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(Original Signature of Member)

114TH CONGRESS  
2D SESSION

# H. R.

To prohibit discrimination against the unborn on the basis of sex or race,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. FRANKS of Arizona introduced the following bill; which was referred to  
the Committee on \_\_\_\_\_

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# A BILL

To prohibit discrimination against the unborn on the basis  
of sex or race, 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 “Prenatal Non-  
5 discrimination Act (PRENDA) of 2016”.

6 **SEC. 2. FINDINGS AND CONSTITUTIONAL AUTHORITY.**

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

9 (1) SEX DISCRIMINATION FINDINGS.—

1 (A) Women are a vital part of American  
2 society and culture and possess the same funda-  
3 mental human rights and civil rights as men.

4 (B) United States law prohibits the dis-  
5 similar treatment of males and females who are  
6 similarly situated and prohibits sex discrimina-  
7 tion in various contexts, including the provision  
8 of employment, education, housing, health in-  
9 surance coverage, and athletics.

10 (C) Sex is an immutable characteristic as-  
11 certainable at the earliest stages of human de-  
12 velopment through existing medical technology  
13 and procedures commonly in use, including ma-  
14 ternal-fetal bloodstream DNA sampling,  
15 amniocentesis, chorionic villus sampling or  
16 “CVS”, and obstetric ultrasound. In addition to  
17 medically assisted sex determination, a growing  
18 sex-determination niche industry has developed  
19 and is marketing low-cost commercial products,  
20 widely advertised and available, that aid in the  
21 sex determination of an unborn child without  
22 the aid of medical professionals. Experts have  
23 demonstrated that the sex-selection industry is  
24 on the rise and predict that sex selection will  
25 continue to be a growing trend in the United

1 States. Sex determination is always a necessary  
2 step to the procurement of a sex-selection abor-  
3 tion.

4 (D) A “sex-selection abortion” is an abor-  
5 tion undertaken for purposes of eliminating an  
6 unborn child of an undesired sex. Sex-selection  
7 abortion is barbaric, and described by scholars  
8 and civil rights advocates as an act of sex-based  
9 or gender-based violence, predicated on sex dis-  
10 crimination. Sex-selection abortions are typi-  
11 cally late-term abortions performed in the 2d or  
12 3rd trimester of pregnancy, often after the un-  
13 born child has developed sufficiently to feel  
14 pain. Substantial medical evidence proves that  
15 an unborn child can experience pain at 20  
16 weeks after conception, and perhaps substan-  
17 tially earlier. By definition, sex-selection abor-  
18 tions do not implicate the health of the mother  
19 of the unborn, but instead are elective proce-  
20 dures motivated by sex or gender bias.

21 (E) The targeted victims of sex-selection  
22 abortions performed in the United States and  
23 worldwide are overwhelmingly female. The se-  
24 lective abortion of females is female infanticide,  
25 the intentional killing of unborn females, due to

1 the preference for male offspring or “son pref-  
2 erence”. Son preference is reinforced by the low  
3 value associated, by some segments of the world  
4 community, with female offspring. Those seg-  
5 ments tend to regard female offspring as finan-  
6 cial burdens to a family over their lifetime due  
7 to their perceived inability to earn or provide fi-  
8 nancially for the family unit as can a male. In  
9 addition, due to social and legal convention, fe-  
10 male offspring are less likely to carry on the  
11 family name. “Son preference” is one of the  
12 most evident manifestations of sex or gender  
13 discrimination in any society, undermining fe-  
14 male equality, and fueling the elimination of fe-  
15 males’ right to exist in instances of sex-selection  
16 abortion.

17 (F) Sex-selection abortions are not ex-  
18 pressly prohibited by United States law or the  
19 laws of 46 States. Sex-selection abortions are  
20 performed in the United States. In a March  
21 2008 report published in the Proceedings of the  
22 National Academy of Sciences, Columbia Uni-  
23 versity economists Douglas Almond and Lena  
24 Edlund examined the sex ratio of United  
25 States-born children and found “evidence of sex

1 selection, most likely at the prenatal stage”.

