

117TH CONGRESS  
2D SESSION

# H. R. 7719

To amend title 18, United States Code, to prohibit discrimination by abortion against an unborn child on the basis of results from laboratory developed tests, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2022

Mrs. FISCHBACH (for herself, Mr. ELLZEY, Mr. LAMBORN, Mr. LAMALFA, Mr. WEBER of Texas, Mr. BABIN, Mr. HUDSON, Mrs. MILLER-MEEKS, Mr. NORMAN, Mr. FEENSTRA, Mr. GROTHMAN, Mr. MULLIN, Mr. LATTA, Mr. PALAZZO, Mr. BUCK, Mr. MOORE of Alabama, Mr. MCKINLEY, Mr. GOOD of Virginia, Mr. DUNCAN, Mr. CLINE, Mr. BANKS, Mr. LUETKEMEYER, and Mr. STAUBER) 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 discrimination by abortion against an unborn child on the basis of results from laboratory developed tests, 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 “Unborn Protection  
5 Act”.

1 **SEC. 2. DISCRIMINATION BY ABORTION AGAINST AN UN-**  
 2 **BORN CHILD ON THE BASIS OF RESULTS**  
 3 **FROM LABORATORY DEVELOPED TESTS PRO-**  
 4 **HIBITED.**

5 (a) IN GENERAL.—Chapter 13 of title 18, United  
 6 States Code, is amended by adding after section 249, the  
 7 following:

8 **“§ 250. Discrimination by abortion against an unborn**  
 9 **child on the basis of results from Labora-**  
 10 **tory Developed Prenatal Tests prohibited**

11 “(a) DEFINITIONS.—In this section:

12 “(1) ABORTION.—The term ‘abortion’ means  
 13 the act of using or prescribing an instrument, medi-  
 14 cine, drug, or any other substances, device, or means  
 15 with the intent to—

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

18 “(B) terminate the pregnancy of a woman  
 19 known to be pregnant, with an intention other  
 20 than—

21 “(i) to produce a live birth and pre-  
 22 serve the life and health of the child born  
 23 alive;

24 “(ii) to save the life of the pregnant  
 25 woman; or

26 “(iii) to remove a dead unborn child.

1           “(2) LABORATORY DEVELOPED TESTS.—The  
2 term ‘Laboratory Developed Prenatal Test’ means a  
3 type of in vitro diagnostic test that is designed, de-  
4 veloped, manufactured, validated, or performed with-  
5 in a single laboratory and is not cleared or approved  
6 by the United States Food and Drug Administra-  
7 tion.

8           “(3) QUALIFIED PLAINTIFF.—The term ‘quali-  
9 fied plaintiff’ means—

10                   “(A) a woman upon whom an abortion is  
11 performed or attempted in violation of this sec-  
12 tion;

13                   “(B) a maternal grandparent of the un-  
14 born child if the woman upon whom an abortion  
15 is performed or attempted in violation of this  
16 section is an unemancipated minor;

17                   “(C) the father of an unborn child who is  
18 the subject of an abortion performed or at-  
19 tempted in violation of this section unless the  
20 pregnancy or abortion resulted from the crimi-  
21 nal conduct of the father; or

22                   “(D) the Attorney General.

23           “(4) UNBORN CHILD.—The term ‘unborn child’  
24 means an individual of the species homo sapiens  
25 from the beginning of the biological development of

1 that individual, including fertilization, until the point  
2 of being born alive, as defined in section 8(b) of title  
3 1.

4 “(b) OFFENSE.—It shall be unlawful to—

5 “(1) perform an abortion—

6 “(A) with the knowledge that a pregnant  
7 woman is seeking an abortion in whole or in  
8 part on the basis of Laboratory Developed Pre-  
9 natal Test results; and

10 “(B) without first—

11 “(i) asking the pregnant woman if she  
12 is aware of any Laboratory Developed Pre-  
13 natal Test results;

14 “(ii) confirming that the woman has  
15 been properly informed about the results  
16 and has received proper interpretation by a  
17 genetic counselor or healthcare profes-  
18 sional; and

19 “(iii) if the woman is aware that the  
20 unborn child has or may test positive with  
21 a Laboratory Developed Prenatal test, in-  
22 forming the pregnant woman of the prohi-  
23 bition on abortion under this section;

24 “(2) use force or the threat of force to inten-  
25 tionally injure or intimidate any person for the pur-

1 pose of coercing an abortion described in paragraph  
2 (1)(A);

3 “(3) solicit or accept funds for the performance  
4 of an abortion described in paragraph (1)(A); or

5 “(4) knowingly transport a woman into the  
6 United States or across a State line for the purpose  
7 of obtaining an abortion described in paragraph  
8 (1)(A).

9 “(c) CRIMINAL PENALTY.—Whoever violates, or at-  
10 tempts to violate, subsection (b) shall be fined under this  
11 title, imprisoned not more than 5 years, or both.

