

117TH CONGRESS
2D SESSION

H. R. 6465

To prohibit discrimination against the unborn on the basis of sex, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2022

Mrs. WAGNER (for herself, Mr. ALLEN, Mr. JORDAN, Mr. HICE of Georgia, Mr. DUNCAN, Mr. BROOKS, Mr. LATTA, Mr. JOHNSON of Louisiana, Mr. BANKS, Mr. SESSIONS, Mr. KELLER, Mr. JOYCE of Pennsylvania, Mr. BAIRD, Ms. HERRELL, Mr. MOONEY, Mrs. LESKO, Mr. GROTHMAN, Mr. ADERHOLT, Mr. LAMBORN, Mr. STEUBE, Mr. FORTENBERRY, Mr. ROSE, Mrs. HINSON, Mr. GUEST, Mr. KELLY of Mississippi, Mr. MURPHY of North Carolina, Mr. NORMAN, Mr. BABIN, Mr. JACKSON, Mr. BUDD, and Mr. LATURNER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit discrimination against the unborn on the basis
of sex, 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 “Prenatal Non-
5 discrimination Act of 2022” or the “PRENDA Act of
6 2022”.

1 **SEC. 2. FINDINGS AND CONSTITUTIONAL AUTHORITY.**

2 (a) FINDINGS.—The Congress makes the following
3 findings:

4 (1) Women and girls possess the same funda-
5 mental human rights and civil rights as men and are
6 essential to the formation of stable, peaceful soci-
7 eties.

8 (2) Approximately 126,000,000 women and
9 girls are missing from the world population due to
10 systematic violence against women and girls, par-
11 ticularly sex-selection abortions, according to the
12 United Nations Population Fund.

13 (3) United States law prohibits the dissimilar
14 treatment of males and females who are similarly
15 situated and prohibits sex discrimination in various
16 contexts, including the provision of employment,
17 education, housing, health insurance coverage, and
18 athletics.

19 (4) A “sex-selection abortion” is an abortion
20 undertaken for purposes of eliminating an unborn
21 child of an undesired sex. Sex-selection abortion is
22 described by scholars and civil rights advocates as
23 an act of sex-based or gender-based violence, predi-
24 cated on sex discrimination. By definition, sex-selec-
25 tion abortions do not implicate the health of the

1 mother of the unborn, but instead are elective proce-
2 dures motivated by sex or gender bias.

3 (5) The targeted victims of sex-selection abor-
4 tions performed in the United States and worldwide
5 are overwhelmingly female.

6 (6) Sex-selection abortions are not expressly
7 prohibited by United States law, and only 7 States
8 ban abortions for reason of sex selection at some
9 point in pregnancy. Sex is an immutable char-
10 acteristic ascertainable at the earliest stages of
11 human development through existing medical tech-
12 nology and procedures commonly in use, including
13 maternal-fetal bloodstream DNA sampling, amnio-
14 centesis, chorionic villus sampling or “CVS”, and
15 obstetric ultrasound.

16 (7) Sex-selection abortions have the effect of di-
17 minishing the representation of women in the Amer-
18 ican population, and therefore, the American elec-
19 torate.

20 (8) Sex-selection abortions reinforce sex dis-
21 crimination and have no place in a civilized society.

22 (9) The history of the United States includes
23 many examples of sex discrimination. The people of
24 the United States ultimately responded in the
25 strongest possible legal terms by enacting a constitu-

1 tional amendment correcting an element of this dis-
2 crimination. Women, once subjected to sex discrimi-
3 nation that denied them the right to vote, now have
4 suffrage guaranteed by the 19th Amendment. The
5 elimination of discriminatory practices has been and
6 is among the highest priorities and greatest achieve-
7 ments of American history.

8 (10) Implicitly approving the discriminatory
9 practices of sex-selection abortion by choosing not to
10 prohibit them will reinforce sex discrimination, and
11 coarsen society to the value of females. Thus, Con-
12 gress has a compelling interest in acting—indeed it
13 must act—to prohibit sex-selection abortion.

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

17 (1) the Commerce Clause;

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

21 (3) section 8 of article I to make all laws nec-
22 essary and proper for the carrying into execution of
23 powers vested by the Constitution in the Govern-
24 ment of the United States.

1 **SEC. 3. DISCRIMINATION AGAINST THE UNBORN ON THE**
2 **BASIS OF SEX.**

3 (a) IN GENERAL.—Chapter 13 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 250. Discrimination against the unborn on the**
7 **basis of sex**

8 “(a) IN GENERAL.—Whoever knowingly—

9 “(1) performs an abortion knowing that such
10 abortion is sought based on the sex or gender of the
11 child;

12 “(2) uses force or the threat of force to inten-
13 tionally injure or intimidate any person for the pur-
14 pose of coercing a sex-selection abortion;

15 “(3) solicits or accepts funds for the perform-
16 ance of a sex-selection abortion; or

17 “(4) transports a woman into the United States
18 or across a State line for the purpose of obtaining
19 a sex-selection abortion,

20 or attempts to do so, shall be fined under this title or im-
21 prisoned not more than 5 years, or both.

