



Elad Hakim

## The Senate Should Reject the Women’s Health Protection Act of 2021

House Democrats recently passed the [Women’s Health Protection Act of 2021](#) (the “Act”), which is a dangerous and far-reaching abortion bill that basically codifies [Roe v. Wade](#), gives abortion providers unfettered discretion to conduct abortions, and provides little to no protection to the unborn. Given the dangers associated with this bill, the Senate should reject it without reservation.

Democrats likely passed the Act in response to the recent [Texas abortion bill](#). However, while the Texas bill limited abortion after a specific time period (six weeks) to protect the unborn child, the Act seemingly ignores the unborn child altogether and permits abortion pre- and post-viability. As reported by [the Daily Caller](#):

Heritage Action for America Executive Director Jessica Anderson warned that the bill would be “the greatest assault on human dignity in America since Roe.”

“Left-wing politicians are cynically using the cover of ‘women’s health’ to disguise their plan to destroy every life-affirming law in the country,” Anderson said. “This bill would go far beyond Roe v. Wade to gut broadly supported federal and state laws protecting religious freedom, force taxpayers to pay for abortions, and, ironically, destroy rules that actually protect women’s health from dangerous procedures.”

Should it pass the Senate, the legislation would also nullify laws requiring that doctors provide mothers with information on their unborn baby or alternatives to abortion, requirements for waiting

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periods before abortions, laws that allow medical professionals to opt-out of providing abortions, bans on abortions after 20 weeks when the unborn babies can feel pain, and bans on sex-selective abortions.

For example, [Section 4\(a\)](#) of the bill allows a healthcare provider to perform an abortion and precludes certain restrictions on abortions, including but not limited to the following:

(8) A prohibition on abortion at any point or points in time prior to fetal viability, including a prohibition or restriction on a particular abortion procedure.

(9) A prohibition on abortion after fetal viability when, in the good-faith medical judgment of the treating health care provider, continuation of the pregnancy would pose a risk to the pregnant patient's life or health.

(10) A limitation on a health care provider's ability to provide immediate abortion services when that health care provider believes, based on the good-faith medical judgment of the provider, that delay would pose a risk to the patient's health.

Stated otherwise, a healthcare provider seeking to perform an abortion prior to fetal viability can do so using any procedure, no matter how dangerous it is to the woman. Moreover, if the treating healthcare professional believes that there is a risk to the patient's life or health, he/she may perform an abortion after fetal viability. The Act contains no limitation as to when the right to abort post-fetal-viability ceases. Moreover, the term "health" is very broad in the Act. The Supreme Court has previously interpreted the term "health" broadly. Specifically, in [Doe v. Bolton](#), the high court stated that the term health included "physical, emotional, psychological, familial, and the woman's age." This, together with [Section 7\(a\)](#) of the Act requiring a court to liberally construe the Act's provisions, could open the door to judicial rulings permitting abortions under very questionable circumstances that could seemingly ignore or overlook the rights of the unborn.

The provisions in the Act are dangerous and should be rejected by all Americans. Regardless of whether someone is pro-life or pro-choice, the Act simply goes too far and fails to protect the unborn child whatsoever. For example, what happens if a healthcare provider decides to perform an abortion in the 39th week? What about the right of the unborn child at that time? Do Democrats simply expect Americans to accept the notion that an unborn child has no rights whatsoever? What if the healthcare provider is not acting in good-faith or makes a mistake? The Act seems to ignore such concerns.

There are additional worries. For example, what if a woman decides to abort a child before viability because she simply doesn't want the child? Section 3 of the Act defines "viability" as "the point in a pregnancy at which, in the good-faith medical judgment of the treating health care provider, based on the particular facts of the case before the health care provider, there is a reasonable likelihood of sustained fetal survival outside the uterus with or without artificial support." Therefore, a woman could technically choose to abort a perfectly healthy child later in the pregnancy simply because she had second thoughts, and would not be required to disclose her reasons for choosing to abort the unborn child pursuant to Section 4(a)(11) of the Act. Again, is the unborn child simply a puppet, the strings to which are controlled by the women regardless of how far along she is in the pregnancy? The provisions of the Act certainly make it seem that way.

This radical bill should come as no surprise. After all, in 2019, the Senate failed to pass the [Born-Alive Abortion Survivors Protection Act](#), a bill that would have required doctors to provide medical care to infants born alive after an attempted abortion. The Act looked to provide babies who were born after an attempted abortion the same level of medical care that any other baby would receive at that gestational age. It was meant to prohibit providers from "backing away," where an abortion provider simply backs away from the table and leaves the baby to die from exposure and the elements. Sadly, many [Democrats](#) opposed that bill.

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Unlike *Roe* or the [Texas law](#), the provisions of the Act are way too broad and ignore the rights of the unborn child. In *Roe*, the Supreme Court protected the unborn child after a certain number of weeks. The Texas law, while controversial to some, also protected the unborn child after a specified period. Both *Roe* and the Texas law sought to balance the rights of the woman over her own body with the rights of the unborn child. The Act, on the other hand, only seems to focus on the right to abort and the rights of the healthcare professional. In doing so, it attempts to circumvent existing laws and ignores the rights of the unborn.

As a result, the Senate should swiftly and emphatically reject it in its current form.