

116TH CONGRESS
1ST SESSION

S. 2590

To protect the dignity of fetal remains, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2019

Mr. BRAUN (for himself, Mr. YOUNG, Mr. DAINES, Mr. CORNYN, Mr. WICKER, Mr. HAWLEY, Mrs. HYDE-SMITH, Mr. TILLIS, Mr. INHOFE, Mr. SCOTT of Florida, Ms. ERNST, Mrs. BLACKBURN, and Mr. CRUZ) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To protect the dignity of fetal remains, 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 “Dignity for Aborted
5 Children Act”.

6 **SEC. 2. PROTECTION OF FETAL REMAINS.**

7 (a) IN GENERAL.—Part H of title IV of the Public
8 Health Service Act (42 U.S.C. 289 et seq.) is amended
9 by adding at the end the following:

1 **“SEC. 498F. PROTECTION OF FETAL REMAINS.**

2 “(a) CONSENT REQUIREMENT.—

3 “(1) IN GENERAL.—Any abortion provider,
4 after performing an abortion in or affecting inter-
5 state or foreign commerce, shall provide the patient
6 with an informed consent form, offering the patient
7 the following options for disposal of the human fetal
8 tissue from the abortion:

9 “(A) The patient may take possession of
10 the human fetal tissue and may choose to
11 transfer the tissue to an entity providing inter-
12 ment or cremation services.

13 “(B) The patient may elect to release the
14 human fetal tissue to the abortion provider,
15 who shall be subject to the requirements of sub-
16 section (b).

17 “(2) CONSENT REQUIREMENTS.—An abortion
18 provider described in paragraph (1) shall—

19 “(A) obtain a patient signature on each
20 consent form required under paragraph (1);
21 and

22 “(B) retain each such form in the patient’s
23 file.

24 “(b) PROVIDER DISPOSAL REQUIREMENT.—It shall
25 be unlawful for any abortion provider who, after per-
26 forming an abortion, in or affecting interstate or foreign

1 commerce, in which the woman on whom the abortion was
 2 performed elects, pursuant to subsection (a)(1)(B), to re-
 3 lease the human fetal tissue to the abortion provider, to
 4 fail to provide for the final disposition of the human fetal
 5 tissue through interment or cremation, consistent with
 6 State law regarding the disposal of human remains, not
 7 later than 7 days after the date on which the abortion
 8 procedure was performed. Such final disposition of human
 9 fetal tissue may be carried out through interment or cre-
 10 mation of tissue from more than one abortion procedure
 11 collectively.

12 “(c) PENALTIES.—

13 “(1) INFORMED CONSENT VIOLATIONS.—An
 14 abortion provider who fails to maintain the docu-
 15 mentation required under subsection (A)(2)(B) shall
 16 be subject to civil monetary penalties in an amount
 17 not to exceed \$50,000.

18 “(2) DISPOSAL VIOLATIONS.—Any abortion
 19 provider who violates subsection (b) shall be fined in
 20 accordance with title 18, United States Code, im-
 21 prisoned not more than 5 years, or both.

22 “(3) BAR TO PROSECUTION.—A patient upon
 23 whom an abortion in violation of subsection (b) is
 24 performed or attempted may not be prosecuted
 25 under, or for a conspiracy to violate, paragraph (1),

1 or for an offense under section 2, 3, or 4 of title 18,
 2 United States Code, based on such a violation.

3 “(d) REPORTING.—Each abortion provider described
 4 in subsection (a)(1) shall submit annual reports to the
 5 Secretary indicating, with respect to the reporting pe-
 6 riod—

7 “(1) the aggregate number of abortion proce-
 8 dures performed by such abortion provider;

9 “(2) the gestational age at the time of each
 10 such procedure; and

11 “(3) for abortions carried out using an abortion
 12 method other than chemical abortion, the aggregate
 13 number of fetal remains transferred for interment or
 14 cremation and the number released to patients.

15 “(e) ANNUAL REPORTS BY THE SECRETARY.—The
 16 Secretary shall submit to Congress an annual report on
 17 the number of abortions by State, procedure type, and
 18 method of disposal of human fetal tissue.

19 “(f) NON-PREEMPTION.—Nothing in this section
 20 shall preempt any State requirement that, at a minimum,
 21 requires interment or cremation in the same manner that
 22 other human remains are required to be treated in such
 23 State.

24 “(g) DEFINITIONS.—In this section—

1 “(1) the term ‘abortion’ means the use or pre-
2 scription of any instrument, medicine, drug, or any
3 other substance or device—

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

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

9 “(i) after viability to produce a live
10 birth and preserve the life and health of
11 the child born alive; or

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

13 “(2) the term ‘abortion provider’ means an in-
14 dividual or entity that performs abortions; and

15 “(3) the term ‘human fetal tissue’ has the
16 meaning given the term in section 498A(g).”.

○