

AN ACT

RELATING TO HEALTH; PROHIBITING CERTAIN ABORTION PROCEDURES;
PROVIDING CIVIL REMEDIES AND CRIMINAL PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Partial-Birth Abortion Ban Act".

Section 2. DEFINITIONS.--As used in the Partial-Birth
Abortion Ban Act:

A. "abortion" means the intentional termination
of the pregnancy of a female by a person who knows the
female is pregnant;

B. "fetus" means the biological offspring of
human parents;

C. "partial-birth abortion" means a procedure in
which any person, including a physician or other health care
professional, intentionally extracts an independently viable
fetus from the uterus into the vagina and mechanically
extracts the cranial contents of the fetus in order to
induce death; and

D. "physician" means a person licensed to
practice in the state as a licensed physician pursuant to
the Medical Practice Act or an osteopathic physician
licensed pursuant to Chapter 61, Article 10 NMSA 1978.

Section 3. PROHIBITION OF PARTIAL-BIRTH ABORTIONS.--No
person shall perform a partial-birth abortion except a
physician who has determined that in his opinion the
partial-birth abortion is necessary to save the life of a

pregnant female or prevent great bodily harm to a pregnant female:

A. because her life is endangered or she is at risk of great bodily harm due to a physical disorder, illness or injury, including a condition caused by or arising from the pregnancy; and

B. no other medical procedure would suffice for the purpose of saving her life or preventing great bodily harm to her.

Section 4. CIVIL REMEDIES.--

A. Except as provided in Subsection B of this section, the following persons may bring a civil action to obtain relief pursuant to this section against a person who has violated the provisions of Section 3 of the Partial-Birth Abortion Ban Act:

(1) the person on whom a partial-birth abortion was performed;

(2) the biological father of the fetus that was the subject of the partial-birth abortion; and

(3) the parents of the person on whom the partial-birth abortion was performed if that person had not reached the age of majority at the time of the abortion.

B. The persons named as having a right of action in Subsection A of this section are barred from bringing a civil action pursuant to this section if:

(1) the pregnancy of the person on whom the partial-birth abortion was performed resulted from criminal conduct of the person seeking to bring the action; or

(2) the partial-birth abortion was consented to by the person seeking to bring the action.

C. A person authorized to bring a civil action pursuant to this section may recover compensatory damages for loss caused by violation of Section 3 of the Partial-Birth Abortion Ban Act.

Section 5. CRIMINAL PENALTY--EXCEPTION.--

A. Except as provided in Subsections B, C, D and E of this section, a person who violates Section 3 of the Partial-Birth Abortion Ban Act is guilty of a fourth degree felony and shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

B. The provisions of the Partial-Birth Abortion Ban Act shall apply only to the exact procedure specified in that act.

C. The provisions of the Partial-Birth Abortion Ban Act are not intended to criminalize any other method of terminating a woman's pregnancy.

D. The provisions of the Partial-Birth Abortion Ban Act are not intended to subject a woman, upon whom the procedure specified in that act is performed, to criminal culpability as an accomplice, aider, abettor, solicitor or conspirator.

E. The provisions of the Partial-Birth Abortion Ban Act are not intended to subject any person to criminal culpability pursuant to laws governing attempt, solicitation or conspiracy to commit a crime.

Section 6. SEVERABILITY--SECTION 3 NOT SEVERABLE.--

A. Except for Section 3 of the Partial-Birth Abortion Ban Act, if any part or application of that act is held invalid, the remainder or its application to other situations or persons shall not be affected.

B. If any part or application of Section 3 of the Partial-Birth Abortion Ban Act is held invalid, the remainder of that act or its application to other situations or persons shall be likewise invalid. Section 3 of that act is not severable. _____
