of consequence on behalf of the American people, but we will oppose extremism whenever it rears its ugly head.

Democrats have made clear that we are going to continue to work on issues like lowering costs, better-paying jobs, safer communities, defending democracy, protecting the public interest, ensuring economic opportunity in every single ZIP Code, and, yes, fighting for reproductive freedom.

My Republican colleagues, you promised to come to Washington to fight for the American people but have spent a lot of time fighting each other on politics, power, and personality, not working on issues related to the public interest. That is what the last few days have indicated, an extreme MAGA Republican agenda.

Now that you are getting into substance, on Monday, you passed a bill designed to allow the wealthy, the well-off, and the well-connected to cheat on their taxes, subsidize the lifestyles of the rich and shameless, benefit millionaires and billionaires, not working-class families, not middle-class families, not low-income families, not veterans, not everyday Americans, the wealthy, the well-off, and the well-connected. That was on Monday.

Then, on Tuesday, you came to the floor and passed a select committee on insurrection protection, a committee that is clearly designed, in the words of some of my colleagues on the other side of the aisle, to obstruct justice as part of your evident desire, as many of you have said, to eventually defund the FBI. That was Tuesday.

Now, on Wednesday, you come to the floor with nothing on inflation, nothing on quality-of-life issues for the American people, nothing even on public safety. You come to the floor as part of your march to criminalize abortion care, to impose a nationwide ban, to set into motion government-mandated pregnancies.

That is the distinction for today. As Democrats, we believe in a woman's freedom to make her own reproductive healthcare decisions, period, full stop, decisions that should be between a woman, her family, and her doctors, period, full stop.

We believe in *Roe v. Wade*. Do you wonder about our position? That is it. The Women's Health Protection Act, that is it. Freedom to make your own reproductive healthcare decisions, that is it. As compared to a clear effort—that is what this bill is about today, a march toward criminalizing abortion

care, a nationwide ban, government-mandated pregnancies, part of an extreme MAGA Republican agenda.

□ 1400

So, yes, we continue to extend our hand of partnership if you truly want to work on quality-of-life issues, but we haven't seen it. We haven't seen it on Monday, we haven't seen it on Tuesday, and we are not seeing it today.

Madam Speaker, we oppose this bill. We oppose an extreme MAGA-Republican agenda. Let's get back to the business of the American people.

Mr. JORDAN. Madam Speaker, I would point out, the minority leader said their position is *Roe v. Wade*. Their position is real simple and it is real radical. Their position is you should be able to take the life of an unborn child right up until their birthday, and then as Governor Northam has said, even after their birthday. That is what this bill seeks to stop and to make sure that it doesn't happen.

That is as radical as you can get, taking the life of unborn children right up to their birth day. And then, as Governor Northam pointed out, even after that. We want to make sure that "even after that" part never happens because we believe life is precious and life is sacred.

Madam Speaker, I yield 3 minutes to the gentlewoman from Florida (Mrs. CAMMACK), one of the cosponsors of this legislation.

Mrs. CAMMACK. Madam Speaker, I rise today in strong support of H.R. 26, the Born-Alive Abortion Survivors Protection Act. This bill does exactly what the title says, which in this town is a novel concept.

Madam Speaker, I thank my colleague, ANN WAGNER, for her tireless efforts. I thank our majority leader, STEVE SCALISE, for his efforts on this issue. And, of course, I thank Chairman JIM JORDAN of the Judiciary Committee for being such an advocate for the pro-life community.

Today, we are not talking about abortion. We are talking about children. We are talking about children who have been born and are fighting to survive despite an abortion attempt. In some cases when a woman receives a late-term abortion, the baby can be born alive following the procedure.

Federal law currently recognizes these babies as persons but fails to outline any requirements of care after the infant is born alive. H.R. 26 would rectify this by requiring healthcare practitioners to treat any child born alive after an abortion as they would any infant and requires that the infant be immediately treated with lifesaving care and transported to a hospital. I honestly do not understand what is so controversial about that.

Madam Speaker, this bill establishes criminal penalties for any healthcare practitioner or abortion clinic employee who fails to comply with the requirements established by this bill, because let's face it, no one can deny that

a child who survives an abortion attempt, who is outside the womb, breathing, and struggling for life, despite all attempts to end it, doesn't deserve equal protection under the law. Under our law, murder is illegal. That shouldn't be a controversial position.

Eight babies in Florida alone, just last year, eight babies were reported to have been born alive during an abortion attempt. The stories are horrific. One that sticks out in particular was an NBC report in 2006. They told the story of a 23-week-old baby boy that was born alive at an abortion clinic in Hialeah, Florida. When he began breathing and moving, the abortion clinic owner, Belkis Gonzalez, reportedly cut the umbilical cord and zipped him into a biohazard bag where he then died. It is hard to read those words.

But as has been stated here on this floor in this Chamber, this isn't about pro-life versus pro-choice. This is about protecting those most vulnerable. It is about who we are as a society, who we are as a people, and who we are as Americans.

I hope that both sides of this Chamber can agree that accountability is a good thing. Protecting these children is a good thing. It is time to put the party politics aside and the talking points aside and give these children, wanted or unwanted, a fighting chance, a chance that they all deserve.

The SPEAKER pro tempore. The Chair reminds Members to direct their remarks to the Chair.

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentlewoman from Pennsylvania (Ms. DEAN), a member of the Judiciary Committee.

Ms. DEAN of Pennsylvania. Madam Speaker, it is a crime now to kill a child born alive. In fact, in May of 2013, a Philadelphia man was convicted of first degree murder in the killing of three infants. He is now serving life without parole.

Either my colleagues on the other side of the aisle are unaware of this already existing crime with a penalty of life without parole, or this is another extreme political stunt.

Let me be clear: Abortion care is healthcare, and that has been true for a very long time. My colleagues on the other side of the aisle are not interested in medical truths. No. Instead, they are interested in scaring people, outlawing all abortions and criminalizing anyone they can.

Politicians have no business making unsound medical decisions. We are legislators, not doctors.

In the unfortunate case when a child is born with fatal disabilities, this legislation will deny parents a say in how their child spends the final minutes, hours, or days of his or her life, whether hooked up to a medical device or in the arms of their parents.

Expectant parents have enough worries. They should not have to worry about extreme politicians in their doctor's office or hospital thinking they somehow know better.

Madam Speaker, I urge my colleagues to vote "no" on H.R. 26.

Mr. JORDAN. Madam Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. VAN ORDEN).

Mr. VAN ORDEN. Madam Speaker, I was a corpsman, that is a combat medic, in the Navy SEAL teams for over 20 years, and I would like to give you a different perspective.

If I were to encounter an enemy combatant on the battlefield who was wounded, which I have, I was obligated by international law to render medical care to that enemy combatant to the best of my ability, up to and including to the detriment of my own troops, or I would be subject to prosecution.

I find it absurd, I find it unconscionable that this would be a matter of discussion in this body that we would not render medical aid to the most innocent amongst us, an unborn child that is born alive after the most traumatic circumstances possible.

Madam Speaker, I would implore my Democratic colleagues to remember that this is not about a woman's access to abortion. This is about the sanctity of life and the basic dignity of a human child.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Pennsylvania (Ms. SCANLON), a member of the Judiciary Committee.

Ms. SCANLON. Madam Speaker, I rise today to oppose this grotesque attempt to politicize abortion care and criminalize doctors.

Politicians should not be in the business of mandating that women carry dangerous or unwanted pregnancies to term. They should stay out of the doctor's office when Americans are exercising their fundamental right to decide when or if to have children.

But rightwing extremists have made it their first order of business in this new Congress to attack abortion rights and spread disinformation.

This bill is deliberately misleading. It is harmful to both people facing pregnancy complications and to the doctors who provide their care. If passed, it would cause more maternal deaths in this country, which are already a national shame.

Congress has a responsibility to legislate honestly, and this bill is not honest. The American people deserve better than having Congress waste time on political stunts, pretending to fix problems that do not exist.

Americans don't want MAGA extremists to criminalize women's healthcare, and they don't want politicians in their doctor's offices.

Mr. JORDAN. Madam Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. BURCHETT), my friend.

Mr. BURCHETT. Madam Speaker, I appreciate my friend, Chairman JORDAN, yielding to me. I thank my friend, Representative ANN WAGNER, for introducing this important bill again—no better person than a mama and a grandmama—and she does a good job at both of those.

Madam Speaker, babies deserve a chance to live. They deserve a chance at life no matter their age or their circumstance. The Constitution says that people have a right to life. The science says babies are people.

The Democrats have been pushing, trust the science. Follow the science. Trust the science. Follow the science, the last 2 years. Yet, we are denying the science, Madam Speaker.

