

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

---

IN THE SENATE OF THE UNITED STATES

Mr. THUNE (for himself and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on

---

**A BILL**

To amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion.

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 “Born-Alive Abortion  
5 Survivors Protection Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

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

12 **SEC. 3. BORN-ALIVE INFANTS PROTECTION.**

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

17 **“§ 1532. Requirements pertaining to born-alive abor-**  
18 **tion survivors**

19          “(a) REQUIREMENTS FOR HEALTH CARE PRACTI-  
20 TIONERS.—In the case of an abortion or attempted abor-  
21 tion that results in a child born alive:

22           “(1) DEGREE OF CARE REQUIRED; IMMEDIATE  
23          ADMISSION TO A HOSPITAL.—Any health care practi-  
24          tioner present at the time the child is born alive  
25          shall—

1           “(A) exercise the same degree of profes-  
2           sional skill, care, and diligence to preserve the  
3           life and health of the child as a reasonably dili-  
4           gent and conscientious health care practitioner  
5           would render to any other child born alive at  
6           the same gestational age; and

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

11          “(2) MANDATORY REPORTING OF VIOLA-  
12          TIONS.—A health care practitioner or any employee  
13          of a hospital, a physician’s office, or an abortion  
14          clinic who has knowledge of a failure to comply with  
15          the requirements of paragraph (1) shall immediately  
16          report the failure to an appropriate State or Federal  
17          law enforcement agency, or to both.

18          “(b) PENALTIES.—

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

22                 “(2) INTENTIONAL KILLING OF CHILD BORN  
23                 ALIVE.—Whoever intentionally performs or attempts  
24                 to perform an overt act that kills a child born alive  
25                 described under subsection (a), shall be punished as

1 under section 1111 of this title for intentionally kill-  
2 ing or attempting to kill a human being.

3 “(c) BAR TO PROSECUTION.—The mother of a child  
4 born alive described under subsection (a) may not be pros-  
5 ecuted for a violation of this section, an attempt to violate  
6 this section, a conspiracy to violate this section, or an of-  
7 fense under section 3 or 4 of this title based on such a  
8 violation.

9 “(d) CIVIL REMEDIES.—

10 “(1) CIVIL ACTION BY A WOMAN ON WHOM AN  
11 ABORTION IS PERFORMED.—If a child is born alive  
12 and there is a violation of subsection (a), the woman  
13 upon whom the abortion was performed or at-  
14 tempted may, in a civil action against any person  
15 who committed the violation, obtain appropriate re-  
16 lief.

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

19 “(A) objectively verifiable money damage  
20 for all injuries, psychological and physical, occa-  
21 sioned by the violation of subsection (a);

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

25 “(C) punitive damages.



1           “(2) ATTEMPT.—The term ‘attempt’, with re-  
 2           spect to an abortion, means conduct that, under the  
 3           circumstances as the actor believes them to be, con-  
 4           stitutes a substantial step in a course of conduct  
 5           planned to culminate in performing an abortion.

6           “(3) BORN ALIVE.—The term ‘born alive’ has  
 7           the meaning given that term in section 8 of title 1,  
 8           United States Code (commonly known as the ‘Born-  
 9           Alive Infants Protection Act’).”.

10           (b) CONFORMING AMENDMENTS.—

11           (1) The table of sections for chapter 74 of title  
 12           18, United States Code, is amended by adding at  
 13           the end the following:

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

14           (2) The chapter heading for chapter 74 of title  
 15           18, United States Code, is amended by striking  
 16           “**PARTIAL-BIRTH ABORTIONS**” and insert-  
 17           ing “**ABORTIONS**”.

18           (3) The table of chapters for part I of title 18,  
 19           United States Code, is amended by striking the item  
 20           relating to chapter 74 and inserting the following:

“**74. Abortion** ..... **1531**”.

21           **SEC. 4. EFFECTIVE DATE.**

22           This Act shall take effect one day after the date of  
 23           enactment.