

117TH CONGRESS
1ST SESSION

H. R. 705

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2021

Mr. KELLY of Pennsylvania (for himself, Mr. GOHMERT, Mr. JOYCE of Pennsylvania, Mr. PERRY, Mr. KELLER, Mr. MOONEY, Mr. BUDD, Mr. GAETZ, Mr. SIMPSON, Mr. ADERHOLT, Mr. FLEISCHMANN, Mr. LONG, Mr. DUNCAN, Mr. NORMAN, Mr. BIGGS, Mr. RESCHENTHALER, Mr. GIBBS, Mr. KELLY of Mississippi, Mr. WEBER of Texas, Mr. LAHOOD, Mr. GROTHMAN, Mr. CHABOT, Mr. PALMER, Mr. GALLAGHER, Mr. LAMALFA, Mr. DUNN, Mr. SMITH of Nebraska, Mr. GUTHRIE, Mr. BABIN, Mr. WALBERG, Mr. COLE, Mr. BAIRD, Mr. LATTA, Mr. BANKS, Mr. WENSTRUP, Mr. KUSTOFF, Mr. JORDAN, Mr. HUIZENGA, Mrs. LESKO, Mr. BACON, Mr. HUDSON, and Mr. MAST) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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

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 “Heartbeat Protection
5 Act of 2021”.

1 **SEC. 2. ABORTIONS PROHIBITED WITHOUT A CHECK FOR**
2 **FETAL HEARTBEAT, OR IF A FETAL HEART-**
3 **BEAT IS DETECTABLE.**

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

8 (1) in the chapter heading, by striking “**PAR-**
9 **TIAL-BIRTH**”;

10 (2) by inserting after section 1531 the fol-
11 lowing:

12 “§ 1532. **Abortions prohibited without a check for**
13 **fetal heartbeat, or if a fetal heartbeat is**
14 **detectable**

15 “(a) OFFENSE.—Any physician who knowingly per-
16 forms an abortion and thereby kills a human fetus—

17 “(1) without determining, according to stand-
18 ard medical practice, whether the fetus has a detect-
19 able heartbeat;

20 “(2) without informing the mother of the re-
21 sults of that determination; or

22 “(3) after determining, according to standard
23 medical practice, that the fetus has a detectable
24 heartbeat,

25 shall be fined under this title or imprisoned not more than
26 5 years, or both. This subsection does not apply to an

1 abortion that is necessary to save the life of a mother
2 whose life is endangered by a physical disorder, physical
3 illness, or physical injury, including a life-endangering
4 physical condition caused by or arising from the pregnancy
5 itself, but not including psychological or emotional condi-
6 tions.

7 “(b) DEFENDANT MAY SEEK HEARING.—A defend-
8 ant indicted for an offense under this section may seek
9 a hearing before the State Medical Board on whether the
10 physician’s conduct was necessary to save the life of the
11 mother whose life was endangered by a physical disorder,
12 physical illness, or physical injury, including a life-endan-
13 gering physical condition caused by or arising from the
14 pregnancy itself, but not including psychological or emo-
15 tional conditions. The findings on that issue are admissible
16 on that issue at the trial of the defendant. Upon a motion
17 of the defendant, the court shall delay the beginning of
18 the trial for not more than 30 days to permit such a hear-
19 ing to take place.

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

1 “(d) REQUIREMENT FOR DATA RETENTION.—The
 2 physician shall include in the medical file of the mother
 3 documentation of the determination, according to stand-
 4 ard medical practice, of whether the fetus has a detectable
 5 heartbeat, the results of that determination, notification
 6 of the mother of those results, and any information en-
 7 tered into evidence in any proceedings under subsection
 8 (b). Paragraph (j)(2) of section 164.530 of title 45, Code
 9 of Federal Regulations, shall apply to such documentation.

10 “(e) SEVERABILITY.—If any provision of this section
 11 or the application of such provision to any person or cir-
 12 cumstance is held to be invalid, the remainder of this sec-
 13 tion and the application of the provisions of the remainder
 14 to any person or circumstance shall not be affected there-
 15 by.”; and

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

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

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

“74. Abortions 1531”.

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