

SHORT TITLE: Abortion; prohibiting partial-birth abortion.
Emergency.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1214

By: Weedn

AS INTRODUCED

An Act relating to abortion; prohibiting partial-birth abortion; providing certain exception; providing a civil cause of action for violations of the prohibition; providing criminal penalty; defining terms; allowing certain hearing before the State Board of Medical Licensure and Supervision; 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 714.1 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 guilty of a schedule B felony. Upon conviction, the violator shall be punished by a term of imprisonment, by a fine of Ten Thousand Dollars (\$10,000.00), or 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. 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. 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 plus damages equal to three times the cost of the partial-birth abortion.

D. 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 of the State Board of Medical Licensure and Supervision are admissible on that issue 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 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.

46-2-2166

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