
HOUSE BILL 2395

State of Washington

55th Legislature

1998 Regular Session

By Representatives Sterk, Mulliken, D. Schmidt, Johnson, D. Sommers, Koster, Sherstad, Sheahan, Thompson, Mielke, Smith, Dunn, Boldt and Backlund

Read first time 01/13/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to limiting partial-birth abortions; adding new
2 sections to chapter 9.02 RCW; creating a new section; prescribing
3 penalties; and providing for submission of this act to a vote of the
4 people.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 partial-birth abortion ban act.

8 NEW SECTION. **Sec. 2.** Any physician who knowingly performs a
9 partial-birth abortion and thereby kills a human fetus shall be fined
10 under this title or imprisoned not more than two years, or both. This
11 section shall not apply to a partial-birth abortion that is necessary
12 to save the life of a mother whose life is endangered by a physical
13 disorder, illness, or injury.

14 NEW SECTION. **Sec. 3.** The definitions in this section apply
15 throughout this act unless the context clearly requires otherwise.

1 (1) "Partial-birth abortion" means an abortion in which the person
2 performing the abortion partially vaginally delivers a living fetus
3 before killing the fetus and completing the delivery.

4 (2) "Physician" means a doctor of medicine or osteopathy legally
5 authorized to practice medicine and surgery by the state of Washington,
6 or any other individual legally authorized by the state of Washington
7 to perform abortions. Any individual who is not a physician or not
8 otherwise legally authorized by the state to perform abortions, but who
9 nevertheless directly performs a partial-birth abortion, shall be
10 subject to the provisions of this section.

11 (3) "Vaginally delivers a living fetus before killing the fetus"
12 means deliberately and intentionally delivers into the vagina a living
13 fetus, or a substantial portion thereof, for the purpose of performing
14 a procedure the physician knows will kill the fetus, and kills the
15 fetus.

16 NEW SECTION. **Sec. 4.** (1) The father, if married to the mother at
17 the time she receives a partial-birth abortion procedure, and the
18 maternal grandparents of the fetus, if the mother has not attained the
19 age of eighteen years at the time of the abortion, may obtain
20 appropriate relief in a civil action, unless the pregnancy resulted
21 from the plaintiff's criminal conduct or the plaintiff consented to the
22 abortion.

23 (2) Such relief shall include:

24 (a) Money damages for all injuries, psychological and physical,
25 occasioned by the violation of this section; and

26 (b) Statutory damages equal to three times the cost of the partial-
27 birth abortion.

28 (3)(a) A defendant accused of an offense under this section may
29 seek a hearing before the state medical board on whether the
30 physician's conduct was necessary to save the life of the mother whose
31 life was endangered by a physical disorder, illness, or injury.

32 (b) The findings on that issue are admissible on that issue at the
33 trial of the defendant. Upon a motion of the defendant, the court
34 shall delay the beginning of the trial for not more than thirty days to
35 permit such a hearing to take place.

36 (4) A woman upon whom a partial-birth abortion is performed may not
37 be prosecuted under this section for a conspiracy to violate this

1 section, or for an offense under section 3 or 4 of this act based on a
2 violation of this section.

3 NEW SECTION. **Sec. 5.** Sections 2 through 4 of this act are each
4 added to chapter 9.02 RCW.

5 NEW SECTION. **Sec. 6.** The secretary of state shall submit this act
6 to the people for their adoption and ratification, or rejection, at the
7 next general election to be held in this state, in accordance with
8 Article II, section 1 of the Constitution and laws adopted to
9 facilitate its operation.

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