2 The data revealed obvious “son preference” in

3 the form of unnatural sex-ratio imbalances

4 within certain segments of the United States

5 population, primarily those segments tracing

6 their origins to countries where sex-selection

7 abortion is prevalent. The evidence strongly

8 suggests that some Americans are exercising

9 sex-selection abortion practices within the

10 United States consistent with discriminatory

11 practices common to their country of origin, or

12 the country to which they trace their ancestry.

13 While sex-selection abortions are more common

14 outside the United States, the evidence reveals

15 that female feticide is also occurring in the

16 United States.

17 (G) The American public supports a prohi-

18 bition of sex-selection abortion. In a March

19 2006 Zogby International poll, 86 percent of

20 Americans agreed that sex-selection abortion

21 should be illegal, yet only eight States proscribe

22 sex-selection abortion. In a 2012 poll conducted

23 by the Charlotte Lozier Institute, 77 percent of

24 Americans agreed that sex-selection abortion

25 should be illegal.

1 (H) Despite the failure of the United  
2 States to proscribe sex-selection abortion, the  
3 United States Congress has expressed repeat-  
4 edly, through Congressional resolution, strong  
5 condemnation of policies promoting sex-selec-  
6 tion abortion in the “Communist Government  
7 of China”. Likewise, at the 2007 United Na-  
8 tion’s Annual Meeting of the Commission on  
9 the Status of Women, 51st Session, the United  
10 States delegation spearheaded a resolution call-  
11 ing on countries to condemn sex-selective abor-  
12 tion, a policy directly contradictory to the per-  
13 missiveness of current United States law, which  
14 places no restriction on the practice of sex-se-  
15 lection abortion. The United Nations Commis-  
16 sion on the Status of Women has urged govern-  
17 ments of all nations “to take necessary meas-  
18 ures to prevent . . . prenatal sex selection”.

19 (I) A 1990 report by Harvard University  
20 economist Amartya Sen, estimated that more  
21 than 100 million women were “demographically  
22 missing” from the world as early as 1990 due  
23 to sexist practices, including sex-selection abor-  
24 tion. Many experts believe sex-selection abortion  
25 is the primary cause. More recent estimates of

1 women missing from the world range in the  
2 hundreds of millions.

3 (J) Countries with longstanding experience  
4 with sex-selection abortion—such as the Repub-  
5 lic of India, the United Kingdom, and the Peo-  
6 ple’s Republic of China—have enacted restric-  
7 tions on sex selection, and have steadily contin-  
8 ued to strengthen prohibitions and penalties.  
9 The United States, by contrast, has no law in  
10 place to restrict sex-selection abortion, estab-  
11 lishing the United States as affording less pro-  
12 tection from sex-based feticide than the Repub-  
13 lic of India or the People’s Republic of China,  
14 whose recent practices of sex-selection abortion  
15 were vehemently and repeatedly condemned by  
16 United States congressional resolution and by  
17 the United States Ambassador to the Commis-  
18 sion on the Status of Women. Public state-  
19 ments from within the medical community re-  
20 veal that citizens of other countries come to the  
21 United States for sex-selection procedures that  
22 would be criminal in their country of origin. Be-  
23 cause the United States permits abortion on the  
24 basis of sex, the United States may effectively  
25 function as a “safe haven” for those who seek

1 to have American physicians do what would  
2 otherwise be criminal in their home countries—  
3 a sex-selection abortion, most likely late-term.

