

AMENDMENT TO RULES COMMITTEE PRINT 117-3
OFFERED BY MRS. WAGNER OF MISSOURI

Add at the end of the bill the following:

1 **TITLE XVII—PRENATAL**
2 **NONDISCRIMINATION**

3 **SEC. 1701. SHORT TITLE.**

4 This title may be cited as the “Prenatal Non-
5 discrimination Act of 2019” or the “PRENDA Act of
6 2019”.

7 **SEC. 1702. FINDINGS AND CONSTITUTIONAL AUTHORITY.**

8 (a) **FINDINGS.**—The Congress makes the following
9 findings:

10 (1) Women and girls possess the same funda-
11 mental human rights and civil rights as men and are
12 essential to the formation of stable, peaceful soci-
13 eties.

14 (2) Approximately 126,000,000 women and
15 girls are missing from the world population due to
16 systematic violence against women and girls, par-
17 ticularly sex-selection abortions, according to the
18 United Nations Population Fund.

19 (3) United States law prohibits the dissimilar
20 treatment of males and females who are similarly

1 situated and prohibits sex discrimination in various
2 contexts, including the provision of employment,
3 education, housing, health insurance coverage, and
4 athletics.

5 (4) A “sex-selection abortion” is an abortion
6 undertaken for purposes of eliminating an unborn
7 child of an undesired sex. Sex-selection abortion is
8 described by scholars and civil rights advocates as
9 an act of sex-based or gender-based violence, predi-
10 cated on sex discrimination. By definition, sex-selec-
11 tion abortions do not implicate the health of the
12 mother of the unborn, but instead are elective proce-
13 dures motivated by sex or gender bias.

14 (5) The targeted victims of sex-selection abor-
15 tions performed in the United States and worldwide
16 are overwhelmingly female.

17 (6) Sex-selection abortions are not expressly
18 prohibited by United States law, and only 7 States
19 ban abortions for reason of sex selection at some
20 point in pregnancy. Sex is an immutable char-
21 acteristic ascertainable at the earliest stages of
22 human development through existing medical tech-
23 nology and procedures commonly in use, including
24 maternal-fetal bloodstream DNA sampling, amnio-

1 centesis, chorionic villus sampling or “CVS”, and
2 obstetric ultrasound.

3 (7) Sex-selection abortions have the effect of di-
4 minishing the representation of women in the Amer-
5 ican population, and therefore, the American elec-
6 torate.

7 (8) Sex-selection abortions reinforce sex dis-
8 crimination and have no place in a civilized society.

9 (9) The history of the United States includes
10 many examples of sex discrimination. The people of
11 the United States ultimately responded in the
12 strongest possible legal terms by enacting a constitu-
13 tional amendment correcting an element of this dis-
14 crimination. Women, once subjected to sex discrimi-
15 nation that denied them the right to vote, now have
16 suffrage guaranteed by the 19th Amendment. The
17 elimination of discriminatory practices has been and
18 is among the highest priorities and greatest achieve-
19 ments of American history.

20 (10) Implicitly approving the discriminatory
21 practices of sex-selection abortion by choosing not to
22 prohibit them will reinforce sex discrimination, and
23 coarsen society to the value of females. Thus, Con-
24 gress has a compelling interest in acting—indeed it
25 must act—to prohibit sex-selection abortion.

1 (b) CONSTITUTIONAL AUTHORITY.—In accordance
2 with the above findings, Congress enacts the following
3 pursuant to Congress’ power under—

4 (1) the Commerce Clause;

5 (2) section 5 of the 14th Amendment, including
6 the power to enforce the prohibition on government
7 action denying equal protection of the laws; and

8 (3) section 8 of article I to make all laws nec-
9 essary and proper for the carrying into execution of
10 powers vested by the Constitution in the Govern-
11 ment of the United States.

12 **SEC. 1703. DISCRIMINATION AGAINST THE UNBORN ON THE**
13 **BASIS OF SEX.**

14 (a) IN GENERAL.—Chapter 13 of title 18, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

17 **“§ 250. Discrimination against the unborn on the**
18 **basis of sex**

19 “(a) IN GENERAL.—Whoever knowingly—

20 “(1) performs an abortion knowing that such
21 abortion is sought based on the sex or gender of the
22 child;

23 “(2) uses force or the threat of force to inten-
24 tionally injure or intimidate any person for the pur-
25 pose of coercing a sex-selection abortion;

1 “(3) solicits or accepts funds for the perform-
2 ance of a sex-selection abortion; or

3 “(4) transports a woman into the United States
4 or across a State line for the purpose of obtaining
5 a sex-selection abortion,

6 or attempts to do so, shall be fined under this title or im-
7 prisoned not more than 5 years, or both.

8 “(b) CIVIL REMEDIES.—

9 “(1) CIVIL ACTION BY WOMAN ON WHOM ABOR-
10 TION IS PERFORMED.—A woman upon whom an
11 abortion has been performed or attempted in viola-
12 tion of subsection (a)(2) may in a civil action
13 against any person who engaged in a violation of
14 subsection (a) obtain appropriate relief.

