

.....
(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To amend title 18, United States Code, to protect pain-capable unborn children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of New Jersey (for himself and Mrs. Fischbach, Mr. Harris, Mrs. Cammack and ...) introduced the following bill, which was referred to the Committee on _____

A BILL

To amend title 18, United States Code, to protect pain-capable unborn children, 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 “Protecting Pain-Capa-
5 ble Unborn Children from Late-Term Abortions Act”.

6 **SEC. 2. LEGISLATIVE FINDINGS AND DECLARATION OF**
7 **CONSTITUTIONAL AUTHORITY FOR ENACT-**
8 **MENT.**

9 Congress finds and declares the following:

1 (1) Medical and other authorities now know
2 more about human prenatal development than ever
3 before including that—

4 (A) an unborn child begins to move about
5 in the womb and reacts to touch at approxi-
6 mately 8 weeks gestation;

7 (B) the eyes begin to form at 5 weeks ges-
8 tation and finish forming by 10 weeks gesta-
9 tion; eye movements can be detected by
10 ultrasound at 12 weeks gestation;

11 (C) by 8 to 9 weeks gestation, the unborn
12 child has detectable brain waves;

13 (D) at 9 weeks gestation, an unborn child's
14 diaphragm is developing, and he or she may
15 even hiccup, and he or she is beginning to move
16 about freely in the womb;

17 (E) at 9 to 11 weeks gestation, teeth as
18 well as external genitalia begin to form;

19 (F) by 10 weeks gestation all of an unborn
20 child's organ rudiments are formed and in
21 place, the digestive system and kidneys start to
22 function at this time, and the unborn child will
23 show a preference for either right handedness
24 or left handedness;

1 (G) at 12 weeks gestation, an unborn child
2 can open and close his or her fingers, starts to
3 make sucking motions, senses stimulation from
4 the world outside the womb, and fingernails and
5 fingerprints begin to form; and

6 (H) the Supreme Court has acknowledged
7 that, by at least 12 weeks gestation, an unborn
8 child has taken on “the human form” in all rel-
9 evant aspects (*Gonzales v. Carhart*, 550 U.S.
10 124, 160 (2007)).

11 (2) Pain receptors (nociceptors) begin forming
12 at 7 weeks gestational age. Nerves linking these pain
13 receptors to the brain’s thalamus and subcortical
14 plate form between 12 and 20 weeks gestational age.
15 It is no later than 16 weeks gestational age that the
16 first contact occurs between the subcortical plate
17 and these forming fibers.

18 (3) In considering the use of anesthesia for
19 invasive medical procedures performed on the fetus,
20 evidence has concluded that from as early as 12
21 weeks, and certainly by 15 weeks gestational age on-
22 ward, the fetus is extremely sensitive to painful
23 stimuli, making it necessary to apply adequate anal-
24 gesia and anesthesia to prevent fetal suffering.

1 (4) Substantial evidence indicates that neural
2 elements, such as the thalamus and subcortical
3 plate, develop at specific times during the early de-
4 velopment of an unborn child, serve as pain-proc-
5 essing structures, and are different from the neural
6 elements used for pain processing by adults. Recent
7 evidence, particularly since 2016, demonstrates that
8 structures responsible for pain show signs of suffi-
9 cient maturation from 15 weeks of gestation and
10 thereafter.

11 (5) In the unborn child, application of such
12 painful stimuli is associated with significant in-
13 creases in stress hormones known as the stress re-
14 sponse.

15 (6) Subjection to such painful stimuli is associ-
16 ated with long-term harmful neurodevelopmental ef-
17 fects, such as altered pain sensitivity and, possibly,
18 emotional, behavioral, and learning disabilities later
19 in life.

20 (7) For the purposes of surgery on unborn chil-
21 dren, fetal anesthesia is routinely administered and
22 is associated with a decrease in stress hormones
23 compared to their level when painful stimuli are ap-
24 plied without such anesthesia.