When I was a little boy, I was asking my mama—we were talking about abortion and we were talking about babies being born that were maybe disabled or had some other anomaly, and I said: Mama, what would we do if one of those babies was born and I was the father of one of those little babies?

And she said: Honey, we would love that baby just a little more.

Madam Speaker, we need to love those babies just a little more and not murder them.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut (Ms. DELAURO), the ranking member of the Appropriations Committee.

Ms. DELAURO. Madam Speaker, I rise in strong opposition to the latest attempt by House Republicans to control women's reproductive freedom, a ruse to ban safe and legal abortions in this country. This legislation purports to address something that does not happen.

The hypotheticals some of my colleagues described are not based in fact. Their arguments are untrue and do not represent how medicine actually works. Their suggestions are not only false, but they are callous.

The truth is abortions that occur after 3 months of pregnancy account for only 1 percent of all abortions, and they occur almost exclusively because a woman's life is at risk or her pregnancy is not viable. We should not be in the business of enacting laws that make these difficult and painful situations worse.

What is not hypothetical is the real pain and suffering that politicians across this country are imposing as they continue to chip away at what should be an essential right.

A woman must have the right to make health decisions that are in the best of interest of themselves, their family, and their circumstances.

Madam Speaker, I urge my colleagues to oppose this sham piece of legislation.

Mr. JORDAN. Madam Speaker, I yield 1 minute to the gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. Madam Speaker, I thank the chairman for yielding. It sounds really good to call him Mr. Chairman. He is going to do a great job for us and the American people, more importantly.

Madam Speaker, I rise today in support of H.R. 26, the Born-Alive Abortion Survivors Protection Act.

Since my first year in office, I have shown a strong commitment to promoting a culture of life. The bill before

us requires practitioners who are present for an attempted abortion, resulting in a live birth, to exercise the same degree of care that would be offered to any other child born of that gestational age. After those efforts, the healthcare workers must admit the child to a hospital.

This bill also gives mothers a civil cause of action and protection from any prosecution, recognizing that women are the second victims of abortion and attempted abortions.

Madam Speaker, I urge all my colleagues to support this important piece of legislation because, surely, we can all agree that a child born alive has a right to live.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON LEE), a member of the Judiciary Committee.

Ms. JACKSON LEE. Madam Speaker, I would say: Here we go again. For those of us who have served in the United States Congress, this is: Here we go again.

This is legislation that is attempting to be wrapped in mercy that is without mercy. First of all, it is without fact. It is extremely important to know that if you were here in the United States Congress you know the history because we have already passed the bipartisan Born-Alive Infants Protection Act, which reiterates the fact that it is illegal to interfere with a newborn. They are protected from both intentional harm by healthcare providers and harm from medical negligence—plain and simple, period at the end of the sentence.

Why are we here today?

We are here today for news clips. We are here today for quotes and condemnation of the other side of the aisle that wants to be reckless with the life of a child.

□ 1415

I can assure you, Madam Speaker, that those of us who have given birth and those of us who have lost in the birth process are extreme lovers of those wonderful opportunities of life.

I refuse and reject condemnation of my personal self because I believe these decisions are with a God—the woman's God and the families' God—her faith, doctors, and, of course, the persons who are a part of the medical profession.

I have article after article that talks about the tragedy of partial-birth abortion, which is the name used more than a decade ago. They always find creative names to be able to be criminalized.

We heard from a member of the Rules Committee who said: How dare you grab up a child, put them in an ambulance, and take them hundreds of miles away from their family?

Or maybe the family who found out that the multiple abnormalities of their child would not allow them to live, and they had waited 8 years for this wonderful baby. The decisions, un-

fortunately, of neither life nor death come easily for these children. There is a painful existence marked by periods of breathing cessation and seizures when they are born.

Because my OB was unable to get a good image of the brain until the 13th week, we understand that these are personal decisions. We understand that these are painful decisions.

So I stand with those families, I refuse to condemn those families, and I refuse to be merciless. I am giving mercy in voting against this legislation. I am voting against it now.

Madam Speaker, I rise in strong opposition to H.R. 26, the BornAlive Abortion Survivors Protection Act, which would establish requirements for the degree of care a health care practitioner must provide in the case of a child born alive following an abortion or attempted abortion.

In the first week of the 118th Congress, extreme MAGA Republicans are launching attacks on reproductive freedom, intruding on medical decision-making, and keeping their promise to criminalize abortion nationwide with no exceptions.

H.R. 26 is a clear attack on health care providers and attempts to evoke power over the care that they provide to patients.

When the Senate attempted to pass this bill in 2019, 17 medical and public health organizations sent a letter in strong opposition to the bill stating that it represented "a dangerous government intrusion into private health care decisions".

This bill undermines medical professionals' training and critical judgment, minimizing their ability to determine the best medical treatment for their patients.

Medical professionals abide by a Code of Ethics during their career.

For lawmakers to undermine the work of medical professionals and attempt to prosecute them for doing what is right for their patients is inappropriate and misdirected.

This bill is a direct way to compromise the health and safety of patients.

A 2015 study published by the New England Journal of Medicine states that a baby's viability is the determining factor in the care that they receive.

The study states that "active intervention for infants born before 22 weeks gestation is generally not recommended, whereas the approach for infants born at or after 22 weeks of gestation varies."

Seeing that there are already standards in place to determine level of care, why should we as lawmakers intervene to override what medical professionals agree is the most appropriate medical treatment warranted by the circumstances.

To suggest that medical professionals would not provide equal and adequate medical attention to all patients is thoughtless, insulting, and uncivil.

For a party that advocated for minimal federal government interference and big government, Republicans are attempting to increase the federal government's jurisdiction over local governments.

Why should we as lawmakers seek to prosecute medical professionals that are simply doing their job?

This bill would force medical professionals to worry about criminal penalties and legislative interpretation when the appropriate medical care is already laid out.

This bill would remove a medical professional's ability to make the medically sound decision for their patient without government interference and the threat of repercussions.

This bill endangers infants because it puts Republican wishes ahead of appropriate medical care.

H.R. 26, Born-Alive Abortion Survivors Protection Act, is dangerous to both medical professionals and patients. Medical professionals would be placed under unnecessary scrutiny, when legislation and protocols are already in place for this situation.

I encourage my colleagues to join me in opposing this bill that would establish requirements for the degree of care a health care practitioner must provide in the case of a child born alive following an abortion or attempted abortion.

Mr. Speaker, I include in the RECORD a statement written by Audrey Eisen titled: "How The Abortion Ban Debate Became My Story."

[From ACLU, Feb. 2, 2009]

HOW THE ABORTION BAN DEBATE BECAME MY STORY

(By Audrey Eisen)

I never thought that so-called "partial-birth abortion" would ever have anything to do with me. Why would it? I'm 34 years old and I desperately want children. My husband and I have been together for eight years, married for four, and trying to have a baby for two. Abortion was not something I thought much about.

But earlier this year, all that changed.

In November of 2002, after fighting infertility and experiencing the sadness of a miscarriage in July, we were thrilled to find ourselves pregnant again. While still apprehensive, we consciously decided to be excited—another loss would hurt just the same, regardless of whether or not we had allowed ourselves to be happy.

In the first few months, my endocrinologist performed regular ultrasounds to ensure that the embryo was developing normally. It was such a treat to be able to see our child growing. I kept the pictures and my thoughts in a pregnancy journal.

When it became evident that we were going to make it through the first trimester, my endocrinologist referred me to an obstetrician (OB). At my first appointment, the nurse put a fetal heart monitor on my belly and, much to our amazement, from a seemingly great distance, we heard the characteristic "whoosh" of our child's heartbeat. We were on top of the world thinking that, for sure, this one was going to make it.

At 13 weeks, however, all this changed abruptly when, during a routine ultrasound exam, my OB discovered our child had

polydactyly (more than the normal number of digits). While at first we thought it was just the hands, we later learned that the feet were affected as well. At the time, my husband and I thought it was no big deal—we had both known people with an extra finger, and we were prepared to help our child live with the condition. However, we soon found out that an extra toe or finger were the least of our concerns: polydactyly is associated with over 100 syndromes, most commonly Trisomy 13.

Trisomy 13 is characterized by multiple abnormalities, many of which are not compatible with life beyond a couple of months. Most fetuses with Trisomy 13 die in utero; of those who make it to birth, almost half do not survive past the first month; roughly three-quarters die within 6 months. Long-term survival is one year. Unfortunately, neither life nor death come easily for these children—their is a painful existence marked by periods of breathing cessation and seizures. Because my OB was unable to get a good image of the brain during the 13th week ultrasound, we returned at 15 weeks.

