

# 20-Week Abortion Ban

## NFPRHA Opposes H.R. 36: A Federal 20-Week Abortion Ban

*Sponsored by Reps. Trent Franks (R-AZ) and Marsha Blackburn (R-TN), the "Pain-Capable Unborn Child Protection Act" would prohibit providers from performing abortions after 20 weeks gestation, except in the cases of rape, incest, or life of the mother. A federal 20-week ban is yet another ideologically-driven attempt to restrict access to abortion care and would interfere with a woman's ability to seek a legal, safe medical service.*

### What Does the Bill Do?

H.R 36 would:

- Ban abortions past 20 weeks gestation, except in the cases of rape, incest, or endangerment of the life of the mother; and,
- Impose a criminal penalty on providers who violate the ban, including a fine or up to five years in prison.

### The Narrow Exceptions to the Bill

- H.R. 36 includes an exception for rape or incest. However, in order for a woman to be able to legally obtain an abortion after 20 weeks, the bill would require her to have reported the rape or incest to law enforcement.
- The bill would allow a provider to perform an abortion after 20 weeks if the procedure is necessary to save the life of a woman only for physical disorders, illness, or injury. There is no exception for life endangerment caused by psychological or emotional conditions.

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- Almost 99% of abortions performed in the United States are done before 21 weeks gestation.<sup>i</sup> This bill would unfairly penalize women who are already in difficult, and often tragic, situations.
- The bill's very limited exceptions ignore women's real-life circumstances that lead them to choose to end a pregnancy. Requiring that rape or incest be reported to the proper authorities dismisses the fact that sexual assault is a chronically underreported crime (only 35% of sexual assaults are reported<sup>ii</sup>)
- As it is written, with such limited exceptions, the bill is unconstitutional. The US Supreme Court has held that a state cannot ban abortion before viability. The Court has also held that any restrictions on abortion, even after viability, must include an exception when the health of the woman is in danger. H.R. 36 includes no such exception.
- With such severe criminal penalties for providers, the bill would worsen an already significant chilling effect on the willingness of clinicians to perform abortions.
- Leading provider organizations, including the American Congress of Obstetricians and Gynecologists (ACOG), refute the bill's claim that after 20 weeks a fetus can feel pain, citing peer-reviewed research published in the Journal of the American Medical Association and other highly-regarded journals.<sup>iii</sup>

<sup>i</sup> Guttmacher Institute, Facts on Induced Abortion in the United States, accessed 2015, [http://www.guttmacher.org/pubs/fb\\_induced\\_abortion.pdf](http://www.guttmacher.org/pubs/fb_induced_abortion.pdf).

<sup>ii</sup> U.S. Department of Justice, National Crime Victimization Survey, 2008–2012.

<sup>iii</sup> American Congress of Obstetricians and Gynecologists, "Open Letter to Texas Legislators: Get Out of Our Exam Rooms," news release, July 9, 2013, [http://www.acog.org/About\\_ACOG/News\\_Room/News\\_Releases/2013/Open\\_Letter\\_to\\_Texas\\_Legislators](http://www.acog.org/About_ACOG/News_Room/News_Releases/2013/Open_Letter_to_Texas_Legislators).