4 (K) The American medical community op-  
5 poses sex selection. The American Congress of  
6 Obstetricians and Gynecologists (“ACOG”)  
7 stated in its 2007 Ethics Committee Opinion,  
8 Number 360, that sex selection is inappropriate  
9 because it “ultimately supports sexist prac-  
10 tices”. The American Society of Reproductive  
11 Medicine (“ASRM”) published a 2004 Ethics  
12 Committee Opinion, noting that central to the  
13 controversy of sex selection in the use of as-  
14 sisted reproductive technology (“ART”) is the  
15 potential for “inherent gender discrimination”,  
16 . . . the “risk of psychological harm to sex-se-  
17 lected offspring (i.e., by placing on them expec-  
18 tations that are too high),” . . . and “rein-  
19 forcement of gender bias in society as a whole.”  
20 Sex selection in ART remains “vulnerable to  
21 the judgment that no matter what its basis,  
22 [the method] identifies gender as a reason to  
23 value one person over another, and it supports  
24 socially constructed stereotypes of what gender  
25 means.” In doing so, it not only “reinforces

1 possibilities of unfair discrimination, but may  
2 trivialize human reproduction by making it de-  
3 pend on the selection of nonessential features of  
4 offspring.” The ASRM ethics opinion continues,  
5 “ongoing problems with the status of women in  
6 the United States make it necessary to take ac-  
7 count of concerns for the impact of sex-selection  
8 on goals of gender equality.” The American As-  
9 sociation of Pro-Life Obstetricians and Gyne-  
10 cologists, an organization with hundreds of  
11 members—many of whom are former abortion-  
12 ists—makes the following declaration: “Sex se-  
13 lection abortions are more graphic examples of  
14 the damage that abortion inflicts on women. In  
15 addition to increasing premature labor in subse-  
16 quent pregnancies, increasing suicide and major  
17 depression, and increasing the risk of breast  
18 cancer in teens who abort their first pregnancy  
19 and delay childbearing, sex selection abortions  
20 are often targeted at fetuses simply because the  
21 fetus is female. As physicians who care for both  
22 the mother and her unborn child, the American  
23 Association of Pro-Life Obstetricians and Gyne-  
24 cologists vigorously opposes aborting fetuses be-  
25 cause of their gender.” The President’s Council

1 on Bioethics published a Working Paper stating  
2 the council's belief that society's respect for re-  
3 productive freedom does not prohibit the regu-  
4 lation or prohibition of "sex control", defined as  
5 the use of various medical technologies to  
6 choose the sex of one's child. The publication  
7 expresses concern that "sex control might lead  
8 to . . . dehumanization and a new eugenics".

9 (L)(i) Sex-selection abortions are often co-  
10 coerced, and therefore, the opposite of "choice".  
11 Researchers at the University of California at  
12 Berkeley and the University of California at  
13 San Francisco completed a study of Indian-  
14 American women who had undergone sex-selec-  
15 tion abortions in the United States. The study  
16 found that sex-selection abortions are often the  
17 product of violent coercion.

18 (ii) Women who carried a female unborn  
19 child to term said they were subject to varying  
20 degrees of verbal and physical abuse, which  
21 may be to the point of actually inducing a sex-  
22 selection abortion. A woman may be denied  
23 food, water, and rest to induce an abortion  
24 where the family determines that the woman is  
25 carrying a female unborn child. Some women

1 described being hit, pushed, choked and kicked  
2 in the abdomen in a husband's attempt to fore-  
3 ibly terminate a female unborn child. Preg-  
4 nancy is already a vulnerable time for women;  
5 the most common cause of death for pregnant  
6 women in the United States is homicide, often  
7 at the hands of the unborn child's father.

8 (iii) The study concluded that sex selection  
9 can be the product of an abusive environment  
10 created by marital partners, an extended fam-  
11 ily, or both. One-third of the women in the  
12 study reported that a history of family violence  
13 exacerbated when they did not give birth to a  
14 son. Notably, because the researchers had rea-  
15 son to fear for the participants' exposure to  
16 marital violence, all subjects received informa-  
17 tion on local South Asian women's organiza-  
18 tions offering assistance for victims of family vi-  
19 olence. The failure to bear a son is a serious  
20 matter; the birth of a daughter could result in  
21 violence or a brutal death for the mother at the  
22 hands of the father and mother-in-law. For ex-  
23 ample, photojournalist Walter Astrada's re-  
24 nowned documentary tells the story of an In-  
25 dian woman who was tortured and abandoned