The first thing my OB examined during this visit was the fetal brain. He didn't say a word. I could tell he was holding something back and asked that he tell me what he saw. He said, "It is not normal." The rest of the scan was a blur as tears ran down my cheeks and those of my mother and husband, who had accompanied me to the doctor's office that day. Following the scan, the doctor left us alone to compose ourselves. I cried with my whole body, from the depths of my soul.

Shortly thereafter, I had other tests. These confirmed that our baby had Trisomy 13.

At this point we discussed our options with a genetic counselor. My husband and I both felt strongly that we did not want our child to suffer; we decided to terminate the pregnancy as soon as possible. I had an abortion on the first day of my 16th week of pregnancy.

Soon after I had the procedure, I began to see news stories about a new federal "partial birth abortion" ban. Like many Americans, following the press on this issue over the past several years, I had thought, "My God, this must be something horrible." But as I mourned the loss of my much-desired pregnancy, I came to realize that if such legislation passed, the right to safe second-trimester abortions like the one I had might not remain available to those women who come after me. While proponents of this ban claim that it is aimed at one procedure performed late in pregnancy, the reality is that it would prohibit the safest and most common procedures used in the second trimester, well before fetal viability. Without access to this care, I don't know how women will endure if after routine prenatal testing they discover, as we did, that their fetuses suffer from grave conditions incompatible with life; I don't know how I would have endured.

Two weeks following my abortion, we received a letter from the genetic counselor. Our child had numerous abnormalities: the brain, heart, and other internal organs were not developing properly. Our child was also a girl and we miss her very much. In our case, abortion was the only humane choice. This choice must be preserved for the sake of all women and their families. The American public needs to understand the consequences of this ban and that the human face of so-called "partial-birth abortion," my face, could be their own.

Mr. JORDAN. Madam Speaker, I yield 2½ minutes to the gentlewoman from Iowa (Mrs. MILLER-MEEKS).

Mrs. MILLER-MEEKS. Madam Speaker, I rise today in support of H.R. 26. I thank my colleague, the chair of

the Judiciary Committee from Ohio, for yielding me time.

Madam Speaker, as a mother, a doctor, a former nurse, and a former director of Iowa's Department of Public Health, I know firsthand the preciousness of life and the importance of prenatal care and the tragedies that ensue when proper care isn't provided. In fact, the first healthy baby I delivered as a doctor was to a young teenager who put the baby up for adoption.

Our Nation promises three things: life, liberty, and the pursuit of happiness. There is no clause in the Constitution to exempt newborns who survive an abortion procedure from these rights. It is not only unreasonable, but it is inhuman to deny care to babies who were born alive.

Regardless of maternal intent, what could be more extreme than denying care to an infant born alive?

My colleague on the other side of the aisle from New York is correct. It is infanticide.

H.R. 26 is legislation that should receive wide support from both sides of the aisle. It is unconscionable to think that some Members will choose to vote against this bill which will ensure infants receive lifesaving care simply because of partisan politics. This legislation isn't about abortions but saving the lives of living and breathing innocent newborns.

Many States, including Iowa, have put safe haven laws in place to allow parents to leave their infants at hospitals or care facilities without fear of being prosecuted. We already have laws in place to protect these infants.

Why should infants who survive an abortion be treated any differently?

Like all other medical professionals, I took the Hippocratic oath which promises that I will do no harm. This legislation reaffirms the Hippocratic oath and ensures that doctors across the United States are providing the same standard of medical care to all infants regardless of the circumstance of their birth.

Madam Speaker, I urge all of my colleagues to stand in support of life by voting for H.R. 26.

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentlewoman from Florida (Ms. LOIS FRANKEL).

Ms. LOIS FRANKEL of Florida. My, my, my. Here we go again. Republicans are racing full steam ahead to criminalize abortion nationwide.

Madam Speaker, the American people want women—not politicians—to make their own healthcare decisions, including those about abortion.

So as to this misleading and offensively named bill, let's vote it down. Let's say no to putting women's lives in danger, no to denying patients needing lifesaving care, and no to putting healthcare providers in prison for doing their job.

Madam Speaker, because I love my grandchildren, I reject the extreme Republican agenda, and I am standing here today with the Democrats for peo-

ple to have the freedom to make their own personal decisions about their health, their life, and their future.

Mr. JORDAN. Madam Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. SCALISE).

Mr. SCALISE. Madam Speaker, I thank the gentleman from Ohio for yielding. Madam Speaker, I especially thank the gentlewoman from Missouri, ANN WAGNER, for leading this effort for so many years.

I am so proud to rise in support of this bill that is about human dignity; and, frankly, it is about common sense. The idea, Madam Speaker, that if a baby is born alive outside the womb that that baby in America could be killed and it be called abortion and not murder defies logic. It defies humanity.

Over the years KAT CAMMACK has had a discharge petition to bring this bill to the floor. So many others all across the country have asked Congress to address this issue, and the first thing that people express is shock.

They say: Wait a minute. If a baby is born outside the womb alive, how could you then kill that baby and that be legal? How is that not already murder?

I questioned how it wasn't myself, and yet in a number of States it is legal, and it is happening today.

This is America. Madam Speaker, you see this in countries like China and North Korea. There aren't many countries in the world that allow this practice. The United States should not be one of those countries.

This is inhumane. This transcends the abortion debate. Before the Dobbs decision, this bill still would have been constitutional to pass because we are not talking about 20 weeks, we are talking about the baby born alive outside the womb.

Yet, in America there are some States that allow that baby to be killed and called abortion.

You can call it whatever you want, Madam Speaker. It should be murder. It shouldn't be allowed, and this bill takes care of that. Everybody should vote for this bill.

When you talk to people who identify as pro-choice, so many of them are shocked that this is a legal process. Some, obviously, still want it to continue, but we shouldn't. We should be better than that as a country.

There is an amazing group called the Abortion Survivors Network. ANN WAGNER and I and so many of us have surely met with some of these incredible people.

If you want to talk about a walking miracle, Madam Speaker, these are people alive today in their twenties, thirties, and forties living incredible lives who were the result of an abortion that wasn't successful. They lived through it. Think of the special plan God has for them that they survived an abortion, and they are alive today. They are incredible people. Everybody in this country should reach out and go meet them. It is a group, and you can look them up.

Their stories are incredible.

Why should they be denied life?

We are a country of laws. We are a country of great rights. Of our inalienable rights—life, liberty, and the pursuit of happiness—the first among those is life. Very few countries in the world allow this to happen to someone if they are born alive.

So while they are shocked when people find out that it is legal, we are the United States Congress, we can actually do something about it.

Thank God we have people who are willing to stand up for those babies. I am not even talking about inside the womb. They are outside the womb born alive. If someone takes their life after they are born alive outside the womb, that should be murder.

We should be protecting those young babies. That is what this bill does. It is a bill we should all be proud to support. It is a list that the United States should want to take itself off of. We shouldn't want to be associated with the very few countries that allow this barbaric process to happen.

Let's pass this bill. Let's become an even more perfect Union.

Mr. NADLER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, Mr. SCALISE and every other Republican who has spoken on this bill is simply wrong on the facts. It is illegal and always has been illegal in every State and then Federal law to kill an infant born alive. It is illegal and always has been illegal not to provide that infant with appropriate medical care.

Just to make sure that no one had any doubts of that, we passed the Born-Alive Infants Protection Act with bipartisan support in 2002.

The problem with this bill is not that it provides any new protections for infants. The problem with this bill is that it endangers some infants by stating that that infant must immediately be brought to the hospital where, depending on the circumstances, that may be the right thing to do for the health and survival of that infant or it may not.

That is the problem with this bill.

It directs and mandates a certain medical care which may not be appropriate, and which may even endanger the life of an infant in certain circumstances. That is why we oppose this bill. It is not because we don't think that babies born alive must be saved, but because we do think that babies born alive must be saved.

Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Oregon (Ms. BONAMICI).

Ms. BONAMICI. Madam Speaker, this bill is extremist, dangerous, and unnecessary.

It is extremist because it would criminalize doctors with up to 5 years in prison and put them in fear of providing lifesaving, medically necessary procedures to those who are pregnant.

It is dangerous because the bill has no exceptions to protect the health of

the patient and no exceptions in cases where there is a serious fetal anomaly.

It is unnecessary because, as Mr. NADLER said, it is already a crime to kill a baby born alive.

Many of my Republican colleagues talk about keeping Big Government out of people's lives. But when it comes to the hardest and most intimate decision—decisions that should be made between patients and their healthcare providers—these same colleagues think the government knows better.

Republicans in Congress and conservative extremists on the Supreme Court are waging a war on reproductive healthcare, a war on bodily autonomy, and a war on the medical community and the doctor-patient relationship.

