

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1766

By: Balkman

AS INTRODUCED

An Act relating to abortions; amending Section 1, Chapter 122, O.S.L. 1998 (21 O.S. Supp. 2000, Section 684), which relates to partial birth abortions; modifying certain name; modifying term; adding and deleting terms; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 122, O.S.L. 1998 (21 O.S. Supp. 2000, Section 684), is amended to read as follows:

Section 684. A. Any physician who knowingly performs an intrauterine cranial decompression abortion or 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 an intrauterine cranial decompression abortion or 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 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.~~ the purposeful termination of a human pregnancy by a physician with an intention other than to produce a live birth or to remove a dead unborn child;

2. "Intrauterine cranial decompression abortion" or "partial-birth abortion" means a procedure in which the person performing the abortion:

- a. instrumentally or otherwise converts the fetus to a footling position, if not otherwise in such position,
- b. extracts the basically intact body of the fetus in the breech position except for the head,
- c. pierces the skull of the fetus and partially evacuates the intracranial contents of the fetus so as to cause the head to decompress, and
- d. delivers a dead or dying fetus; and

3. "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 an intrauterine cranial decompression abortion or 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 an intrauterine cranial decompression abortion or a partial-birth abortion is performed may not be prosecuted under this section or for a conspiracy to violate this section.

SECTION 2. This act shall become effective November 1, 2001.

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