1 by her husband and mother-in-law for refusing  
2 to abort twin girls. Sex-selection abortion has  
3 long been considered a form of violence against  
4 women, and the study proved that both the  
5 women and the unborn daughter are victims of  
6 violence where sex-selection abortion is legally  
7 available but not sought by the mother. Forty  
8 percent of the women had terminated prior  
9 pregnancies when they learned that the unborn  
10 child was female. Of the women who discovered  
11 they were pregnant with a girl during the inter-  
12 view period, 89 percent underwent a sex-selec-  
13 tion abortion. Among those that did not abort  
14 their unborn daughters, 100 percent expressed  
15 ambivalence about prior sex-selection abortions.  
16 Further, 100 percent cited physical and psycho-  
17 logical trauma from the past abortions as rea-  
18 sons for not seeking another. Most tragically,  
19 100 percent expressed guilt, shame and sadness  
20 over their inability to “save” the daughters they  
21 had aborted.

22 (iv) Coercive sex-selection abortions are  
23 suspected in other western countries as well.  
24 Following a 2012 investigation of sex-selection  
25 abortion in the United Kingdom, Dr. Tony Fal-

1 coner, President of the Royal College of Obstet-  
2 rics and Gynaecology, raised the specter that  
3 women may be experiencing violence and coer-  
4 cion to force sex-selection abortions.

5 (v) A growing body of research documents  
6 the relationship between intimate partner vio-  
7 lence and reproductive coercion.

8 (M) Sex-selection abortion harms women.  
9 Researchers at the University of California  
10 found that women in the United States who un-  
11 dergo sex-selection abortions are at increased  
12 risk for psychological and physical morbidity,  
13 documented by their descriptions of depression,  
14 anxiety, chronic pain, physical abuse, closely  
15 spaced pregnancies, and “forced abortions”.  
16 Further, 100 percent of the study participants  
17 who chose to carry unborn baby girls cited  
18 physical and psychological trauma from past  
19 abortions as reasons for not seeking another.  
20 Similarly, Indian-Canadian counselor, Aruna  
21 Papp, stated publicly that in her 30 years of ex-  
22 perience treating Indian-Canadian women, she  
23 has found that sex-selection abortion is the  
24 leading cause of mental illness among women in  
25 the Punjabi Health Services, Peel region, and

1 the leading cause of depression and attempted  
2 suicide in the South Asian Settlement Services  
3 in Scarborough. Some of Papp's patients ob-  
4 tained their sex-selection abortions in Michigan  
5 and New York. Papp also reports "many other  
6 physical ailments that are related to two, three,  
7 or four abortions".

8 (N) Sex-selection abortion results in an un-  
9 natural sex-ratio imbalance. An unnatural sex-  
10 ratio imbalance is undesirable, due to the in-  
11 ability of the numerically predominant sex to  
12 find mates. Experts worldwide document that a  
13 significant sex-ratio imbalance in which males  
14 numerically predominate can be a cause of in-  
15 creased violence and militancy within a society.  
16 Likewise, an unnatural sex-ratio imbalance  
17 gives rise to the commoditization of humans in  
18 the form of human trafficking, and a con-  
19 sequent increase in kidnapping and other vio-  
20 lent crime.

21 (O) Sex-selection abortions have the effect  
22 of diminishing the representation of women in  
23 the American population, and therefore, the  
24 American electorate.

1 (P) Sex-selection abortion reinforces sex  
2 discrimination and has no place in a civilized  
3 society.

4 (2) RACIAL DISCRIMINATION FINDINGS.—

5 (A) Minorities are a vital part of American  
6 society and culture and possess the same funda-  
7 mental human rights and civil rights as the ma-  
8 jority.

9 (B) United States law prohibits discrimi-  
10 nation on the basis of race in various contexts,  
11 including employment, education, housing,  
12 health insurance coverage, and athletics.