1 (8) The assertion by some medical experts that
2 the unborn child is incapable of experiencing pain
3 until a point in pregnancy later than 24 weeks ges-
4 tational age predominately rests on the assumption
5 that the ability to experience pain depends on the
6 cerebral cortex and requires nerve connections be-
7 tween the thalamus and the cortex. However, recent
8 medical research and analysis, especially since 2007,
9 provides strong evidence for the conclusion that a
10 functioning cortex is not necessary to experience
11 pain.

12 (9) Substantial evidence indicates that children
13 born missing the bulk of the cerebral cortex, such as
14 those with hydranencephaly, nevertheless experience
15 pain.

16 (10) In adult humans and in animals, stimula-
17 tion or ablation of the cerebral cortex does not alter
18 pain perception, while stimulation or ablation of the
19 thalamus does.

20 (11) The assertion of some medical experts that
21 the unborn child remains in a coma-like sleep state
22 that precludes the unborn child from experiencing
23 pain is inconsistent with the documented reaction of
24 unborn children to painful stimuli and with the expe-
25 rience of fetal surgeons who have found it necessary

1 to sedate an unborn child with anesthesia and pro-
2 vide analgesia to prevent the unborn child from en-
3 gaging in vigorous movement in reaction to invasive
4 surgery.

5 (12) Consequently, there is substantial medical
6 evidence that an unborn child is capable of experi-
7 encing pain at least by 15 weeks gestational age, if
8 not earlier.

9 (13) Abortion carries significant physical and
10 psychological risks to the pregnant woman, and
11 these physical and psychological risks increase with
12 gestational age.

13 (14) The majority of abortion procedures per-
14 formed after 15 weeks gestation are dismemberment
15 abortion procedures which involve the use of surgical
16 instruments to crush and tear the unborn child
17 apart before removing the pieces of the dead child
18 from the womb.

19 (15) Medical complications from dismember-
20 ment abortions include, but are not limited to, pelvic
21 infection; incomplete abortions (retained tissue);
22 blood clots; heavy bleeding or hemorrhage; laceration,
23 tear, or other injury to the cervix; puncture,
24 laceration, tear, or other injury to the uterus; injury
25 to the bowel or bladder; depression; anxiety; sub-

1 stance abuse; and other emotional or psychological
2 problems. Further, in abortions performed after 15
3 weeks gestation, there is a higher risk of requiring
4 a hysterectomy, other reparative surgery, or blood
5 transfusion.

6 (16) Subparagraphs (J) and (K) of section
7 2(14) of the Partial-Birth Abortion Ban Act of 2003
8 (Public Law 108–105; 117 Stat. 1202) find that a
9 late-term abortion, such as a dismemberment abor-
10 tion, “confuses the medical, legal, and ethical duties
11 of physicians to preserve and promote life, as the
12 physician acts directly against the physical life of a
13 child” and “undermines the public’s perception of
14 the appropriate role of a physician”.

15 (17) “The [United States Supreme] Court has
16 given state and federal legislatures wide discretion to
17 pass legislation in areas where there is medical and
18 scientific uncertainty” that “the law need not give
19 abortion doctors unfettered choice in the course of
20 their medical practice, nor should it elevate their
21 status above other physicians in the medical commu-
22 nity,” and that “medical uncertainty does not fore-
23 close the exercise of legislative power in the abortion
24 context any more than it does in other contexts,”
25 (Gonzales v. Carhart, 550 U.S. at 124).

1 (18) The Supreme Court has held that “It is
2 time to heed the Constitution and return the issue
3 of abortion to the people’s elected representatives”.
4 (Dobbs v. Jackson Women’s Health Organization,
5 142 S. Ct. 2228, 2243 (2022)).

6 (19) It is the purpose of the Congress to assert
7 a compelling governmental interest in protecting the
8 lives of unborn children from the stage at which sub-
9 stantial medical evidence indicates that they are ca-
10 pable of feeling pain.

