

114TH CONGRESS  
2D SESSION

# S. 3306

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

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2016

Mr. LANKFORD (for himself and Mr. MORAN) introduced the following bill;  
which was read twice and 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 2016”.

6 **SEC. 2. DISMEMBERMENT ABORTION BAN.**

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

1 **“§ 1532. Dismemberment abortion ban**

2 “(a) DISMEMBERMENT ABORTION PROHIBITED.—

3 “(1) OFFENSE.—Any physician who, in or af-  
4 fecting interstate or foreign commerce, knowingly  
5 performs a dismemberment abortion and thereby  
6 kills an unborn child shall be fined under this title,  
7 imprisoned not more than 2 years, or both.

8 “(2) LIMITATION.—Paragraph (1) shall not  
9 apply to a dismemberment abortion that is necessary  
10 to save the life of a mother whose life is endangered  
11 by a physical disorder, physical illness, or physical  
12 injury, including a life-endangering physical condi-  
13 tion caused by or arising from the pregnancy itself.

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

19 “(c) CIVIL REMEDIES.—

20 “(1) CIVIL ACTION BY A WOMAN ON WHOM AN  
21 ABORTION IS PERFORMED.—A woman upon whom  
22 an abortion has been performed in violation of any  
23 provision of this section may, in a civil action  
24 against any person who committed the violation, ob-  
25 tain appropriate relief.

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

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

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

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

16                 “(C) punitive damages.

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

21          “(5) ATTORNEYS FEES FOR DEFENDANT.—If a  
22          defendant in a civil action under this subsection pre-  
23          vails and the court finds that the plaintiff’s suit was  
24          frivolous, the court shall award a reasonable attor-

1       ney’s fee in favor of the defendant against the plain-  
2       tiff.

3               “(6) AWARDS AGAINST WOMAN.—Except as  
4       provided in paragraph (5), in a civil action under  
5       this subsection, no damages, attorney’s fee or other  
6       monetary relief may be assessed against the woman  
7       upon whom the abortion was performed or at-  
8       tempted.

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; and

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. Any individual who is not a phy-  
9           sician or not otherwise legally authorized by the  
10          State to perform abortions, but who nevertheless di-  
11          rectly performs an abortion prohibited in this section  
12          shall be subject to the provisions of this section.

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

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

“1532. Dismemberment abortion ban.”.

21          (c) CHAPTER HEADING AMENDMENTS.—

22                  (1) CHAPTER HEADING IN CHAPTER.—The  
23          chapter heading for chapter 74 of title 18, United  
24          States Code, is amended by striking “**PARTIAL-**

1       **BIRTH ABORTIONS**” and inserting “**ABOR-**  
2       **TIONS**”.

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

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