
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that gruesome abortion
2 procedures are currently being practiced out of convenience,
3 rather than out of a necessity to save the lives of mothers.
4 The legislature further recognizes the need to limit abortions
5 so that it becomes a rare and unnecessary procedure, and that
6 the preservation of life is of paramount concern to the State.

7 The purpose of this Act is to foster and develop a culture
8 of life, rather than death by a gruesome means, in the State of
9 Hawaii.

10 SECTION 2. Chapter 453, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§453-_____ Partial-birth abortions; prohibited. (a)
14 Notwithstanding any other law to the contrary, any physician who
15 knowingly performs a partial-birth abortion and thereby kills a
16 human fetus shall be sentenced to a term of imprisonment of not
17 more than two years, fined pursuant to subsection (c), or both.

18 This subsection does not apply to a partial-birth abortion that



1 is necessary to save a mother whose life is endangered by a
2 physical disorder, physical illness, or physical injury,
3 including a life-endangering physical condition arising from the
4 pregnancy itself.

5 (b) For the purposes of this section:

6 "Partial-birth abortion" means an abortion in which the
7 person performing the abortion:

- 8 (1) Delivers a living fetus until the entire fetal head is
9 outside the body of the mother in the case of a head-
10 first presentation or any part of the fetal trunk
11 above the navel is outside the body of the mother in
12 the case of breech presentation, with the intention of
13 killing the partially delivered living fetus; or
14 (2) Performs an overt act, other than completion of
15 delivery, that kills the partially delivered living
16 fetus.

17 "Physician" means a doctor of medicine or osteopathy
18 licensed to practice medicine and surgery by the State, or any
19 other individual legally authorized by the State to perform
20 abortions; provided that any individual who is not a physician
21 or not otherwise legally authorized by the State to perform
22 abortions, but who nevertheless directly performs a partial-



1 birth abortion, shall be subject to the provisions of this
2 section.

3 (c) The following may bring a civil action against a
4 physician who performs a partial-birth abortion:

5 (1) The father of the human fetus if he is married to the
6 mother at the time she receives the partial-birth
7 abortion procedure; and

8 (2) The maternal grandparents of the human fetus if the
9 mother of the human fetus has not attained the age of
10 eighteen.

11 Relief in the civil action shall include monetary damages for
12 physical injuries and emotional distress caused by the violation
13 of this section and statutory damages equal to three times the
14 cost of the partial-birth abortion.

15 (d) A physician accused of a violation under this section
16 may seek a hearing before the state medical board on whether the
17 physician's conduct was necessary to save the mother whose life
18 was endangered by a physical disorder, physical illness, or
19 physical injury, including a life-endangering physical condition
20 caused by or arising from the pregnancy itself. The board's
21 findings on this issue shall be admissible in any legal
22 proceeding in which the physician's violation of this section is



1 an issue. Upon motion by the physician accused of a violation
2 of this section, the court shall delay the legal proceeding for
3 not more than thirty days to permit a hearing before the medical
4 board to be held.

5 (e) A woman upon whom a partial-birth abortion is
6 performed shall not be prosecuted under this section or for a
7 conspiracy to violate this section."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13

INTRODUCED BY:

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(By Request)

JAN 24 2011



Report Title:

Health; Partial Birth Abortion

Description:

Prohibits performance of partial-birth abortions. Authorizes the bringing of civil actions against a person who performs a partial-birth abortion. Allows for monetary damages and prison terms in partial-birth abortion cases.

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