11 (20) The Supreme Court has also held that “a
12 law regulating abortion, like other health and wel-
13 fare laws, is entitled to a ‘strong presumption of va-
14 lidity’ . . . It must be sustained if there is a rational
15 basis on which the legislature could have thought
16 that it would serve legitimate state interests . . .
17 These legitimate interests include respect for and
18 preservation of prenatal life at all stages of develop-
19 ment; the protection of maternal health and safety;
20 the elimination of particularly gruesome or barbaric
21 medical procedures; the preservation of the integrity
22 of the medical profession; the mitigation of fetal
23 pain; and the prevention of discrimination on the
24 basis of race, sex, or disability.” (Dobbs v. Jackson
25 Women’s Health Organization, 142 S. Ct. at 2239).

1 (21) Congress has authority to extend protec-
2 tion to pain-capable unborn children under the Su-
3 preme Court’s Commerce Clause precedents and
4 under the Constitution’s grants of powers to Con-
5 gress under the Equal Protection, Due Process, and
6 Enforcement Clauses of the Fourteenth Amendment.

7 **SEC. 3. PAIN-CAPABLE UNBORN CHILD PROTECTION.**

8 (a) IN GENERAL.—Chapter 74 of title 18, United
9 States Code, is amended by inserting after section 1531
10 the following:

11 **“§ 1532. Pain-capable unborn child protection**

12 “(a) UNLAWFUL CONDUCT.—Subject to subsection
13 (g) and notwithstanding any other provision of law, it shall
14 be unlawful for any person to perform an abortion or at-
15 tempt to do so, unless in conformity with the requirements
16 set forth in subsection (b).

17 “(b) MINIMUM REQUIREMENTS FOR ABORTIONS.—

18 “(1) ASSESSMENT OF THE AGE OF THE UN-
19 BORN CHILD.—The physician performing or at-
20 tempting the abortion shall first make a determina-
21 tion of the gestational age of the unborn child or
22 reasonably rely upon such a determination made by
23 another physician. In making such a determination,
24 the physician shall make such inquiries of the preg-
25 nant woman and perform or cause to be performed

1 such medical examinations and tests as a reasonably
2 prudent physician, knowledgeable about the case and
3 the medical conditions involved, would consider nec-
4 essary to make an accurate determination of gesta-
5 tional age.

6 “(2) PROHIBITION ON PERFORMANCE OF CER-
7 TAIN ABORTIONS.—

8 “(A) GENERALLY FOR UNBORN CHILDREN
9 15 WEEKS OR OLDER.—Except as provided in
10 subparagraph (B), the abortion shall not be
11 performed or attempted, if the probable gesta-
12 tional age, as determined under paragraph (1),
13 of the unborn child is 15 weeks or greater.

14 “(B) EXCEPTIONS.—Subparagraph (A)
15 does not apply if—

16 “(i) in reasonable medical judgment,
17 the abortion is necessary to save the life of
18 a pregnant woman whose life is endan-
19 gered by a physical disorder, physical ill-
20 ness, or physical injury, including a life-en-
21 dangering physical condition caused by or
22 arising from the pregnancy itself, but not
23 including psychological or emotional condi-
24 tions;

1 “(ii) the pregnancy is the result of
2 rape against an adult woman, and at least
3 48 hours prior to the abortion—

4 “(I) she has obtained counseling
5 for the rape; or

6 “(II) she has obtained medical
7 treatment for the rape or an injury
8 related to the rape; or

9 “(iii) the pregnancy is a result of rape
10 against a minor or incest against a minor,
11 and the rape or incest has been reported at
12 any time prior to the abortion to either—

13 “(I) a government agency legally
14 authorized to act on reports of child
15 abuse; or

16 “(II) a law enforcement agency.