13 (C) A “race-selection abortion” is an abor-  
14 tion performed for purposes of eliminating an  
15 unborn child because the child or a parent of  
16 the child is of an undesired race. Race-selection  
17 abortion is barbaric, and described by civil  
18 rights advocates as an act of race-based vio-  
19 lence, predicated on race discrimination. By  
20 definition, race-selection abortions do not impli-  
21 cate the health of mother of the unborn, but in-  
22 stead are elective procedures motivated by race  
23 bias.

24 (D) A thorough review of the history of the  
25 American population control movement and its

1 close affiliation with the American Eugenics So-  
2 ciety reveals a history of targeting certain racial  
3 or ethnic groups for “family planning”. This  
4 history likely contributes to the current statistic  
5 that a Black baby is five times as likely to be  
6 aborted as a White baby, often in a federally  
7 subsidized clinic.

8 (E) Abortion is the leading cause of death  
9 in the Black community. With approximately  
10 450,000 Black abortions per year, more Black  
11 Americans lose their lives each year to abortion  
12 than to cancer, heart disease, diabetes, AIDS,  
13 and violence combined. These statistics are de-  
14 rived by comparing the abortion statistics of the  
15 Alan Guttmacher Institute (formerly the re-  
16 search arm of Planned Parenthood) to the Na-  
17 tional Vital Statistics annual reports showing  
18 the number of deaths by cause and race. The  
19 numbers for each of these variables have re-  
20 mained relatively constant from year to year,  
21 since 2005.

22 (F) Only one State, Arizona, has enacted  
23 law to proscribe the performance of race-selec-  
24 tion abortions.

1           (G) Race-selection abortions have the ef-  
2           fect of diminishing the number of minorities in  
3           the American population and therefore, the  
4           American electorate.

5           (H) Race-selection abortion reinforces ra-  
6           cial discrimination and has no place in a civ-  
7           ilized society.

8           (3) GENERAL FINDINGS.—

9           (A) The history of the United States in-  
10          cludes examples of both sex discrimination and  
11          race discrimination. The people of the United  
12          States ultimately responded in the strongest  
13          possible legal terms by enacting constitutional  
14          amendments correcting elements of such dis-  
15          crimination. Women, once subjected to sex dis-  
16          crimination that denied them the right to vote,  
17          now have suffrage guaranteed by the 19th  
18          Amendment. African-Americans, once subjected  
19          to race discrimination through slavery that de-  
20          nied them equal protection of the laws, now  
21          have that right guaranteed by the 14th Amend-  
22          ment. The elimination of discriminatory prac-  
23          tices has been and is among the highest prior-  
24          ities and greatest achievements of American  
25          history.

1           (B) Implicitly approving the discriminatory  
2 practices of sex-selection abortion and race-se-  
3 lection abortion by choosing not to prohibit  
4 them will reinforce these inherently discrimina-  
5 tory practices, and evidence a failure to protect  
6 a segment of certain unborn Americans because  
7 those unborn are of a sex or racial makeup that  
8 is disfavored. Sex-selection and race-selection  
9 abortions trivialize the value of the unborn on  
10 the basis of sex or race, reinforcing sex and  
11 race discrimination, and coarsening society to  
12 the humanity of all vulnerable and innocent  
13 human life, making it increasingly difficult to  
14 protect such life. Thus, Congress has a compel-  
15 ling interest in acting—indeed it must act—to  
16 prohibit sex-selection abortion and race-selec-  
17 tion abortion.

18       (b) CONSTITUTIONAL AUTHORITY.—In accordance  
19 with the above findings, Congress enacts the following  
20 pursuant to Congress' power under—

- 21           (1) the Commerce Clause;
- 22           (2) section 2 of the 13th Amendment;
- 23           (3) section 5 of the 14th Amendment, including  
24 the power to enforce the prohibition on government  
25 action denying equal protection of the laws; and

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

5 **SEC. 3. DISCRIMINATION AGAINST THE UNBORN ON THE**  
6                                   **BASIS OF RACE OR SEX.**

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

10 **“§ 250. Discrimination against the unborn on the**  
11                                   **basis of race or sex**