12 “(d) CIVIL REMEDIES.—

13 “(1) CIVIL ACTION BY WOMAN ON WHOM ABOR-  
14 TION IS PERFORMED.—A woman upon whom an  
15 abortion has been performed or attempted in viola-  
16 tion of subsection (b)(2) may bring a civil action in  
17 an appropriate court against any person who en-  
18 gaged in a violation of subsection (b)(2) to obtain  
19 appropriate relief.

20 “(2) CIVIL ACTION BY RELATIVES.—

21 “(A) IN GENERAL.—Except as provided in  
22 subparagraph (B), the father of an unborn  
23 child who is the subject of an abortion per-  
24 formed or attempted in violation of subsection  
25 (b), or a maternal grandparent of the unborn

1 child if the pregnant woman is an  
2 unemancipated minor, may bring a civil action  
3 in an appropriate court against any person who  
4 engaged in the violation to obtain appropriate  
5 relief.

6 “(B) EXCEPTIONS.—Subparagraph (A)  
7 shall not apply if—

8 “(i) the pregnancy or abortion re-  
9 sulted from the criminal conduct of the  
10 plaintiff described in subparagraph (A); or

11 “(ii) the plaintiff described in sub-  
12 paragraph (A) consented 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 violations of this section; and

19 “(B) punitive damages.

20 “(4) INJUNCTIVE RELIEF.—A qualified plaintiff  
21 may bring a civil action in an appropriate court to  
22 obtain injunctive relief to prevent an abortion pro-  
23 vider from performing or attempting further abor-  
24 tions in violation of this section.

1           “(5) ATTORNEY’S FEES FOR PLAINTIFF.—The  
2           court shall award a reasonable attorney’s fee as part  
3           of the costs to a prevailing plaintiff in a civil action  
4           under this subsection.

5           “(e) BAR TO PROSECUTION.—A woman upon whom  
6           an abortion is performed may not be prosecuted or held  
7           civilly liable for any violation of this section or for a con-  
8           spiracy to violate this section.

9           “(f) LOSS OF FEDERAL FUNDING.—A violation of  
10          subsection (b) shall be deemed discrimination for the pur-  
11          poses of section 504 of the Rehabilitation Act of 1973 (29  
12          U.S.C. 794).

13          “(g) REPORTING REQUIREMENT.—

14                 “(1) IN GENERAL.—A physician, physician’s as-  
15                 sistant, nurse, counselor, or other medical or mental  
16                 health professional shall report known or suspected  
17                 violations of any of this section to appropriate law  
18                 enforcement authorities.

19                 “(2) CRIMINAL PENALTY.—Any person who vio-  
20                 lates paragraph (1) shall be fined under this title,  
21                 imprisoned not more than 1 year, or both.

22          “(h) EXPEDITED CONSIDERATION.—It shall be the  
23          duty of the district courts of the United States, the courts  
24          of appeals of the United States, and the Supreme Court  
25          of the United States to advance on the docket and to expe-

1 dite to the greatest possible extent the disposition of any  
2 matter brought under this section.

3 “(i) PROTECTION OF PRIVACY IN COURT PRO-  
4 CEEDINGS.—

5 “(1) IN GENERAL.—Except to the extent the  
6 Constitution of the United States or other similarly  
7 compelling reason requires, in every civil or criminal  
8 action under this section, the court shall make such  
9 orders as are necessary to protect the anonymity of  
10 any woman upon whom an abortion has been per-  
11 formed or attempted if she does not give her written  
12 consent to such disclosure. Such orders may be  
13 made upon motion, but shall be made sua sponte if  
14 not otherwise sought by a party.

15 “(2) ORDERS TO PARTIES, WITNESSES, AND  
16 COUNSEL.—The court shall issue appropriate orders  
17 to the parties, witnesses, and counsel and shall di-  
18 rect the sealing of the record and exclusion of indi-  
19 viduals from courtrooms or hearing rooms to the ex-  
20 tent necessary to safeguard the identity of a woman  
21 described in paragraph (1) from public disclosure.

22 “(3) PSEUDONYM REQUIRED.—In the absence  
23 of written consent of the woman upon whom an  
24 abortion has been performed or attempted, any  
25 party, other than a public official, who brings an ac-



1       tion under this section shall do so under a pseu-  
2       donym.

3               “(4) LIMITATION.—This subsection may not be  
4       construed to conceal the identity of the plaintiff or  
5       of witnesses from the defendant or from attorneys  
6       for the defendant.”.

7       (b) CLERICAL AMENDMENT.—The table of sections  
8       of chapter 13 of title 18, United States Code, is amended  
9       by adding at the end the following:

      “250. Discrimination by abortion against an unborn child on the basis of results  
          from Laboratory Developed Prenatal Tests prohibited.”.

10   **SEC. 3. SEVERABILITY.**

11       If any portion of this Act, or the amendments made  
12       by this Act, or the application thereof to any person or  
13       circumstance is held invalid, such invalidity shall not af-  
14       fect the portions or applications of the Act which can be  
15       given effect without the invalid portion or application.

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