15 “(2) CIVIL ACTION BY RELATIVES.—The father
16 of an unborn child who is the subject of an abortion
17 performed or attempted in violation of subsection
18 (a), or a maternal grandparent of the unborn child
19 if the pregnant woman is an unemancipated minor,
20 may in a civil action against any person who en-
21 gaged in the violation, obtain appropriate relief, un-
22 less the pregnancy or abortion resulted from the
23 plaintiff’s criminal conduct or the plaintiff consented
24 to the abortion.

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

3 “(A) objectively verifiable money damages
4 for all injuries, psychological and physical, in-
5 cluding loss of companionship and support, oc-
6 casioned by the violation of this section; and

7 “(B) punitive damages.

8 “(4) INJUNCTIVE RELIEF.—

9 “(A) IN GENERAL.—A qualified plaintiff
10 may in a civil action obtain injunctive relief to
11 prevent an abortion provider from performing
12 or attempting further abortions in violation of
13 this section.

14 “(B) DEFINITION.—In this paragraph the
15 term ‘qualified plaintiff’ means—

16 “(i) a woman upon whom an abortion
17 is performed or attempted in violation of
18 this section;

19 “(ii) a maternal grandparent of the
20 unborn child if the woman upon whom an
21 abortion is performed or attempted in vio-
22 lation of this section is an unemancipated
23 minor;

24 “(iii) the father of an unborn child
25 who is the subject of an abortion per-

1 formed or attempted in violation of sub-
2 section (a); or

3 “(iv) the Attorney General.

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

8 “(c) BAR TO PROSECUTION.—A woman upon whom
9 a sex-selection abortion is performed may not be pros-
10 ecuted or held civilly liable for any violation of this section,
11 or for a conspiracy to violate under this section, for a con-
12 spiracy to violate this section, or for an offense under sec-
13 tion 2, 3, or 4 of this title based on a violation of this
14 section.

15 “(d) LOSS OF FEDERAL FUNDING.—A violation of
16 subsection (a) shall be deemed for the purposes of title
17 VI of the Civil Rights Act of 1964 to be discrimination
18 prohibited by section 601 of that Act.

19 “(e) REPORTING REQUIREMENT.—A physician, phy-
20 sician’s assistant, nurse, counselor, or other medical or
21 mental health professional shall report known or suspected
22 violations of any of this section to appropriate Federal,
23 State, and local law enforcement authorities. Whoever vio-
24 lates this requirement shall be fined under this title or
25 imprisoned not more than 1 year, or both.

1 “(f) EXPEDITED CONSIDERATION.—It shall be the
2 duty of the United States district courts, United States
3 courts of appeal, and the Supreme Court of the United
4 States to advance on the docket and to expedite to the
5 greatest possible extent the disposition of any matter
6 brought under this section.

7 “(g) PROTECTION OF PRIVACY IN COURT PRO-
8 CEEDINGS.—

9 “(1) IN GENERAL.—Except to the extent the
10 Constitution or other similarly compelling reason re-
11 quires, in every civil or criminal action under this
12 section, the court shall make such orders as are nec-
13 essary to protect the anonymity of any woman upon
14 whom an abortion has been performed or attempted
15 if she does not give her written consent to such dis-
16 closure. Such orders may be made upon motion, but
17 shall be made sua sponte if not otherwise sought by
18 a party.

19 “(2) ORDERS TO PARTIES, WITNESSES, AND
20 COUNSEL.—The court shall issue appropriate orders
21 to the parties, witnesses, and counsel and shall di-
22 rect the sealing of the record and exclusion of indi-
23 viduals from courtrooms or hearing rooms to the ex-
24 tent necessary to safeguard the identity of the

1 woman described in paragraph (1) from public dis-
2 closure.

3 “(3) PSEUDONYM REQUIRED.—In the absence
4 of written consent of the woman upon whom an
5 abortion has been performed or attempted, any
6 party, other than a public official, who brings an ac-
7 tion under this section shall do so under a pseu-
8 donym.

9 “(4) LIMITATION.—This subsection shall not be
10 construed to conceal the identity of the plaintiff or
11 of witnesses from the defendant or from attorneys
12 for the defendant.

13 “(h) DEFINITION.—In this section—

14 “(1) the term ‘abortion’ means the act of using
15 or prescribing any instrument, medicine, drug, or
16 any other substance, device, or means with the in-
17 tent to—

18 “(A) kill the unborn child of a woman
19 known to be pregnant; or

20 “(B) terminate the pregnancy of a woman
21 known to be pregnant, with an intention other
22 than—

23 “(i) after viability to produce a live
24 birth and preserve the life and health of
25 the child born alive; or

1 “(ii) to remove a dead unborn child;

2 and

3 “(2) the term ‘sex-selection abortion’ means an
4 abortion undertaken for purposes of eliminating an
5 unborn child of an undesired sex.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of chapter 13 of title 18, United States
8 Code, is amended by adding after the item relating to sec-
9 tion 249 the following new item:

“250. Discrimination against the unborn on the basis of sex.”.

10 **SEC. 1704. SEVERABILITY.**

11 If any portion of this title or the application thereof
12 to any person or circumstance is held invalid, such inva-
13 lidity shall not affect the portions or applications of this
14 title which can be given effect without the invalid portion
15 or application.