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

13                   “(1) performs an abortion knowing that such  
14                   abortion is sought based on the sex, gender, color or  
15                   race of the child, or the race of a parent of that  
16                   child;

17                   “(2) uses force or the threat of force to inten-  
18                   tionally injure or intimidate any person for the pur-  
19                   pose of coercing a sex-selection or race-selection  
20                   abortion;

21                   “(3) solicits or accepts funds for the perform-  
22                   ance of a sex-selection abortion or a race-selection  
23                   abortion; or

1           “(4) transports a woman into the United States  
2           or across a State line for the purpose of obtaining  
3           a sex-selection abortion or race-selection abortion;  
4 or attempts to do so, shall be fined under this title or im-  
5 prisoned not more than 5 years, or both.

6           “(b) CIVIL REMEDIES.—

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

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

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

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

5           “(B) punitive damages.

6           “(4) INJUNCTIVE RELIEF.—

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

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

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

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

22           “(iii) the father of an unborn child  
23 who is the subject of an abortion per-  
24 formed or attempted in violation of sub-  
25 section (a); or

1 “(iv) the Attorney General.

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

6 “(c) EXCEPTION.—A woman upon whom a sex-selec-  
7 tion or race-selection abortion is performed may not be  
8 prosecuted or held civilly liable for any violation of this  
9 section, or for a conspiracy to violate this section.

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

14 “(e) REPORTING REQUIREMENT.—A physician, phy-  
15 sician’s assistant, nurse, counselor, or other medical or  
16 mental health professional shall report known or suspected  
17 violations of any of this section to appropriate law enforce-  
18 ment authorities. Whoever violates this requirement shall  
19 be fined under this title or imprisoned not more than 1  
20 year, or both.

21 “(f) EXPEDITED CONSIDERATION.—It shall be the  
22 duty of the United States district courts, United States  
23 courts of appeal, and the Supreme Court of the United  
24 States to advance on the docket and to expedite to the

1 greatest possible extent the disposition of any matter  
2 brought under this section.

3 “(g) PROTECTION OF PRIVACY IN COURT PRO-  
4 CEEDINGS.—

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

15 “(2) ORDERS TO PARTIES, WITNESSES, AND  
16 COUNSEL.—The court shall issue appropriate orders  
17 to the parties, witnesses, and counsel and shall di-  
18 rect the sealing of the record and exclusion of indi-  
19 viduals from courtrooms or hearing rooms to the ex-  
20 tent necessary to safeguard the identity of the  
21 woman described in paragraph (1) from public dis-  
22 closure.

23 “(3) PSEUDONYM REQUIRED.—In the absence  
24 of written consent of the woman upon whom an  
25 abortion has been performed or attempted, any

1 party, other than a public official, who brings an ac-  
2 tion under this section shall do so under a pseu-  
3 donym.

4 “(4) LIMITATION.—This subsection shall not be  
5 construed to conceal the identity of the plaintiff or  
6 of witnesses from the defendant or from attorneys  
7 for the defendant.

8 “(h) DEFINITION.—In this section—

9 “(1) the term ‘abortion’ means the act of using  
10 or prescribing any instrument, medicine, drug, or  
11 any other substance, device, or means with the in-  
12 tent to terminate the clinically diagnosable preg-  
13 nancy of a woman, with knowledge that the termi-  
14 nation by those means will with reasonable likelihood  
15 cause the death of the unborn child, unless the act  
16 is done with the intent to—

17 “(A) save the life or preserve the health of  
18 the unborn child;

19 “(B) remove a dead unborn child caused  
20 by spontaneous abortion; or

21 “(C) remove an ectopic pregnancy;

22 “(2) the term ‘sex-selection abortion’ means an  
23 abortion undertaken for purposes of eliminating an  
24 unborn child of an undesired sex; and

1           “(3) the term ‘race-selection abortion’ means an  
2           abortion performed for purposes of eliminating an  
3           unborn child because the child or a parent of the  
4           child is of an undesired race.”.

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

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

9           **SEC. 4. SEVERABILITY.**

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