I will continue to stand up against these assaults on reproductive freedom and against extremist, dangerous, unnecessary, and misguided policies like this bill.

Mr. JORDAN. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Texas (Mrs. FLETCHER).

Mrs. FLETCHER. Madam Speaker, I rise in opposition to H.R. 26 and to its very name because it is not about what House Republicans claim it is about, because what they claim it is about isn't a thing.

What this bill is about is an assault on the health, rights, equality, and dignity of American women and the people who provide their reproductive healthcare.

It is an assault we have seen in my home State of Texas where women having miscarriages are being turned away from the hospitals and told to come back when they are closer to dying, where doctors fear, and are told, that they cannot meet the standard of care for their patients.

Providers and patients are afraid of misleading bills like this one criminalizing healthcare.

But, of course, that is the point, isn't it?

I stand here today, and I will stand here every day, to oppose this bill and others like it, to talk about the real healthcare crisis facing women today, and to urge my colleagues to vote "no."

Mr. JORDAN. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from California (Ms. CHU.)

Ms. CHU. Madam Speaker, H.R. 26 would rob families of the ability to make difficult and complicated medical decisions in some of the most heartbreaking circumstances imaginable. It is a mean-spirited solution in search of a problem.

If the majority is interested in caring for newborns, I invite them to support Democrats' efforts to provide paid family leave to every new parent. Republicans are welcome to join our efforts

to expand the child tax credit to families struggling with paying the bills. And we would be thrilled to have bipartisan support in this Chamber to make childcare affordable everywhere.

Alternatively, House Republicans have brought up a bill designed to intimidate doctors and perpetuate disinformation about how abortion care actually works.

Madam Speaker, I urge my colleagues to oppose this bill and instead vote "yes" on the motion to recommit which would bring up my bill, the Women's Health Protection Act, legislation that would create a Federal right to abortion care free from medically unnecessary restrictions in all 50 States.

□ 1430

Mr. JORDAN. Madam Speaker, I yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Madam Speaker, I thank my friend and colleague, the chairman of the Judiciary Committee, for yielding.

As I have said before and will continue to say, I am pro-life, pro-family, and pro-child. I am very proud to see that one of the very first pieces of legislation that comes before this Congress and the new majority is protecting the vulnerable. That is something I have always stood up for since my first time here in Congress.

It seems like there is some confusion, especially on the other side of the aisle, Madam Speaker, about what this legislation is about. This legislation is very simple. It simply states and ensures that babies who survive an abortion receive care and protection and that they are not discarded because someone else had intended to end their lives. It prohibits healthcare practitioners from turning a blind eye to abortion survivors.

No matter the intent of what you believe about life, failure to care for an unborn child is infanticide, and the law must be enforced.

Madam Speaker, I ask my colleagues to remember that the last time we voted on this bill, there was bipartisan support, and I ask again for support of this commonsense, lifesaving legislation.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Madam Speaker, born alive has nothing to do with abortion. Providers are already required, by law, to provide appropriate medical care. Infanticide is murder.

What we heard earlier is just not true. It is a lie that should not be repeated.

As our chairman has said, not only is it illegal to not care for a born infant, but the law that you have provided on the Republican side actually can create more harm. It requires immediately taking a struggling baby to a hospital. That hospital could be hours away and

could be detrimental to the life of that baby.

This is nothing more than a part of the effort to make abortion illegal nationally in this country. I object, and I urge a “no” vote.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentlewoman from Indiana (Mrs. HOUCHIN) for her first speech on the House floor.

Mrs. HOUCHIN. Madam Speaker, I rise today in support of the Born-Alive Abortion Survivors Protection Act.

From New Albany to Salem to Madison, Hoosiers across southern Indiana feel as I do, that every life is precious and all lives deserve the dignity and respect of lifesaving care. That is why I am proud to stand alongside my colleagues in support of this pro-life bill.

This legislation would ensure that children who are born alive despite an attempted abortion are given the same medical care and help as any other newborn infant. We know the majority of Americans agree on this issue, that saving the lives of babies who survive a botched abortion is not just humane, but it is necessary and foundational to our constitutional right to life. It is why I am an original cosponsor on this important bill to support mothers and their children. I stand with Hoosiers on behalf of these vulnerable infants.

Unfortunately, Madam Speaker, Democrats support the radical position of abortion on demand up until birth, funded by the taxpayers, and they would even deny care to an innocent child that miraculously survives a botched abortion.

This is a commonsense support of life. Madam Speaker, I urge the rest of my colleagues to stand with us in defending life. On this issue, we should all agree.

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentleman from New York (Mr. GOLDMAN).

Mr. GOLDMAN of New York. Madam Speaker, I rise today to talk about freedom, specifically, individual freedom, a core American value, a value that my colleagues on the other side of the aisle have for years co-opted, weaponized, and distorted.

I simply do not understand how my Republican colleagues can demand the individual freedom to spread a deadly disease to other people by not getting vaccinated or wearing masks yet have the gall to deny the individual freedom to make decisions about one's own body that has no impact on anyone else.

How can it be that autonomy to wear a mask or not is of greater importance than the autonomy over whether to have a baby or not?

Let me say it plainly: We cannot talk about preserving our individual freedoms while simultaneously ripping away a fundamental freedom for women in this country. Control over one's reproductive health is a human right.

We are in the first week of Congress, and what are we focused on?

Is it to fight inflation? No.

To create jobs for Americans? No.

To protect children from gun violence? No.

It is to continue the assault on our autonomy, on women's autonomy.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH) a longtime champion of the pro-life cause.

Mr. SMITH of New Jersey. Madam Speaker, I thank my good friend for yielding, and I thank ANN WAGNER for authoring this important legislation.

Madam Speaker, in a Florida abortion clinic, Sycloria Williams delivered a live baby girl at 23 weeks. The clinic owner took the baby, who was gasping for air, cut her umbilical cord, threw her into a biohazard bag, and put the bag in the trash.

Heartbroken, Ms. Williams later had a funeral for her baby girl, who she named Shanice. CNN has reported since that Ms. Williams suffers PTSD from that ordeal.

Madam Speaker, why are these live births from abortion little known? Dr. Willard Cates, former head of the Centers for Disease Control's abortion surveillance unit, said several years ago live births are little known because organized medicine, from fear of public clamor and legal action, treats them more as an embarrassment to be hushed up than a problem to be solved. “It is like turning yourself in to the IRS for an audit,” he went on. “What is there to gain? The tendency is not to report because there are only negative incentives.”

Madam Speaker, Philadelphia abortionist Kermit Gosnell, one of the few who got caught—and it was under a State law, not Federal, and many States don't have such laws—was convicted of murder for killing children who were born alive after attempted abortions.

The grand jury report described it in this way: “Gosnell had a simple solution for the unwanted babies he delivered: He killed them. He didn't call it that. He called it ‘ensuring fetal demise.’ The way he ensured fetal demise was by sticking scissors into the back of the baby's neck and cutting the spinal cord. He called that ‘snipping.’”

The Born-Alive Abortion Survivors Protection Act seeks to end or at least mitigate this egregious child abuse by requiring that a healthcare provider must exercise the same degree of professional skill, care, and diligence to preserve the life of that child as they would a child of similar age.

The bill empowers the woman upon whom the abortion is performed to obtain appropriate civil relief. I am sure had it been available then, Ms. Williams would have done that, as well.

Madam Speaker, this is humane, pro-child, human rights legislation.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. ESPAILLAT).

Mr. ESPAILLAT. Madam Speaker, I rise in opposition to H.R. 26.

H.R. 26 is presented within the context of what happened last year when the Supreme Court stripped millions of women in our country of their status and free right for equal access to reproductive freedom.

As Members of Congress, we have a responsibility to correct this wrong and bring back reproductive freedom for women. This bill is not about the safety of children. This is more of the same. This is about policing the bodies of women.

A bunch of middle-aged guys in Brooks Brothers' suits stand here today and try to tell women what to do with their bodies. That is what this is about. This is not about the safety of children. That is already illegal.

Madam Speaker, I stand here to oppose H.R. 26. There are 64 million women across America of reproductive age. Many of them live in States that are beating up on their rights to reproductive freedom.

Madam Speaker, I stand here in opposition to H.R. 26 and ask my colleagues also to vote against it.

Mr. JORDAN. Madam Speaker, I yield 1 minute to the gentleman from Virginia (Mr. GOOD), my friend.

Mr. GOOD of Virginia. Madam Speaker, once again, we have to say: How did we get to where we are today? How did we get to where we have to have a debate to defend life that survives the heinous practice of abortion?

