

118TH CONGRESS  
1ST SESSION

# H. R. 862

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

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2023

Mrs. LESKO (for herself, Mr. DUNCAN, Mr. GAETZ, Mr. JOHNSON of Ohio, Mrs. MILLER of Illinois, Mrs. LUNA, Mr. GOSAR, Mr. BANKS, Mr. MORAN, Mr. RESCHENTHALER, Mr. BABIN, Mrs. MILLER of West Virginia, Mr. BIGGS, Mr. BAIRD, Mr. TIMMONS, Mr. CLINE, and Mr. GRAVES of Louisiana) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dismemberment Abor-  
5 tion Ban Act of 2023”.

1 **SEC. 2. DISMEMBERMENT ABORTION BAN.**

2 (a) IN GENERAL.—Chapter 74 of title 18, United  
3 States Code, is amended by inserting after section 1531  
4 the following:

5 **“§ 1532. Dismemberment abortion ban**

6 “(a) DISMEMBERMENT ABORTION PROHIBITED.—  
7 Any physician who, in or affecting interstate or foreign  
8 commerce, knowingly performs a dismemberment abortion  
9 and thereby kills an unborn child shall be fined under this  
10 title or imprisoned not more than 2 years, or both. This  
11 subsection does not apply to a dismemberment abortion  
12 that is necessary to save the life of a mother whose life  
13 is endangered by a physical disorder, physical illness, or  
14 physical injury, including a life-endangering physical con-  
15 dition caused by or arising from the pregnancy itself.

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

21 “(c) CIVIL REMEDIES.—

22 “(1) CIVIL ACTION BY A WOMAN ON WHOM AN  
23 ABORTION IS PERFORMED.—A woman upon whom  
24 an abortion has been performed in violation of any  
25 provision of this section may, in a civil action

1 against any person who committed the violation, ob-  
2 tain appropriate relief.

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

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

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

16 “(B) statutory damages equal to three  
17 times the cost of the abortion; and

18 “(C) punitive damages.

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

23 “(5) ATTORNEYS FEES FOR DEFENDANT.—If a  
24 defendant in a civil action under this subsection pre-  
25 vails and the court finds that the plaintiff’s suit was

1 frivolous, the court shall award a reasonable attor-  
2 ney's fee in favor of the defendant against the plain-  
3 tiff.

4 “(6) AWARDS AGAINST WOMAN.—Except under  
5 paragraph (5), in a civil action under this sub-  
6 section, no damages, attorney's fee or other mone-  
7 tary relief may be assessed against the woman upon  
8 whom the abortion was performed or attempted.

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

16 “(e) DEFINITIONS.—In this section—

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

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

22 “(B) to intentionally terminate the preg-  
23 nancy of a woman known to be pregnant, with  
24 an intention other than—

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

4                   “(ii) to remove a dead unborn child.

5                   “(2) DISMEMBERMENT ABORTION.—The term  
6                   ‘dismemberment abortion’—

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

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

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

3           “(4) PHYSICIAN.—The term ‘physician’ means  
4           a doctor of medicine or osteopathy legally authorized  
5           to practice medicine and surgery by the State in  
6           which the doctor performs such activity, or any  
7           other individual legally authorized by the State to  
8           perform abortions: *Provided, however,* That any indi-  
9           vidual who is not a physician or not otherwise legally  
10          authorized by the State to perform abortions, but  
11          who nevertheless directly performs an abortion pro-  
12          hibited in this section shall be subject to the provi-  
13          sions of this section.

14          “(5) UNBORN CHILD.—The term ‘unborn child’  
15          means an individual organism of the species homo  
16          sapiens, beginning at fertilization, until the point of  
17          being born alive as defined in section 8(b) of title  
18          1.”.

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

“1532. Dismemberment abortion ban.”.

23          (c) CHAPTER HEADING AMENDMENTS.—

24                 (1) CHAPTER HEADING IN CHAPTER.—The  
25          chapter heading for chapter 74 of title 18, United

1 States Code, is amended by striking “**PARTIAL-**  
2 **BIRTH ABORTIONS**” and inserting “**ABOR-**  
3 **TIONS**”.

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

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