

MOTION TO RECOMMIT
OFFERED BY MS. LETLOW OF LOUISIANA

At the end of the bill, add the following new section:

1 **SECTION 10. BORN-ALIVE ABORTION SURVIVORS PROTEC-**
2 **TION.**

3 (a) **SHORT TITLE.**—This section may be cited as the
4 “Born-Alive Abortion Survivors Protection Act”.

5 (b) **FINDINGS; CONSTITUTIONAL AUTHORITY.**—

6 (1) **FINDINGS.**—Congress finds as follows:

7 (A) If an abortion results in the live birth
8 of an infant, the infant is a legal person for all
9 purposes under the laws of the United States,
10 and entitled to all the protections of such laws.

11 (B) Any infant born alive after an abortion
12 or within a hospital, clinic, or other facility has
13 the same claim to the protection of the law that
14 would arise for any newborn, or for any person
15 who comes to a hospital, clinic, or other facility
16 for screening and treatment or otherwise be-
17 comes a patient within its care.

18 (2) **CONSTITUTIONAL AUTHORITY.**—In accord-
19 ance with the above findings, Congress enacts the
20 following pursuant to Congress’ power under—

1 (A) section 5 of the 14th Amendment, in-
2 cluding the power to enforce the prohibition on
3 government action denying equal protection of
4 the laws; and

5 (B) section 8 of article I to make all laws
6 necessary and proper for carrying into execu-
7 tion the powers vested by the Constitution of
8 the United States, including the power to regu-
9 late commerce under clause 3 of such section.

10 (c) BORN-ALIVE INFANTS PROTECTION.—

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

15 **“§ 1532. Requirements pertaining to born-alive abor-**
16 **tion survivors**

17 **“(a) REQUIREMENTS FOR HEALTH CARE PRACTI-**
18 **TIONERS.—**In the case of an abortion or attempted abor-
19 tion that results in a child born alive (as defined in section
20 8 of title 1, United States Code (commonly known as the
21 ‘Born-Alive Infants Protection Act’)):

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 or imprisoned for
21 not 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 under this section, for conspiracy to violate this
6 section, or for an offense under section 3 or 4 of this title
7 based on such a violation.

8 “(d) CIVIL REMEDIES.—

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

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

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

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

24 “(C) punitive damages.

1 “(3) ATTORNEY’S FEE FOR PLAINTIFF.—The
2 court shall award a reasonable attorney’s fee to a
3 prevailing plaintiff in a civil action under this sub-
4 section.

5 “(4) ATTORNEY’S FEE FOR DEFENDANT.—If a
6 defendant in a civil action under this subsection pre-
7 vails and the court finds that the plaintiff’s suit was
8 frivolous, the court shall award a reasonable attor-
9 ney’s fee in favor of the defendant against the plain-
10 tiff.

11 “(e) DEFINITIONS.—In this section the following
12 definitions apply:

13 “(1) ABORTION.—The term ‘abortion’ means
14 the use or prescription of any instrument, medicine,
15 drug, or any other substance or device—

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

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

21 “(i) after viability, to produce a live
22 birth and preserve the life and health of
23 the child born alive; or

24 “(ii) to remove a dead unborn child.

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 (2) CLERICAL AMENDMENT.—The table of sec-
7 tions for chapter 74 of title 18, United States Code,
8 is amended by inserting after the item pertaining to
9 section 1531 the following:

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

10 (3) CHAPTER HEADING AMENDMENTS.—

11 (A) CHAPTER HEADING IN CHAPTER.—
12 The chapter heading for chapter 74 of title 18,
13 United States Code, is amended by striking
14 “**Partial-Birth Abortions**” and inserting
15 “**Abortions**”.

16 (B) TABLE OF CHAPTERS FOR PART I.—
17 The item relating to chapter 74 in the table of
18 chapters at the beginning of part I of title 18,
19 United States Code, is amended by striking
20 “Partial-Birth Abortions” and inserting “Abor-
21 tions”.

