ENROLLED HOUSE
BILL NO. 2542

By: Gray, Greenwood, Adair, Erwin, Hastings, Mass, Vaughn, Adkins, Benson, Bonny, Claunch, Coleman, Culver, Dank, Davis, Easley, Glover, Graves, Ingmire, Kirby, Liotta, Maddux, Mitchell, Newport, O'Neal, Ostrander, Paulk, Phillips, Ramsey, Satterfield, Seikel, Smith (Dale), Smith (Hopper), Stites, Sullivan (John), Sullivan (Leonard), Tyler, Weaver, Webb, Weese, Worthen, Bastin, Perry, Beutler and Pettigrew of the House

and

Weedn, Wilcoxson, Mickle, Wright, Fisher, Rozell, Wilkerson, Helton, Long, Fair, Douglass, Herbert, Price, Shurden, Kerr, Easley, Hendrick, Martin, Campbell, Laughlin, Dunlap, Williamson, Ford, Gustafson, Milacek, Smith, Snyder and Leftwich of the Senate

An Act relating to crimes and punishments; providing a criminal penalty for the performance of a partial-birth abortion; prohibiting performance of partial-birth abortion; providing an exception when such an abortion is necessary to save the life of the mother when no other medical procedure would suffice; defining terms; providing a civil cause of action for violations of the prohibition; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 684 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Any physician who knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined Ten Thousand Dollars ($10,000.00), or imprisoned in the State Penitentiary for a period of not more than two (2) years, or by both such fine and imprisonment. This subsection shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness or injury.

B. Definitions. As used in this section:

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

2. "Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state, or any other individual legally authorized by the state to perform abortions; provided, however, that any individual who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

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

C. Civil Action:

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

2. Such relief shall include money damages for all injuries, psychological and physical, occasioned by the violation of this section, and statutory damages equal to three times the cost of the partial-birth abortion.

D. Review by State Board of Medical Licensure and Supervision:

1. A defendant accused of an offense under this section may seek a hearing before the State Board of Medical Licensure and Supervision on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

2. The findings on that issue are admissible at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than thirty (30) days to permit such a hearing to take place.

E. A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section or for a conspiracy to violate this section.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 11th day of March, 1998.

Speaker of the House of Representatives

Passed the Senate the 8th day of April, 1998.

President of the Senate