17 “(C) REQUIREMENT AS TO MANNER OF
18 PROCEDURE PERFORMED.—Notwithstanding
19 the definitions of ‘abortion’ and ‘attempt’ in
20 this section, a physician terminating or at-
21 tempting to terminate a pregnancy under an ex-
22 ception provided by subparagraph (B) may do
23 so only in the manner which, in reasonable
24 medical judgment, provides the best opportunity
25 for the unborn child to survive.

1 “(D) REQUIREMENT THAT A PHYSICIAN
2 TRAINED IN NEONATAL RESUSCITATION BE
3 PRESENT.—If, in reasonable medical judgment,
4 the pain-capable unborn child has the potential
5 to survive outside the womb, the physician who
6 performs or attempts an abortion under an ex-
7 ception provided by subparagraph (B) shall en-
8 sure a second physician trained in neonatal re-
9 suscitation is present and prepared to provide
10 care to the child consistent with the require-
11 ments of subparagraph (E).

12 “(E) CHILDREN BORN ALIVE AFTER AT-
13 TEMPTED ABORTIONS.—When a physician per-
14 forms or attempts an abortion in accordance
15 with this section, and the child is born alive, as
16 defined in section 8 of title 1 (commonly known
17 as the Born-Alive Infants Protection Act of
18 2002), the following shall apply:

19 “(i) DEGREE OF CARE REQUIRED.—
20 Any health care practitioner present at the
21 time shall humanely exercise the same de-
22 gree of professional skill, care, and dili-
23 gence to preserve the life and health of the
24 child as a reasonably diligent and conscien-
25 tious health care practitioner would render

1 to a child born alive at the same gesta-
2 tional age in the course of a natural birth.

3 “(ii) IMMEDIATE ADMISSION TO A
4 HOSPITAL.—Following the care required to
5 be rendered under clause (i), the child born
6 alive shall be immediately transported and
7 admitted to a hospital.

8 “(iii) MANDATORY REPORTING OF
9 VIOLATIONS.—A health care practitioner or
10 any employee of a hospital, a physician’s
11 office, or an abortion clinic who has knowl-
12 edge of a failure to comply with the re-
13 quirements of this subparagraph must im-
14 mediately report the failure to an appro-
15 priate State or Federal law enforcement
16 agency or both.

17 “(F) DOCUMENTATION REQUIREMENTS.—

18 “(i) DOCUMENTATION PERTAINING TO
19 ADULTS.—A physician who performs or at-
20 tempts to perform an abortion under an
21 exception provided by subparagraph (B)(ii)
22 shall, prior to the abortion, place in the pa-
23 tient medical file documentation from a
24 hospital licensed by the State or operated
25 under authority of a Federal agency, a

1 medical clinic licensed by the State or op-
2 erated under authority of a Federal agen-
3 cy, from a personal physician licensed by
4 the State, a counselor licensed by the
5 State, or a victim's rights advocate pro-
6 vided by a law enforcement agency that the
7 adult woman seeking the abortion obtained
8 medical treatment or counseling for the
9 rape or an injury related to the rape.

10 “(ii) DOCUMENTATION PERTAINING
11 TO MINORS.—A physician who performs or
12 attempts to perform an abortion under an
13 exception provided by subparagraph
14 (B)(iii) shall, prior to the abortion, place in
15 the patient medical file documentation
16 from a government agency legally author-
17 ized to act on reports of child abuse that
18 the rape or incest was reported prior to the
19 abortion; or, as an alternative, documenta-
20 tion from a law enforcement agency that
21 the rape or incest was reported prior to the
22 abortion.

23 “(G) INFORMED CONSENT.—

24 “(i) CONSENT FORM REQUIRED.—The
25 physician who intends to perform or at-

1 tempt to perform an abortion under the
2 provisions of subparagraph (B) may not
3 perform any part of the abortion procedure
4 without first obtaining a signed Informed
5 Consent Authorization form in accordance
6 with this subparagraph.