In the infamous words of the Governor of my very State, the Commonwealth of Virginia, just a few years ago, if a baby survives an abortion attempt, the mother and the doctor would have a conversation while they kept the baby comfortable to decide what to do with it. He said that on air in a radio broadcast.

I realize that the other side may not recognize the science of conception. I realize that the other side may not share the premium or the value of innocent life in the womb that most Americans have. The party of death that believes in abortion up until the moment of birth at any time for any reason—today we find ourselves even having to defend and protect life, a baby that survives an abortion attempt.

If it were not so, if it were not true, then this bill should pass unanimously. I fear that will not be the case for this same party will not even vote later today against and condemn the violence at pregnancy centers across the country.

Madam Speaker, I encourage everyone to support this bill and protect all life.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from California (Ms. KAMLAGER-DOVE).

Ms. KAMLAGER-DOVE. Madam Speaker, I rise in opposition to H.R. 26.

We didn't hop in a time machine back to the 1970s. It is 2023, and we all know what this is about. It is not about the protection of newborn children. It is about control. It is about Republicans' continued desire to control

women, take away their freedoms, limit their bodily autonomy, plunge poor women deeper into poverty, and further marginalize those already not seen.

It is about intimidating, silencing, and criminalizing doctors. It is about the nationwide abortion ban that Republicans have been itching to enact since the overturning of *Roe v. Wade*, bans that the American people have said loudly and clearly that they do not want.

We cannot continue to let the extreme Republican Party attack and erode the rights of women across this country. We have a responsibility to put an end to politicians inserting themselves into the doctors' offices and uterus of women across this country.

Madam Speaker, I urge my colleagues to vote against this measure.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. JOHNSON).

Mr. JOHNSON of Louisiana. Madam Speaker, I rise in support of the Born-Alive Abortion Survivors Protection Act.

Once again, House Republicans are eager to stand for the most vulnerable among us, the unborn. We are the party of life, and we are proud of it.

There is no difference between an infant born alive after a failed abortion and an infant born into the arms of loving parents. Those two babies deserve to be treated with the same level of excellent medical care.

Yet, abortionists have demonstrated a lack of interest in preserving the lives of babies who enter the world alive and supposedly under their care.

We know what happens in these clinics. By way of just one example, *lifenews.com* reports that an abortion provider in Minnesota was recently asked by a woman 22 weeks pregnant and considering an abortion what that provider would do if her baby were taken out while his heart was still beating. The abortion provider responded: "We don't tell women this . . . but if we was to proceed with the abortion and the baby was to come out still alive . . . most likely, we will break the baby's neck."

That is chilling and barbaric, but our Democratic colleagues will not admit that. They will vote against it today. Watch the board. It will be shocking, and it will be true.

The Born-Alive Abortion Survivors Protection Act would make it a Federal crime for abortionists to kill or fail to provide care to babies who survive abortions.

Madam Speaker, I encourage all of our colleagues to support this critical legislation. As was said, it should pass unanimously, but it won't.

□ 1445

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Michigan (Ms. SCHOLTEN).

Ms. SCHOLTEN. Madam Speaker, I rise today in support of parental and

maternal rights and in opposition to H.R. 26.

I am the first mother in history to represent west Michigan in Congress. This matter is deeply personal to me. I recently shared publicly about my own experience navigating a complex miscarriage and the loss of my daughter. As a pro-choice Christian who chose life, this issue is so personal to me. My faith informs my actions, but it doesn't dictate the policy of an entire nation.

Further, when I read the Scripture, I am guided by passages like Jeremiah 1:5, which states: I knew you before I formed you, and I placed you in your mother's womb. It doesn't say the government's womb or the Speaker's womb, it says the mother's womb.

I believe life is precious, but I reject the idea that if I embrace the sanctity of life, I also must be forced to invite the Federal Government in to regulate it. We must protect families from unnecessary government intrusion into the most sacred and personal decisions of our lives and our children's lives.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. MILLER).

Mrs. MILLER of West Virginia. Madam Speaker, I rise in support of the Born-Alive Abortion Survivors Protection Act.

All life is sacred. Defending innocent lives should not be a policy issue.

This legislation protects babies who are not only born but who are then left without care from an attempted abortion. A baby who survives an abortion should receive the same medical attention that any other premature baby would.

These precious souls are given another chance at life. It is unacceptable that there are no criminal charges for those who want to take their life away. The people who allow babies to be killed after birth must be fully prosecuted.

Let's be clear: Killing a baby who is born alive, regardless of an attempted abortion, is murder.

The previous Democrat-controlled House has refused to vote on this bill. Today, a Republican-led majority keeps our commitment to America by voting on legislation that upholds the sanctity of life.

I urge the passage of this bill on the House floor.

Mr. NADLER. Madam Speaker, I reserve the balance of my time.

Mr. JORDAN. I yield 1 minute to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. Madam Speaker, I thank the gentleman from Ohio for yielding. Just a couple of minutes ago we heard a speaker on the other side of the aisle criticize Republicans saying we don't support wearing masks, and wearing masks affects others; however, having an abortion affects only a woman.

So what is an abortion? What is an abortion?

It is the intentional taking of the life of an unborn child.

How in the world can you say that an abortion does not affect anyone except the woman?

That is the core of the difference between those of us who support unborn children and born children.

Those who support abortions ignore the fact that another life is involved. That is the core of the issue. There are two lives involved here, the mother and the unborn baby. We must recognize that.

Mr. NADLER. Madam Speaker, I yield 3 minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Speaker, I rise today in strong opposition to H.R. 26 and urge my colleagues to instead support my motion to recommit to take up and pass Representative JUDY CHU's Women's Health Protection Act that will restore the protections that we had under *Roe v. Wade*.

If there is one thing this last election showed us it is that the American people believe strongly that every woman in this country should have the ability to make her own healthcare decisions, including abortion.

Sadly, however, if there is one thing this past week has shown us, it is that the House Republicans just don't care at all about that.

They don't care that 61 percent of the American people strongly support a woman's access to abortion care.

They don't care that just 2 months ago a record number of Americans showed up at polling locations across the country to overwhelmingly reject the GOP's plan to criminalize abortion care.

They don't care that in every State where abortion restrictions were on the ballot they were rejected overwhelmingly—in places like Kansas.

They don't care that Americans think that people, not politicians, should be making these decisions.

Apparently, my colleagues on the other side of the aisle think they know how abortion decisions should be made, not a woman and her doctor.

So instead of taking heed of the will of the American people, my Republican colleagues are intending to do just the opposite.

The legislation before us today is part of a concerted effort to fast-track this extreme agenda of anti-choice legislation. It creates new criminal penalties for healthcare providers that fail to provide specific standards of care—that the politicians on the other side of the aisle will enact—after an attempted abortion.

It doesn't really protect newborn children in any way. Why?

Because if a child is born it is already illegal to kill it—as it should be. Unlike what the majority leader said, it is already illegal in every single State in this country. It is illegal to kill people in this country.

Just in case anybody was confused about this, as Chairman NADLER said, in 2002 Congress passed the Born-Alive

Infants Protection Act, and all of us, including me, the co-chair of the Pro-Choice Caucus voted for it because clearly if the baby is born, we shouldn't kill it. Duh.

So what does this bill do? What it does, as I said, it creates criminal penalties for healthcare providers that don't do what the Republicans think they should do, and it creates new, complicated standards that will make it harder for healthcare professionals to do their jobs.

The SPEAKER pro tempore (Mrs. HOUCHIN). The time of the gentleman has expired.

Mr. NADLER. Madam Speaker, I yield the gentlewoman an additional 1 minute.

Ms. DEGETTE. What it does is it hopes to deter doctors from providing abortion care in the first place, which is exactly what we saw after the Dobbs decision. This is not what the American people signed up for.

I strongly urge my colleagues to reject these extreme measures and instead support my motion to recommit to take up and pass the Women's Health Protection Act to ensure that everybody in this country, no matter where they live, has the access to the reproductive care they need.

Madam Speaker, I ask unanimous consent to add the text of this amendment into the RECORD immediately prior to the vote on the motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentleman from the great State of Virginia (Mr. CLINE).

Mr. CLINE. Madam Speaker, I thank the gentlewoman for her remarks.

I am a little bit confused, though, because it wasn't before 2002 when our previous Governor of the Commonwealth of Virginia, Governor Ralph Northam, said on a radio show that if a baby was born alive that the baby would be made comfortable, that then a conversation would ensue between the doctor and the mother about whether or not and how to treat that baby; essentially saying, if you want to go ahead and kill your baby after it is born, go right ahead.

That type of attitude persists, continues. If there are laws that exist to prevent it—the Governor was not aware of them, I am not aware of them—that would apply in that situation.

