

MOTION TO RECOMMIT H.R. 8296

OFFERED BY M__ . _____

Strike all that follows the enacting clause and insert
the following:

1 **SECTION 1. 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.

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

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

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

13 (c) BORN-ALIVE INFANTS PROTECTION.—

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

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

20 “(a) REQUIREMENTS FOR HEALTH CARE PRACTI-
21 TIONERS.—In the case of an abortion or attempted abor-
22 tion that results in a child born alive (as defined in section
23 8 of title 1, United States Code (commonly known as the
24 ‘Born-Alive Infants Protection Act’)):

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

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

11 “(B) following the exercise of skill, care,
12 and diligence required under subparagraph (A),
13 ensure that the child born alive is immediately
14 transported and admitted to a hospital.

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

22 “(b) PENALTIES.—

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

1 “(2) INTENTIONAL KILLING OF CHILD BORN
2 ALIVE.—Whoever intentionally performs or attempts
3 to perform an overt act that kills a child born alive
4 described under subsection (a), shall be punished as
5 under section 1111 of this title for intentionally kill-
6 ing or attempting to kill a human being.

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

12 “(d) CIVIL REMEDIES.—

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

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

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

1 “(B) statutory damages equal to 3 times
2 the cost of the abortion or attempted abortion;
3 and

4 “(C) punitive damages.

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

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

15 “(e) DEFINITIONS.—In this section the following
16 definitions apply:

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) ATTEMPT.—The term ‘attempt’, with re-
6 spect to an abortion, means conduct that, under the
7 circumstances as the actor believes them to be, con-
8 stitutes a substantial step in a course of conduct
9 planned to culminate in performing an abortion.”.

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

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

14 (3) CHAPTER HEADING AMENDMENTS.—

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

20 (B) TABLE OF CHAPTERS FOR PART I.—
21 The item relating to chapter 74 in the table of
22 chapters at the beginning of part I of title 18,
23 United States Code, is amended by striking

1 “Partial-Birth Abortions” and inserting “Abor-
2 tions”.

