

COMPARATIVE PRINT

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TITLE 18, UNITED STATES CODE

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PART I—CRIMES

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CHAPTER 74—[PARTIAL-BIRTH ABORTIONS] ABORTIONS

Sec.

1531. Partial-birth abortions prohibited.

1532. *Requirements pertaining to born-alive abortion survivors.*

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§ 1532. *Requirements pertaining to born-alive abortion survivors*

(a) *REQUIREMENTS FOR HEALTH CARE PRACTITIONERS.—In the case of an abortion or attempted abortion that results in a child born alive (as defined in section 8 of title 1, United States Code (commonly known as the “Born-Alive Infants Protection Act”)):*

(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 or 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 under this section, for conspiracy to violate this section, or for 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 per-*

formed 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 subsection.

(4) *ATTORNEY’S FEE FOR DEFENDANT.*—If a defendant in a civil action under this subsection prevails and the court finds that the plaintiff’s suit was frivolous, the court shall award a reasonable attorney’s fee in favor of the defendant against the plaintiff.

(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 pregnancy 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.

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