That is why this legislation is so important, because contrary to House Democrats and the Biden administration, the American people overwhelmingly believe that babies who are born alive should be protected, that a baby born alive, even after an attempted abortion, should be afforded the same constitutional protections as every other American.

I am proud to support the Born-Alive Abortion Survivors Protection Act,

which would require appropriate medical care for children who survive abortion procedures. It imposes strong criminal penalties for the failure to provide such care.

If a doctor like our former Governor, Dr. Northam, was engaging in the activities that he spoke about on that radio show, he would be subject to those same criminal penalties.

Protecting living and breathing babies outside the womb should not be a partisan issue, it should be one around which we all should unite.

I urge my colleagues to support this important legislation.

Mr. NADLER. Madam Speaker, I yield myself the balance of my time.

I will end this debate by reiterating the point I made at the beginning: This legislation would do nothing to enhance protections or the quality of healthcare if an infant is born after an attempted abortion.

It has always been against the law to intentionally kill or harm a newborn infant, whatever the circumstances of its birth. It has always been against the law not to afford such an infant appropriate medical care. The bill does nothing new to protect infants.

The bill, however, is not harmless. Rather, if enacted, it could place the lives and health of newborn infants at risk. The bill directly interferes with a doctor's medical judgment and dictates a medical standard of care, namely, immediate transport to a hospital, that may not be appropriate in the particular circumstances.

That is why a broad coalition of healthcare provider groups, joined by a wide range of additional health, civil rights, and women's rights groups, strongly opposes this bill.

We should listen to these healthcare professionals. We should support keeping babies alive, which is what the Republicans say they want to do, but yet, they have this legislation that would endanger babies' lives by dictating a standard of care that may not be appropriate in certain situations. We should listen to these healthcare professionals.

This legislation is just another step in the Republicans' plan to criminalize abortion nationwide. The House must reject this seriously flawed bill, and I yield back the balance of my time.

Mr. JORDAN. Madam Speaker, I yield myself the balance of my time.

I will say that the document that launched this experiment in freedom we call America, the Declaration of Independence, talks about all are created equal, endowed by our creator with life, liberty, and the pursuit of happiness. I think it is interesting the order in which the Founders placed the rights they chose to mention: life, liberty, and the pursuit of happiness.

You can't pursue happiness; you can't chase down your goals and dreams if you first don't have freedom. You don't have freedom and true liberty unless government protects your most fundamental right: your right to

live, your right to breathe, your right to life.

That is what this legislation is about, protecting the most innocent, the most vulnerable's right to life.

I urge a "yes" vote and hope this thing passes unanimously. Madam Speaker, I yield back the balance of my time.

□ 1500

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 5, the previous question is ordered on the bill.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Ms. DEGETTE. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. DeGette of Colorado moves to recommit the bill H.R. 26 to the Committee on the Judiciary.

The material previously referred to by Ms. DEGETTE is as follows:

Ms. DeGette moves to recommit H.R. 26 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Strike all that follows after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Health Protection Act of 2023".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) On June 24, 2022, in its decision in *Dobbs v. Jackson Women's Health Organization*, the Supreme Court overruled *Roe v. Wade*, reversing decades of precedent recognizing the constitutional right to terminate a pregnancy before fetal viability, and to terminate a pregnancy after fetal viability where it is necessary, in the good-faith medical judgment of the treating health care professional, for the preservation of the life or health of the person who is pregnant.

(2) In their joint dissent, Justices Breyer, Sotomayor, and Kagan write, "[The majority] says that from the very moment of fertilization, a woman has no rights to speak of. A State can force her to bring a pregnancy to term, even at the steepest personal and familial costs."

(3) The dissenting Justices continue, "The Mississippi law at issue here bars abortions after the 15th week of pregnancy. Under the majority's ruling, though, another State's law could do so after ten weeks, or five or three or one—or, again, from the moment of fertilization. States have already passed such laws, in anticipation of today's ruling. More will follow."

(4) The dissenting Justices also stated, "one result of [the] decision is certain; the curtailment of women's rights, and of their status as free and equal citizens."

(5) Indeed, some States acted to ban abortion outright in the immediate aftermath of the *Dobbs* decision, with half the States in the country expected to ban abortion entirely in the days and weeks to come.

(6) Even before *Roe* was overturned, access to abortion services had been obstructed

across the United States in various ways, including blockades of health care facilities and associated violence, prohibitions of, and restrictions on, insurance coverage; parental involvement laws (notification and consent); restrictions that shame and stigmatize people seeking abortion services; and medically unnecessary regulations that neither confer any health benefit nor further the safety of abortion services, but which harm people by delaying, complicating access to, and reducing the availability of, abortion services.

(7) Abortion services are essential to health care, and access to those services is central to people's ability to participate equally in the economic and social life of the United States. Abortion access allows people who are pregnant to make their own decisions about their pregnancies, their families, and their lives.

(8) Reproductive justice requires every individual to have the right to make their own decisions about having children regardless of their circumstances and without interference and discrimination. Reproductive Justice is a human right that can and will be achieved when all people, regardless of actual or perceived race, color, national origin, immigration status, sex (including gender identity, sex stereotyping, or sexual orientation), age, or disability status have the economic, social, and political power and resources to define and make decisions about their bodies, health, sexuality, families, and communities in all areas of their lives, with dignity and self-determination.

(9) Reproductive justice seeks to address restrictions on reproductive health, including abortion, that perpetuate systems of oppression, lack of bodily autonomy, white supremacy, and anti-Black racism. This violent legacy has manifested in policies including enslavement, rape, and experimentation on Black women; forced sterilizations; medical experimentation on low-income women's reproductive systems; and the forcible removal of Indigenous children. Access to equitable reproductive health care, including abortion services, has always been deficient in the United States for Black, Indigenous, and other People of Color (BIPOC) and their families.

(10) The legacy of restrictions on reproductive health, rights, and justice is not a dated vestige of a dark history. Presently, the harms of abortion-specific restrictions fall especially heavily on people with low incomes, BIPOC, immigrants, young people, people with disabilities, and those living in rural and other medically underserved areas. Abortion-specific restrictions are even more compounded by the ongoing criminalization of people who are pregnant, including those who are incarcerated, living with HIV, or with substance-use disorders. These communities already experience health disparities due to social, political, and environmental inequities, and restrictions on abortion services exacerbate these harms. Removing medically unjustified restrictions on abortion services would constitute one important step on the path toward realizing Reproductive Justice by ensuring that the full range of reproductive health care is accessible to all who need it.

(11) Abortion-specific restrictions are a tool of gender oppression, as they target health care services that are used primarily by women. These paternalistic restrictions rely on and reinforce harmful stereotypes about gender roles, women's decision-making, and women's need for protection instead of support, undermining their ability to control their own lives and well-being. These restrictions harm the basic autonomy, dignity, and equality of women, and their ability to participate in the social and economic life of the Nation.

(12) The terms "woman" and "women" are used in this bill to reflect the identity of the majority of people targeted and affected by restrictions on abortion services, and to address squarely the targeted restrictions on abortion, which are rooted in misogyny. However, access to abortion services is critical to the health of every person capable of becoming pregnant. This Act is intended to protect all people with the capacity for pregnancy—cisgender women, transgender men, non-binary individuals, those who identify with a different gender, and others—who are unjustly harmed by restrictions on abortion services.

(13) Since 2011, States and local governments have passed nearly 500 restrictions singling out health care providers who offer abortion services, interfering with their ability to provide those services and the patients' ability to obtain those services.

(14) Many State and local governments have imposed restrictions on the provision of abortion services that are neither evidence-based nor generally applicable to the medical profession or to other medically comparable outpatient gynecological procedures, such as endometrial ablations, dilation and curettage for reasons other than abortion, hysteroscopies, loop electrosurgical excision procedures, or other analogous non-gynecological procedures performed in similar outpatient settings including vasectomy, sigmoidoscopy, and colonoscopy.

(15) Abortion is essential health care and one of the safest medical procedures in the United States. An independent, comprehensive review of the state of science on the safety and quality of abortion services, published by the National Academies of Sciences, Engineering, and Medicine in 2018, found that abortion in the United States is safe and effective and that the biggest threats to the quality of abortion services in the United States are State regulations that create barriers to care. These abortion-specific restrictions conflict with medical standards and are not supported by the recommendations and guidelines issued by leading reproductive health care professional organizations including the American College of Obstetricians and Gynecologists, the Society of Family Planning, the National Abortion Federation, the World Health Organization, and others.