7 “(ii) CONTENT OF CONSENT FORM.—
8 The Informed Consent Authorization form
9 shall be presented in person by the physi-
10 cian and shall consist of—

11 “(I) a statement by the physician
12 indicating the probable gestational age
13 of the pain-capable unborn child;

14 “(II) a statement that Federal
15 law allows abortion after 15 weeks
16 probable gestational age only if the
17 mother’s life is endangered by a phys-
18 ical disorder, physical illness, or phys-
19 ical injury, when the pregnancy was
20 the result of rape, or an act of incest
21 against a minor;

22 “(III) a statement that the preg-
23 nancy must be terminated by the
24 method most likely to allow the child

1 to be born alive unless this would
2 cause significant risk to the mother;

3 “(IV) a statement that in any
4 case in which an abortion procedure
5 results in a child born alive, Federal
6 law requires that child to be given
7 every form of medical assistance that
8 is provided to children spontaneously
9 born prematurely, including transpor-
10 tation and admittance to a hospital;

11 “(V) a statement that these re-
12 quirements are binding upon the phy-
13 sician and all other medical personnel
14 who are subject to criminal and civil
15 penalties and that a woman on whom
16 an abortion has been performed may
17 take civil action if these requirements
18 are not followed; and

19 “(VI) affirmation that each sign-
20 er has filled out the informed consent
21 form to the best of their knowledge
22 and understands the information con-
23 tained in the form.

24 “(iii) SIGNATORIES REQUIRED.—The
25 Informed Consent Authorization form shall

1 be signed in person by the woman seeking
2 the abortion, the physician performing or
3 attempting to perform the abortion, and a
4 witness.

5 “(iv) RETENTION OF CONSENT
6 FORM.—The physician performing or at-
7 tempting to perform an abortion must re-
8 tain the signed informed consent form in
9 the patient’s medical file.

10 “(H) REQUIREMENT FOR DATA RETEN-
11 TION.—Paragraph (j)(2) of section 164.530 of
12 title 45, Code of Federal Regulations, shall
13 apply to documentation required to be placed in
14 a patient’s medical file pursuant to subpara-
15 graph (F) of subsection (b)(2) and a consent
16 form required to be retained in a patient’s med-
17 ical file pursuant to subparagraph (G) of such
18 subsection in the same manner and to the same
19 extent as such paragraph applies to documenta-
20 tion required by paragraph (j)(1) of such sec-
21 tion.

22 “(I) ADDITIONAL EXCEPTIONS AND RE-
23 QUIREMENTS.—

24 “(i) IN CASES OF RISK OF DEATH OR
25 MAJOR INJURY TO THE MOTHER.—Sub-

1 paragraphs (C), (D), and (G) shall not
2 apply if, in reasonable medical judgment,
3 compliance with such paragraphs would
4 pose a greater risk of—

5 “(I) the death of the pregnant
6 woman; or

7 “(II) the substantial and irre-
8 versible physical impairment of a
9 major bodily function, not including
10 psychological or emotional conditions,
11 of the pregnant woman.

12 “(ii) EXCLUSION OF CERTAIN FACILI-
13 TIES.—Notwithstanding the definitions of
14 the terms ‘medical treatment’ and ‘coun-
15 seling’ in subsection (g), the counseling or
16 medical treatment described in subpara-
17 graph (B)(ii) may not be provided by a fa-
18 cility that performs abortions (unless that
19 facility is a hospital).

20 “(iii) RULE OF CONSTRUCTION IN
21 CASES OF REPORTS TO LAW ENFORCE-
22 MENT.—The requirements of subparagraph
23 (B)(ii) do not apply if the rape has been
24 reported at any time prior to the abortion
25 to a law enforcement agency or Depart-

1 ment of Defense victim assistance per-
2 sonnel.

3 “(c) CRIMINAL PENALTY.—Whoever violates sub-
4 section (a) shall be fined under this title or imprisoned
5 for not more than 5 years, or both.

6 “(d) BAR TO PROSECUTION.—A woman upon whom
7 an abortion in violation of subsection (a) is performed or
8 attempted may not be prosecuted under, or for a con-
9 spiracy to violate, subsection (a), or for an offense under
10 section 2, 3, or 4 of this title based on such a violation.

