
HOUSE BILL 1031

State of Washington

55th Legislature

1997 Regular Session

By Representatives Sterk, Mulliken, Koster, Johnson, Thompson, D. Sommers, Boldt, Sheahan, Sherstad, Carrell, Bush, Smith, Chandler, D. Schmidt and Backlund

Read first time 01/13/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to limiting late-term and partial-birth abortions;
2 adding new sections to chapter 9.02 RCW; creating a new section;
3 prescribing penalties; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** This act shall be known and cited as the
6 late-term and partial-birth abortion ban act of 1997.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.02 RCW
8 to read as follows:

9 No person may intentionally perform an abortion with knowledge that
10 the pregnant woman is in her third trimester or that her unborn child
11 is a viable fetus unless the abortion is necessary to prevent the death
12 of either the pregnant woman or her unborn child under circumstances
13 where every reasonable effort is made to preserve the life of each.

14 As used in this section, "viability" means that stage of fetal
15 development when, in the medical judgment of the attending physician
16 based on the particular facts of the case, there is a reasonable
17 likelihood of sustained survival of the fetus outside the womb, with or
18 without artificial support.

1 A violation of this section is a class C felony.

2 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.02 RCW
3 to read as follows:

4 (1) No person may intentionally perform a partial-birth abortion
5 and thereby terminate the life of a human fetus.

6 (2) As used in this section, "partial-birth abortion" means an
7 abortion in which the person performing the abortion partially
8 vaginally delivers a living fetus before terminating the life of the
9 fetus and completing the delivery.

10 (3) The mother, father, and if the mother has not attained the age
11 of eighteen years at the time of the abortion, the maternal
12 grandparents of the fetus, may in a civil action obtain appropriate
13 relief.

14 (4) Such relief shall include:

15 (a) Money damages for all injuries, psychological and physical,
16 occasioned by the violation of this section; and

17 (b) Statutory damages equal to three times the cost of the partial-
18 birth abortion, even if any party consented to the performance of an
19 abortion.

20 (5) A woman upon whom a partial-birth abortion is performed may not
21 be prosecuted under this section for a conspiracy to violate this
22 section, or an offense based on a violation of this section.

23 (6) It is an affirmative defense to a prosecution or a civil action
24 under this section, which must be proved by a preponderance of the
25 evidence, that the partial-birth abortion was performed by a physician
26 who reasonably believed:

27 (a) The partial-birth abortion was necessary to save the life of
28 the woman upon whom it was performed; and

29 (b) No other abortion procedure would suffice for that purpose.

30 A violation of this section is a class C felony.

31 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
32 preservation of the public peace, health, morals, or safety, or support
33 of the state government and its existing public institutions, and takes
34 effect immediately.

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