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.

IN THE SENATE OF THE UNITED STATES

Mr. Sasse (for himself, Mr. Barrasso, Mrs. Blackburn, Mr. Blunt, Mr. Boozman, Mr. Braun, Mr. Burr, Mr. Cassidy, Mr. Cornyn, Mr. Cotton, Mr. Cramer, Mr. Crapo, Mr. Cruz, Mr. Daines, Ms. Ernst, Mrs. Fischer, Mr. Graham, Mr. Grassley, Mr. Hagerty, Mr. Hawley, Mr. Hoeven, Mrs. Hyde-Smith, Mr. Inhofe, Mr. Johnson, Mr. Kennedy, Mr. Lankford, Mr. Lee, Ms. Lummis, Mr. Marshall, Mr. McConnell, Mr. Moran, Mr. Paul, Mr. Portman, Mr. Risch, Mr. Rounds, Mr. Romney, Mr. Rubio, Mr. Scott of Florida, Mr. Scott of South Carolina, Mr. Shelby, Mr. Sullivan, Mr. Thune, Mr. Tillis, Mr. Toomey, Mr. Wicker, and Mr. Young) introduced the following bill; which was read twice and referred to the Committee on

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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Born-Alive Abortion Survivors Protection Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) If an abortion results in the live birth of an

infant, the infant is a legal person for all purposes
under the laws of the United States, and entitled to
all the protections of such laws.

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

SEC. 3. BORN-ALIVE INFANTS PROTECTION.

(a) Requirements Pertaining to Born-Alive

Abortion Survivors.—Chapter 74 of title 18, United
States Code, is amended by inserting after section 1531
the following:

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

“(a) Requirements for Health Care Practi-
tioners.—In the case of an abortion or attempted abor-
tion that results in a child born alive:
“(1) **Degree of Care Required; Immediate Admission to a Hospital.**—Any health care practitioner present at the time the child is born alive shall—

“(A) exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as a reasonably diligent and conscientious health care practitioner would render to any other child born alive at the same gestational age; and

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

“(2) **Mandatory Reporting of Violations.**—A health care practitioner or any employee of a hospital, a physician’s office, or an abortion clinic who has knowledge of a failure to comply with the requirements of paragraph (1) shall immediately report the failure to an appropriate State or Federal law enforcement agency, or to both.

“(b) **Penalties.**—

“(1) **In General.**—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 5 years, or both.
“(2) Intentional killing of child born alive.—Whoever intentionally performs or attempts to perform an overt act that kills a child born alive described under subsection (a), shall be punished as under section 1111 of this title for intentionally killing or attempting to kill a human being.

“(c) Bar to prosecution.—The mother of a child born alive described under subsection (a) may not be prosecuted for a violation of this section, an attempt to violate this section, a conspiracy to violate this section, or an offense under section 3 or 4 of this title based on such a violation.

“(d) Civil remedies.—

“(1) Civil action by a woman on whom an abortion is performed.—If a child is born alive and there is a violation of subsection (a), the woman upon whom the abortion was performed or attempted may, in a civil action against any person who committed the violation, obtain appropriate relief.

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

“(A) objectively verifiable money damage for all injuries, psychological and physical, occasioned by the violation of subsection (a);
“(B) statutory damages equal to 3 times
the cost of the abortion or attempted abortion;
and
“(C) punitive damages.
“(3) Attorney’s fee for plaintiff.—The
court shall award a reasonable attorney’s fee to a
prevailing plaintiff in a civil action under this sub-
section.
“(4) Attorney’s fee for defendant.—If a
defendant in a civil action under this subsection pre-
vails and the court finds that the plaintiff’s suit was
frivolous, the court shall award a reasonable attor-
ney’s fee in favor of the defendant against the plain-
tiff.
“(e) Definitions.—In this section the following
definitions apply:
“(1) Abortion.—The term ‘abortion’ means
the use or prescription of any instrument, medicine,
drug, or any other substance or device—
“(A) to intentionally kill the unborn child
of a woman known to be pregnant; or
“(B) to intentionally terminate the preg-
nancy of a woman known to be pregnant, with
an intention other than—
“(i) after viability, to produce a live birth and preserve the life and health of the child born alive; or

“(ii) to remove a dead unborn child.

“(2) ATTEMPT.—The term ‘attempt’, with respect to an abortion, means conduct that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in performing an abortion.

“(3) BORN ALIVE.—The term ‘born alive’ has the meaning given that term in section 8 of title 1, United States Code (commonly known as the ‘Born-Alive Infants Protection Act’).

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 74 of title 18, United States Code, is amended by adding at the end the following:

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

(2) The chapter heading for chapter 74 of title 18, United States Code, is amended by striking “PARTIAL-BIRTH ABORTIONS” and inserting “ABORTIONS”.

(3) The table of chapters for part I of title 18, United States Code, is amended by striking the item relating to chapter 74 and inserting the following:

“74. Abortion ........................................................................................................... 1531”.
1 SEC. 4. EFFECTIVE DATE.

2 This Act shall take effect one day after the date of enactment.