11 “(e) CIVIL REMEDIES.—

12 “(1) CIVIL ACTION BY A WOMAN ON WHOM AN
13 ABORTION IS PERFORMED.—A woman upon whom
14 an abortion has been performed or attempted in vio-
15 lation of any provision of this section may, in a civil
16 action against any person who committed the viola-
17 tion, obtain appropriate relief.

18 “(2) CIVIL ACTION BY A PARENT OF A MINOR
19 ON WHOM AN ABORTION IS PERFORMED.—A parent
20 of a minor upon whom an abortion has been per-
21 formed or attempted under an exception provided for
22 in subsection (b)(2)(B), and that was performed in
23 violation of any provision of this section may, in a
24 civil action against any person who committed the

1 violation obtain appropriate relief, unless the preg-
2 nancy resulted from the plaintiff's criminal conduct.

3 “(3) APPROPRIATE RELIEF.—Appropriate relief
4 in a civil action under this subsection includes—

5 “(A) objectively verifiable money damages
6 for all injuries, psychological and physical, occa-
7 sioned by the violation;

8 “(B) statutory damages equal to three
9 times the cost of the abortion; and

10 “(C) punitive damages.

11 “(4) ATTORNEYS FEES FOR PLAINTIFF.—The
12 court shall award a reasonable attorney's fee as part
13 of the costs to a prevailing plaintiff in a civil action
14 under this subsection.

15 “(5) ATTORNEYS FEES FOR DEFENDANT.—If a
16 defendant in a civil action under this subsection pre-
17 vails and the court finds that the plaintiff's suit was
18 frivolous, the court shall award a reasonable attor-
19 ney's fee in favor of the defendant against the plain-
20 tiff.

21 “(6) AWARDS AGAINST WOMAN.—Except under
22 paragraph (5), in a civil action under this sub-
23 section, no damages, attorney's fee or other mone-
24 tary relief may be assessed against the woman upon
25 whom the abortion was performed or attempted.

1 “(f) DATA COLLECTION.—

2 “(1) DATA SUBMISSIONS.—Any physician who
3 performs or attempts an abortion described in sub-
4 section (b)(2)(B) shall annually submit a summary
5 of all such abortions to the National Center for
6 Health Statistics (hereinafter referred to as the
7 ‘Center’) not later than 60 days after the end of the
8 calendar year in which the abortion was performed
9 or attempted.

10 “(2) CONTENTS OF SUMMARY.—The summary
11 shall include the number of abortions performed or
12 attempted on an unborn child who had a gestational
13 age of 15 weeks or more and specify the following
14 for each abortion under subsection (b)(2)(B)—

15 “(A) the probable gestational age of the
16 unborn child;

17 “(B) the method used to carry out the
18 abortion;

19 “(C) the location where the abortion was
20 conducted;

21 “(D) the exception under subsection
22 (b)(2)(B) under which the abortion was con-
23 ducted; and

24 “(E) any incident of live birth resulting
25 from the abortion.

1 “(3) EXCLUSIONS FROM DATA SUBMISSIONS.—

2 A summary required under this subsection shall not
3 contain any information identifying the woman
4 whose pregnancy was terminated and shall be sub-
5 mitted consistent with the Health Insurance Port-
6 ability and Accountability Act of 1996 (42 U.S.C.
7 1320d–2 note).

8 “(4) PUBLIC REPORT.—The Center shall annu-
9 ally issue a public report providing statistics by
10 State for the previous year compiled from all of the
11 summaries made to the Center under this sub-
12 section. The Center shall take care to ensure that
13 none of the information included in the public re-
14 ports could reasonably lead to the identification of
15 any pregnant woman upon whom an abortion was
16 performed or attempted. The annual report shall be
17 issued by July 1 of the calendar year following the
18 year in which the abortions were performed or at-
19 tempted.

