

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1617

By: Graves and Adkins

AS INTRODUCED

An Act relating to public health and safety;

prohibiting partial-birth abortions; defining terms; providing exceptions; authorizing standing for certain persons to obtain appropriate relief; specifying type of relief; making violation of section a felony; prohibiting certain prosecutions; providing for codification; and providing an effective date.

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 1-740 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section:

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

2. "Fetus" and "infant" are used interchangeably to refer to the biological offspring of human parents.

B. No person shall knowingly perform a partial-birth abortion.

C. Subsection B of this section shall not apply to a partial-birth abortion that is necessary to save the life of a mother because her life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering condition caused by or arising from the pregnancy itself; provided, that no other medical procedure would suffice for the purpose.

D. 1. The woman upon whom a partial-birth abortion has been performed in violation of subsection B of this section, the father of the fetus or infant and the maternal grandparents of the fetus or infant, if the mother has not attained the age of eighteen (18) years at the time of the abortion, may obtain appropriate relief in a civil action, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

2. Such relief shall include:

- a. money damages for all injuries, psychological and physical, occasioned by the violation of this act, and
- b. statutory damages equal to three times the cost of the partial-birth abortion.

3. If judgment is rendered in favor of the plaintiff in an action described in this section, the court shall also render judgment for a reasonable attorney's fee in favor of the plaintiff against the defendant. If the judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney's fee in favor of the defendant against the plaintiff.

E. 1. Performance of a partial-birth abortion in knowing or reckless violation of this section, upon conviction thereof, shall be guilty of a felony and shall be punished by a fine not to exceed Twenty Thousand Dollars (\$20,000.00) or be imprisoned in the State Penitentiary for not more than ten (10) years or both such fine and imprisonment.

2. A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for violating this section, or any provision thereof, or for conspiracy to violate this section or any provision thereof.

SECTION 2. This act shall become effective November 1, 1997.

46-1-6337

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