22 “(b) CIVIL REMEDIES.—

23 “(1) CIVIL ACTION BY WOMAN ON WHOM ABOR-
24 TION IS PERFORMED.—A woman upon whom an
25 abortion has been performed or attempted in viola-
26 tion of subsection (a)(2) may in a civil action

1 against any person who engaged in a violation of
2 subsection (a) obtain appropriate relief.

3 “(2) CIVIL ACTION BY RELATIVES.—The father
4 of an unborn child who is the subject of an abortion
5 performed or attempted in violation of subsection
6 (a), or a maternal grandparent of the unborn child
7 if the pregnant woman is an unemancipated minor,
8 may in a civil action against any person who en-
9 gaged in the violation, obtain appropriate relief, un-
10 less the pregnancy or abortion resulted from the
11 plaintiff’s criminal conduct or the plaintiff consented
12 to the abortion.

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

15 “(A) objectively verifiable money damages
16 for all injuries, psychological and physical, in-
17 cluding loss of companionship and support, oc-
18 casioned by the violation of this section; and

19 “(B) punitive damages.

20 “(4) INJUNCTIVE RELIEF.—

21 “(A) IN GENERAL.—A qualified plaintiff
22 may in a civil action obtain injunctive relief to
23 prevent an abortion provider from performing
24 or attempting further abortions in violation of
25 this section.

1 “(B) DEFINITION.—In this paragraph the
2 term ‘qualified plaintiff’ means—

3 “(i) a woman upon whom an abortion
4 is performed or attempted in violation of
5 this section;

6 “(ii) a maternal grandparent of the
7 unborn child if the woman upon whom an
8 abortion is performed or attempted in vio-
9 lation of this section is an unemancipated
10 minor;

11 “(iii) the father of an unborn child
12 who is the subject of an abortion per-
13 formed or attempted in violation of sub-
14 section (a); or

15 “(iv) the Attorney General.

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

20 “(c) BAR TO PROSECUTION.—A woman upon whom
21 a sex-selection abortion is performed may not be pros-
22 ecuted or held civilly liable for any violation of this section,
23 or for a conspiracy to violate under this section, for a con-
24 spiracy to violate this section, or for an offense under sec-

1 tion 2, 3, or 4 of this title based on a violation of this
2 section.

3 “(d) LOSS OF FEDERAL FUNDING.—A violation of
4 subsection (a) shall be deemed for the purposes of title
5 VI of the Civil Rights Act of 1964 to be discrimination
6 prohibited by section 601 of that Act.

7 “(e) REPORTING REQUIREMENT.—A physician, phy-
8 sician’s assistant, nurse, counselor, or other medical or
9 mental health professional shall report known or suspected
10 violations of any of this section to appropriate Federal,
11 State, and local law enforcement authorities. Whoever vio-
12 lates this requirement shall be fined under this title or
13 imprisoned not more than 1 year, or both.

14 “(f) EXPEDITED CONSIDERATION.—It shall be the
15 duty of the United States district courts, United States
16 courts of appeal, and the Supreme Court of the United
17 States to advance on the docket and to expedite to the
18 greatest possible extent the disposition of any matter
19 brought under this section.

20 “(g) PROTECTION OF PRIVACY IN COURT PRO-
21 CEEDINGS.—

22 “(1) IN GENERAL.—Except to the extent the
23 Constitution or other similarly compelling reason re-
24 quires, in every civil or criminal action under this
25 section, the court shall make such orders as are nec-

1 essary to protect the anonymity of any woman upon
2 whom an abortion has been performed or attempted
3 if she does not give her written consent to such dis-
4 closure. Such orders may be made upon motion, but
5 shall be made sua sponte if not otherwise sought by
6 a party.

7 “(2) ORDERS TO PARTIES, WITNESSES, AND
8 COUNSEL.—The court shall issue appropriate orders
9 to the parties, witnesses, and counsel and shall di-
10 rect the sealing of the record and exclusion of indi-
11 viduals from courtrooms or hearing rooms to the ex-
12 tent necessary to safeguard the identity of the
13 woman described in paragraph (1) from public dis-
14 closure.

15 “(3) PSEUDONYM REQUIRED.—In the absence
16 of written consent of the woman upon whom an
17 abortion has been performed or attempted, any
18 party, other than a public official, who brings an ac-
19 tion under this section shall do so under a pseu-
20 donym.

21 “(4) LIMITATION.—This subsection shall not be
22 construed to conceal the identity of the plaintiff or
23 of witnesses from the defendant or from attorneys
24 for the defendant.

25 “(h) DEFINITION.—In this section—

1 “(1) the term ‘abortion’ means the act of using
2 or prescribing any instrument, medicine, drug, or
3 any other substance, device, or means with the in-
4 tent to—

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

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

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

13 “(ii) to remove a dead unborn child;
14 and

15 “(2) the term ‘sex-selection abortion’ means an
16 abortion undertaken for purposes of eliminating an
17 unborn child of an undesired sex.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 13 of title 18, United States
20 Code, is amended by adding after the item relating to sec-
21 tion 249 the following new item:

 “250. Discrimination against the unborn on the basis of sex.”.

22 **SEC. 4. SEVERABILITY.**

23 If any portion of this Act or the application thereof
24 to any person or circumstance is held invalid, such inva-
25 lidity shall not affect the portions or applications of this

- 1 Act which can be given effect without the invalid portion
- 2 or application.

