H. R. 11

To amend title 18, United States Code, to prohibit dismemberment abortions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. Lesko introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend title 18, United States Code, to prohibit dismemberment abortions, and for other purposes.

Be it enacted by the Senate and House of Representa-
vies of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Saving Children Act”.

SEC. 2. DISMEMBERMENT ABORTION BAN.

(a) IN GENERAL.—Chapter 74 of title 18, United States Code, is amended by inserting after section 1531 the following:
§ 1532. Dismemberment abortion ban

(a) Dismemberment Abortion Prohibited.—Any physician who, in or affecting interstate or foreign commerce, knowingly performs a dismemberment abortion and thereby kills an unborn child shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a dismemberment abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(b) Rule of Construction.—Nothing in this section shall be construed to limit abortions performed for any reason, including when the pregnancy is a result of rape or incest, if performed by a method other than dismemberment abortion.

c) Civil Remedies.—

(1) Civil action by a woman on whom an abortion is performed.—A woman upon whom an abortion has been performed in violation of any provision of this section may, in a civil action against any person who committed the violation, obtain appropriate relief.

(2) Civil action by a parent of a minor on whom an abortion is performed.—A parent of a minor upon whom an abortion has been per-
formed in violation of any provision of this section
may, in a civil action against any person who com-
mited the violation obtain appropriate relief, unless
the pregnancy resulted from the plaintiff’s criminal
conduct.

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

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

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

“(C) punitive damages.

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

“(5) ATTORNEYS FEES 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.

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

“(d) IMMUNITY FROM PROSECUTION FOR WOMAN
UPON WHOM A DISMEMBERMENT ABORTION IS PER-
FORMED.—A woman upon whom a dismemberment abor-
tion is performed may not be prosecuted under this sec-
tion, for a conspiracy to violate this section, or for an of-
fense under section 2, 3, or 4 of this title based on a viola-
tion of this section.

“(e) DEFINITIONS.—In this section—

“(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) DISMEMBERMENT ABORTION.—The term
‘dismemberment abortion’—
“(A) means, with the purpose of causing the death of an unborn child, knowingly dismembering a living unborn child and extracting such unborn child one piece at a time or intact but crushed from the uterus through the use of clamps, grasping forceps, tongs, scissors or similar instruments that, through the convergence of two rigid levers, slice, crush or grasp a portion of the unborn child’s body in order to cut or rip it off or crush it; but

“(B) does not include an abortion which uses suction to dismember the body of the unborn child by sucking fetal parts into a collection container unless the actions described in subparagraph (A) are used to cause the death of an unborn child but suction is subsequently used to extract fetal parts after the death of the unborn child.

“(3) MINOR.—The term ‘minor’ means an individual who has not attained the age of 18 years.

“(4) PHYSICIAN.—The term ‘physician’ means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to
perform abortions: Provided, however, That any indi-

dividual who is not a physician or not otherwise le-
gally authorized by the State to perform abortions,
but who nevertheless directly performs an abortion
prohibited in this section shall be subject to the pro-
visions of this section.

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

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

“1532. Dismemberment abortion ban.”.

(e) CHAPTER HEADING AMENDMENTS.—

(1) CHAPTER HEADING IN CHAPTER.—The
chapter heading for chapter 74 of title 18, United
States Code, is amended by striking “PARTIAL-
BIRTH ABORTIONS” and inserting “ABOR-
TIONS”.

(2) TABLE OF CHAPTERS FOR PART I.—The
item relating to chapter 74 in the table of chapters
at the beginning of part I of title 18, United States
Code, is amended by striking “Partial-birth abortions” and inserting “Abortions”.