(16) Many abortion-specific restrictions do not confer any health or safety benefits on the patient. Instead, these restrictions have the purpose and effect of unduly burdening people's personal and private medical decisions to end their pregnancies by making access to abortion services more difficult, invasive, and costly, often forcing people to travel significant distances and make multiple unnecessary visits to the provider, and in some cases, foreclosing the option altogether. For example, a 2018 report from the University of California San Francisco's Advancing New Standards in Reproductive Health research group found that in 27 cities across the United States, people have to travel more than 100 miles in any direction to reach an abortion provider.

(17) An overwhelming majority of abortions in the United States are provided in clinics, not hospitals, but the large majority of counties throughout the United States have no clinics that provide abortion.

(18) These restrictions additionally harm people's health by reducing access not only to abortion services but also to other essential health care services offered by many of the providers targeted by the restrictions, including—

(A) screenings and preventive services, including contraceptive services;

(B) testing and treatment for sexually transmitted infections;

(C) LGBTQ health services; and

(D) referrals for primary care, intimate partner violence prevention, prenatal care and adoption services.

(19) The cumulative effect of these numerous restrictions has been to severely limit, and now eliminate entirely, the availability of abortion services in some areas, creating a patchwork system where the provision of abortion services is legal in some States and illegal in others. A 2019 report from the Government Accountability Office examining State Medicaid compliance with abortion coverage requirements analyzed seven key challenges (identified both by health care providers and research literature) and their effect on abortion access, and found that access to abortion services varied across the States and even within a State.

(20) International human rights law recognizes that access to abortion is intrinsically linked to the rights to life, health, equality and non-discrimination, privacy, and freedom from ill-treatment. United Nations (UN) human rights treaty monitoring bodies have found that legal abortion services, like other reproductive health care services, must be available, accessible, affordable, acceptable, and of good quality. UN human rights treaty bodies have likewise condemned medically unnecessary barriers to abortion services, including mandatory waiting periods, biased counseling requirements, and third-party authorization requirements.

(21) Core human rights treaties ratified by the United States protect access to abortion. For example, in 2018, the UN Human Rights Committee, which oversees implementation of the ICCPR, made clear that the right to life, enshrined in Article 6 of the ICCPR, at a minimum requires governments to provide safe, legal, and effective access to abortion where a person's life and health is at risk, or when carrying a pregnancy to term would cause substantial pain or suffering. The Committee stated that governments must not impose restrictions on abortion which subject women and girls to physical or mental pain or suffering, discriminate against them, arbitrarily interfere with their privacy, or place them at risk of undertaking unsafe abortions. Furthermore, the Committee stated that governments should remove existing barriers that deny effective access to safe and legal abortion, refrain from introducing new barriers to abortion, and prevent the stigmatization of those seeking abortion.

(22) UN independent human rights experts have expressed particular concern about barriers to abortion services in the United States. For example, at the conclusion of his 2017 visit to the United States, the UN Special Rapporteur on extreme poverty and human rights noted concern that low-income women face legal and practical obstacles to exercising their constitutional right to access abortion services, trapping many women in cycles of poverty. Similarly, in May 2020, the UN Working Group on discrimination against women and girls, along with other human rights experts, expressed concern that some states had manipulated the COVID-19 crisis to restrict access to abortion, which the experts recognized as "the latest example illustrating a pattern of restrictions and retrogressions in access to legal abortion care across the country" and reminded U.S. authorities that abortion care constitutes essential health care that must remain available during and after the pandemic. They noted that barriers to abortion access exacerbate systemic inequalities and cause particular harm to marginalized communities, including low-income people, people of color, immigrants, people with disabilities, and LGBTQ people.

(23) Abortion-specific restrictions affect the cost and availability of abortion services, and the settings in which abortion services are delivered. People travel across State lines and otherwise engage in interstate commerce to access this essential medical care, and more would be forced to do so absent this Act. Likewise, health care providers travel across State lines and otherwise engage in interstate commerce in order to provide abortion services to patients, and more would be forced to do so absent this Act.

(24) Health care providers engage in a form of economic and commercial activity when they provide abortion services, and there is an interstate market for abortion services.

(25) Abortion restrictions substantially affect interstate commerce in numerous ways. For example, to provide abortion services, health care providers engage in interstate commerce to purchase medicine, medical equipment, and other necessary goods and services. To provide and assist others in providing abortion services, health care providers engage in interstate commerce to obtain and provide training. To provide abortion services, health care providers employ and obtain commercial services from doctors, nurses, and other personnel who engage in interstate commerce and travel across State lines.

(26) It is difficult and time and resource-consuming for clinics to challenge State laws that burden or impede abortion services. Litigation that blocks one abortion restriction may not prevent a State from adopting other similarly burdensome abortion restrictions or using different methods to burden or impede abortion services. There is a history and pattern of States passing successive and different laws that unduly burden abortion services.

(27) When a health care provider ceases providing abortion services as a result of burdensome and medically unnecessary regulations, it is often difficult or impossible for that health care provider to recommence providing those abortion services, and difficult or impossible for other health care providers to provide abortion services that restore or replace the ceased abortion services.

(28) Health care providers are subject to license laws in various jurisdictions, which are not affected by this Act except as provided in this Act.

(29) Congress has the authority to enact this Act to protect abortion services pursuant to—

(A) its powers under the commerce clause of section 8 of article I of the Constitution of the United States;

(B) its powers under section 5 of the Fourteenth Amendment to the Constitution of the United States to enforce the provisions of section 1 of the Fourteenth Amendment; and

(C) its powers under the necessary and proper clause of section 8 of Article I of the Constitution of the United States.

(30) Congress has used its authority in the past to protect access to abortion services and health care providers' ability to provide abortion services. In the early 1990s, protests and blockades at health care facilities where abortion services were provided, and associated violence, increased dramatically and reached crisis level, requiring Congressional action. Congress passed the Freedom of Access to Clinic Entrances Act (Public Law 103-259; 108 Stat. 694) to address that situation and protect physical access to abortion services.

(31) Congressional action is necessary to put an end to harmful restrictions, to federally protect access to abortion services for everyone regardless of where they live, and

to protect the ability of health care providers to provide these services in a safe and accessible manner.

(b) PURPOSE.—It is the purpose of this Act—

(1) to permit health care providers to provide abortion services without limitations or requirements that single out the provision of abortion services for restrictions that are more burdensome than those restrictions imposed on medically comparable procedures, do not significantly advance reproductive health or the safety of abortion services, and make abortion services more difficult to access;

(2) to promote access to abortion services and women's ability to participate equally in the economic and social life of the United States; and

(3) to invoke Congressional authority, including the powers of Congress under the commerce clause of section 8 of article I of the Constitution of the United States, its powers under section 5 of the Fourteenth Amendment to the Constitution of the United States to enforce the provisions of section 1 of the Fourteenth Amendment, and its powers under the necessary and proper clause of section 8 of article I of the Constitution of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) **ABORTION SERVICES.**—The term "abortion services" means an abortion and any medical or non-medical services related to and provided in conjunction with an abortion (whether or not provided at the same time or on the same day as the abortion).

(2) **GOVERNMENT.**—The term "government" includes each branch, department, agency, instrumentality, and official of the United States or a State.

(3) **HEALTH CARE PROVIDER.**—The term "health care provider" means any entity or individual (including any physician, certified nurse-midwife, nurse practitioner, and physician assistant) that—

(A) is engaged or seeks to engage in the delivery of health care services, including abortion services; and

(B) if required by law or regulation to be licensed or certified to engage in the delivery of such services—

(i) is so licensed or certified; or

(ii) would be so licensed or certified but for their past, present, or potential provision of abortion services permitted by section 4.

(4) **MEDICALLY COMPARABLE PROCEDURE.**—The term "medically comparable procedures" means medical procedures that are similar in terms of health and safety risks to the patient, complexity, or the clinical setting that is indicated.

(5) **PREGNANCY.**—The term "pregnancy" refers to the period of the human reproductive process beginning with the implantation of a fertilized egg.

(6) **STATE.**—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States, and any subdivision of any of the foregoing, including any unit of local government, such as a county, city, town, village, or other general purpose political subdivision of a State.

(7) **VIABILITY.**—The term "viability" means the point in a pregnancy at which, in the good-faith medical judgment of the treating health care provider, based on the particular facts of the case before the health care provider, there is a reasonable likelihood of sustained fetal survival outside the uterus with or without artificial support.

SEC. 4. PERMITTED SERVICES.

(a) **GENERAL RULE.**—A health care provider has a statutory right under this Act to provide abortion services, and may provide

abortion services, and that provider's patient has a corresponding right to receive such services, without any of the following limitations or requirements:

(1) A requirement that a health care provider perform specific tests or medical procedures in connection with the provision of abortion services, unless generally required for the provision of medically comparable procedures.

(2) A requirement that the same health care provider who provides abortion services also perform specified tests, services, or procedures prior to or subsequent to the abortion.

