
SENATE BILL 6530

State of Washington

55th Legislature

1998 Regular Session

By Senators Swecker, Hargrove, Stevens, Benton, Zarelli, Hochstatter, McCaslin, Oke, Morton, Deccio, Wood, Strannigan, Johnson, Sellar, Roach, Schow and Anderson

Read first time 01/21/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to limiting partial-birth abortions; amending RCW
2 9.02.100; adding new sections to chapter 9.02 RCW; creating a new
3 section; prescribing penalties; and providing for submission of this
4 act to a vote of the 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.** (1) Any physician who knowingly performs a
9 partial-birth abortion and thereby kills a human fetus shall be fined
10 not more than four thousand dollars or imprisoned not more than two
11 years, or both.

12 (2) This act shall not apply to a partial-birth abortion that is
13 necessary to save the life of a mother whose life is endangered by a
14 physical disorder, physical illness, or physical injury and no other
15 procedure to terminate the pregnancy, including the induction of labor
16 or cesarean section, would suffice for that purpose.

1 (3) A woman upon whom a partial-birth abortion is performed may not
2 be prosecuted under chapter . . . , Laws of 1998 (this act) for a
3 conspiracy to violate this act.

4 NEW SECTION. **Sec. 3.** The definitions in this section apply
5 throughout chapter . . . , Laws of 1998 (this act) unless the context
6 clearly requires otherwise.

7 (1) "Partial-birth abortion" means an abortion in which the person
8 performing the abortion partially vaginally delivers a living fetus
9 before killing the fetus and completing the delivery. "Partial-birth
10 abortion" includes repositioning a living fetus into a breach position
11 and terminating the life of the fetus by introducing an instrument or
12 device into the cranium of the fetus and evacuating the contents
13 thereof.

14 (2) "Physician" means a doctor of medicine or osteopathy legally
15 authorized to practice medicine and surgery by the state of Washington,
16 or any other individual legally authorized by the state of Washington
17 to perform abortions.

18 Any individual who is not a physician or not otherwise legally
19 authorized by the state to perform abortions, but who nevertheless
20 directly performs a partial-birth abortion, shall be subject to the
21 provisions of chapter . . . , Laws of 1998 (this act).

22 (3) "Vaginally delivers a living fetus before killing the fetus"
23 means deliberately and intentionally delivers into the vagina a living
24 fetus, or a substantial portion thereof, for the purpose of performing
25 a procedure the physician knows will kill the fetus, and kills the
26 fetus.

27 NEW SECTION. **Sec. 4.** (1) A defendant accused of an offense under
28 chapter . . . , Laws of 1998 (this act) may seek a hearing before the
29 state medical board on whether the physician's conduct was necessary to
30 save the life of the mother whose life was endangered by a physical
31 disorder, physical illness, or physical injury and no other procedure
32 to terminate the pregnancy, including the induction of labor or
33 cesarean section, would suffice for that purpose.

34 (2) The findings on that issue are admissible on that issue at the
35 trial of the defendant.

1 (3) Upon a motion of the defendant, the court shall delay the
2 beginning of the trial for not more than thirty days to permit such a
3 hearing to take place.

4 NEW SECTION. **Sec. 5.** (1) The father, if married to the mother at
5 the time she receives a partial-birth abortion procedure, and the
6 maternal grandparents of the fetus, if the mother has not attained the
7 age of eighteen years at the time of the abortion, may obtain
8 appropriate relief in a civil action, unless the pregnancy resulted
9 from the plaintiff's criminal conduct or the plaintiff consented to the
10 abortion.

11 (2) Such civil relief shall include:

12 (a) Money damages for all injuries, psychological and physical,
13 occasioned by the violation of chapter . . . , Laws of 1998 (this act);
14 and

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

17 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are each
18 added to chapter 9.02 RCW.

19 **Sec. 7.** RCW 9.02.100 and 1992 c 1 s 1 are each amended to read as
20 follows:

21 The sovereign people hereby declare that every individual possesses
22 a fundamental right of privacy with respect to personal reproductive
23 decisions.

24 Accordingly, it is the public policy of the state of Washington
25 that:

26 (1) Every individual has the fundamental right to choose or refuse
27 birth control;

28 (2) Every woman has the fundamental right to choose or refuse to
29 have an abortion, except as specifically limited by RCW 9.02.100
30 through 9.02.170 (~~and~~), 9.02.900 through 9.02.902, and sections 1
31 through 5 of this act;

32 (3) Except as specifically permitted by RCW 9.02.100 through
33 9.02.170 (~~and~~), 9.02.900 through 9.02.902, and sections 1 through 5
34 of this act, the state shall not deny or interfere with a woman's
35 fundamental right to choose or refuse to have an abortion; and

1 (4) Except as specifically permitted by RCW 9.02.100 through
2 9.02.170, 9.02.900 through 9.02.902, and sections 1 through 5 of this
3 act, the state shall not discriminate against the exercise of these
4 rights in the regulation or provision of benefits, facilities,
5 services, or information.

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

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