20 “(g) RULE OF CONSTRUCTION.—

21 “(1) GREATER PROTECTION.—Nothing in this
22 section may be construed to pre-empt or limit any
23 Federal, State, or local law that provides greater
24 protections for an unborn child than those provided
25 in this section.

1 “(2) CREATING OR RECOGNIZING RIGHT.—

2 Nothing in this section shall be construed as cre-
3 ating or recognizing a right to abortion nor shall it
4 make lawful an abortion that is unlawful on the date
5 of the enactment of such Act.

6 “(h) DEFINITIONS.—In this section the following
7 definitions apply:

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

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

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

16 “(i) after viability to produce a live
17 birth and preserve the life and health of
18 the child born alive; or

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

20 “(2) ATTEMPT.—The term ‘attempt’, with re-
21 spect to an abortion, means conduct that, under the
22 circumstances as the actor believes them to be, con-
23 stitutes a substantial step in a course of conduct
24 planned to culminate in performing an abortion.

1 “(3) COUNSELING.—The term ‘counseling’
2 means counseling provided by a counselor licensed
3 by the State, or a victims rights advocate provided
4 by a law enforcement agency.

5 “(4) FACILITY.—The term ‘facility’ means any
6 medical or counseling group, center or clinic and in-
7 cludes the entire legal entity, including any entity
8 that controls, is controlled by, or is under common
9 control with such facility.

10 “(5) FERTILIZATION.—The term ‘fertilization’
11 means the fusion of human spermatozoon with a
12 human ovum.

13 “(6) GESTATIONAL AGE.—The term ‘gesta-
14 tional age’ means the age of an unborn child as cal-
15 culated from the first day of the pregnant woman’s
16 last menstrual period.

17 “(7) MEDICAL TREATMENT.—The term ‘med-
18 ical treatment’ means treatment provided at a hos-
19 pital licensed by the State or operated under author-
20 ity of a Federal agency, at a medical clinic licensed
21 by the State or operated under authority of a Fed-
22 eral agency, or from a personal physician licensed by
23 the State.

24 “(8) MINOR.—The term ‘minor’ means an indi-
25 vidual who has not attained the age of 18 years.

1 “(9) PERFORM.—The term ‘perform’, with re-
2 spect to an abortion, includes inducing an abortion
3 through a medical or chemical intervention including
4 writing a prescription for a drug or device intended
5 to result in an abortion.

6 “(10) PHYSICIAN.—The term ‘physician’ means
7 a person licensed to practice medicine and surgery
8 or osteopathic medicine and surgery, or otherwise le-
9 gally authorized to perform an abortion.

10 “(11) PROBABLE GESTATIONAL AGE OF THE
11 UNBORN CHILD.—The term ‘probable gestational
12 age of the unborn child’ means what, in reasonable
13 medical judgment, will with reasonable probability be
14 the gestational age at the time the abortion is per-
15 formed or induced.

16 “(12) REASONABLE MEDICAL JUDGMENT.—The
17 term ‘reasonable medical judgment’ means a medical
18 judgment that would be made by a reasonably pru-
19 dent physician in the field of obstetrics, maternal
20 fetal medicine or neonatology who is knowledgeable
21 about the case and the treatment possibilities with
22 respect to the medical conditions involved.

23 “(13) STATE.—The term ‘State’ means any of
24 the several States, the District of Columbia, or any
25 territory or possession of the United States.

1 “(14) UNBORN CHILD.—The term ‘unborn
2 child’ means an individual organism of the species
3 homo sapiens, beginning at fertilization, until the
4 point of being born alive as defined in section 8(b)
5 of title 1.

6 “(15) WOMAN.—The term ‘woman’ means a fe-
7 male human being whether or not she has reached
8 the age of majority.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of chapter 74 of title 18, United States
11 Code, is amended by adding at the end the following new
12 item:

 “1532. Pain-capable unborn child protection.”.

13 (c) CHAPTER HEADING AMENDMENTS.—

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

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