(3) A requirement that a health care provider offer or provide the patient seeking abortion services medically inaccurate information in advance of or during abortion services.

(4) A limitation on a health care provider's ability to prescribe or dispense drugs based on current evidence-based regimens or the provider's good-faith medical judgment, other than a limitation generally applicable to the medical profession.

(5) A limitation on a health care provider's ability to provide abortion services via telemedicine, other than a limitation generally applicable to the provision of medical services via telemedicine.

(6) A requirement or limitation concerning the physical plant, equipment, staffing, or hospital transfer arrangements of facilities where abortion services are provided, or the credentials or hospital privileges or status of personnel at such facilities, that is not imposed on facilities or the personnel of facilities where medically comparable procedures are performed.

(7) A requirement that, prior to obtaining an abortion, a patient make one or more medically unnecessary in-person visits to the provider of abortion services or to any individual or entity that does not provide abortion services.

(8) A prohibition on abortion at any point or points in time prior to fetal viability, including a prohibition or restriction on a particular abortion procedure.

(9) A prohibition on abortion after fetal viability when, in the good-faith medical judgment of the treating health care provider, continuation of the pregnancy would pose a risk to the pregnant patient's life or health.

(10) A limitation on a health care provider's ability to provide immediate abortion services when that health care provider believes, based on the good-faith medical judgment of the provider, that delay would pose a risk to the patient's health.

(11) A requirement that a patient seeking abortion services at any point or points in time prior to fetal viability disclose the patient's reason or reasons for seeking abortion services, or a limitation on the provision or obtaining of abortion services at any point or points in time prior to fetal viability based on any actual, perceived, or potential reason or reasons of the patient for obtaining abortion services, regardless of whether the limitation is based on a health care provider's degree of actual or constructive knowledge of such reason or reasons.

(b) **OTHER LIMITATIONS OR REQUIREMENTS.**—The statutory right specified in subsection (a) shall not be limited or otherwise infringed through, in addition to the limitations and requirements specified in paragraphs (1) through (11) of subsection (a), any limitation or requirement that—

(1) is the same as or similar to one or more of the limitations or requirements described in subsection (a); or

(2) both—

(A) expressly, effectively, implicitly, or as implemented singles out the provision of abortion services, health care providers who

provide abortion services, or facilities in which abortion services are provided; and

(B) impedes access to abortion services.

(C) FACTORS FOR CONSIDERATION.—Factors a court may consider in determining whether a limitation or requirement impedes access to abortion services for purposes of subsection (b)(2)(B) include the following:

(1) Whether the limitation or requirement, in a provider's good-faith medical judgment, interferes with a health care provider's ability to provide care and render services, or poses a risk to the patient's health or safety.

(2) Whether the limitation or requirement is reasonably likely to delay or deter some patients in accessing abortion services.

(3) Whether the limitation or requirement is reasonably likely to directly or indirectly increase the cost of providing abortion services or the cost for obtaining abortion services (including costs associated with travel, childcare, or time off work).

(4) Whether the limitation or requirement is reasonably likely to have the effect of necessitating a trip to the offices of a health care provider that would not otherwise be required.

(5) Whether the limitation or requirement is reasonably likely to result in a decrease in the availability of abortion services in a given State or geographic region.

(6) Whether the limitation or requirement imposes penalties that are not imposed on other health care providers for comparable conduct or failure to act, or that are more severe than penalties imposed on other health care providers for comparable conduct or failure to act.

(7) The cumulative impact of the limitation or requirement combined with other new or existing limitations or requirements.

(D) EXCEPTION.—To defend against a claim that a limitation or requirement violates a health care provider's or patient's statutory rights under subsection (b), a party must establish, by clear and convincing evidence, that—

(1) the limitation or requirement significantly advances the safety of abortion services or the health of patients; and

(2) the safety of abortion services or the health of patients cannot be advanced by a less restrictive alternative measure or action.

SEC. 5. APPLICABILITY AND PREEMPTION.

(A) IN GENERAL.—

(1) Except as stated under subsection (b), this Act supersedes and applies to the law of the Federal Government and each State government, and the implementation of such law, whether statutory, common law, or otherwise, and whether adopted before or after the date of enactment of this Act, and neither the Federal Government nor any State government shall administer, implement, or enforce any law, rule, regulation, standard, or other provision having the force and effect of law that conflicts with any provision of this Act, notwithstanding any other provision of Federal law, including the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.).

(2) Federal statutory law adopted after the date of the enactment of this Act is subject to this Act unless such law explicitly excludes such application by reference to this Act.

(B) LIMITATIONS.—The provisions of this Act shall not supersede or apply to—

(1) laws regulating physical access to clinic entrances;

(2) insurance or medical assistance coverage of abortion services;

(3) the procedure described in section 1531(b)(1) of title 18, United States Code; or

(4) generally applicable State contract law.

(C) DEFENSE.—In any cause of action against an individual or entity who is sub-

ject to a limitation or requirement that violates this Act, in addition to the remedies specified in section 8, this Act shall also apply to, and may be raised as a defense by, such an individual or entity.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect immediately upon the date of enactment of this Act. This Act shall apply to all restrictions on the provision of, or access to, abortion services whether the restrictions are enacted or imposed prior to or after the date of enactment of this Act, except as otherwise provided in this Act.

SEC. 7. RULES OF CONSTRUCTION.

(A) IN GENERAL.—In interpreting the provisions of this Act, a court shall liberally construe such provisions to effectuate the purposes of the Act.

(B) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to authorize any government to interfere with, diminish, or negatively affect a person's ability to obtain or provide abortion services.

(C) OTHER INDIVIDUALS CONSIDERED AS GOVERNMENT OFFICIALS.—Any person who, by operation of a provision of Federal or State law, is permitted to implement or enforce a limitation or requirement that violates section 4 of this Act shall be considered a government official for purposes of this Act.

SEC. 8. ENFORCEMENT.

(A) ATTORNEY GENERAL.—The Attorney General may commence a civil action on behalf of the United States against any State that violates, or against any government official (including a person described in section 7(c)) that implements or enforces a limitation or requirement that violates, section 4. The court shall hold unlawful and set aside the limitation or requirement if it is in violation of this Act.

(B) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—Any individual or entity, including any health care provider or patient, adversely affected by an alleged violation of this Act, may commence a civil action against any State that violates, or against any government official (including a person described in section 7(c)) that implements or enforces a limitation or requirement that violates, section 4. The court shall hold unlawful and set aside the limitation or requirement if it is in violation of this Act.

(2) HEALTH CARE PROVIDER.—A health care provider may commence an action for relief on its own behalf, on behalf of the provider's staff, and on behalf of the provider's patients who are or may be adversely affected by an alleged violation of this Act.

(C) EQUITABLE RELIEF.—In any action under this section, the court may award appropriate equitable relief, including temporary, preliminary, or permanent injunctive relief.

(D) COSTS.—In any action under this section, the court shall award costs of litigation, as well as reasonable attorney's fees, to any prevailing plaintiff. A plaintiff shall not be liable to a defendant for costs or attorney's fees in any non-frivolous action under this section.

(E) JURISDICTION.—The district courts of the United States shall have jurisdiction over proceedings under this Act and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided for by law.

(F) ABROGATION OF STATE IMMUNITY.—Neither a State that enforces or maintains, nor a government official (including a person described in section 7(c)) who is permitted to implement or enforce any limitation or requirement that violates section 4 shall be immune under the Tenth Amendment to the Constitution of the United States, the Elev-

enth Amendment to the Constitution of the United States, or any other source of law, from an action in a Federal or State court of competent jurisdiction challenging that limitation or requirement.

SEC. 9. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person, entity, government, or circumstance, is held to be unconstitutional, the remainder of this Act, or the application of such provision to all other persons, entities, governments, or circumstances, shall not be affected thereby.

The SPEAKER pro tempore. Pursuant to clause 2(b) of rule XIX, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Ms. DEGETTE. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to section 8 of rule XX, further proceedings on this question are postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 p.m.), the House stood in recess.

□ 1600

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. FISCHBACH) at 4 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Proceedings will resume on questions previously postponed. Votes will be taken in the following order:

Adoption of the motion to recommit on H.R. 26;

Passage of H.R. 26, if ordered; and

Agreeing to H. Con. Res. 3.

The first electronic vote will be conducted as a 15-minute vote. Pursuant to clause 9 of rule XX, remaining electronic votes will be conducted as 5-minute votes.

BORN-ALIVE ABORTION SURVIVORS PROTECTION ACT

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to recommit on the bill (H.R. 26) 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, offered by the gentlewoman from Colorado (Ms. DEGETTE), on which the yeas and nays were ordered.