

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion.

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IN THE SENATE OF THE UNITED STATES

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Mr. SASSE introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion.

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 "Born-Alive Abortion  
5 Survivors Protection Act".

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

1 (1) If an abortion results in the live birth of an  
2 infant, the infant is a legal person for all purposes  
3 under the laws of the United States, and entitled to  
4 all the protections of such laws.

5 (2) Any infant born alive after an abortion or  
6 within a hospital, clinic, or other facility has the  
7 same claim to the protection of the law that would  
8 arise for any newborn, or for any person who comes  
9 to a hospital, clinic, or other facility for screening  
10 and treatment or otherwise becomes a patient within  
11 its care.

12 **SEC. 3. BORN-ALIVE INFANTS PROTECTION.**

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

17 **“§ 1532. Requirements pertaining to born-alive abor-**  
18 **tion survivors**

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

24 “(1) DEGREE OF CARE REQUIRED; IMMEDIATE  
25 ADMISSION TO A HOSPITAL.—Any health care practi-

1       tioner present at the time the child is born alive  
2       shall—

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

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

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

20             “(b) PENALTIES.—

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

24               “(2) INTENTIONAL KILLING OF CHILD BORN  
25               ALIVE.—Whoever intentionally performs or attempts

1 to perform an overt act that kills a child born alive  
2 described under subsection (a), shall be punished as  
3 under section 1111 of this title for intentionally kill-  
4 ing or attempting to kill a human being.

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

10 “(d) CIVIL REMEDIES.—

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

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

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

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



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

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