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SENATE BILL 140

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
William F. Davis

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 an abortion in
which the person performing it intentionally partially
delivers into the vagina a living fetus, or a substantial

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1 portion of a living fetus, and, with the specific intention
2 of killing the fetus, performs a procedure that kills the
3 fetus; and

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

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

13 A. because her life is endangered by a physical
14 disorder, illness or injury, including a condition caused by
15 or arising from the pregnancy; and

16 B. no other medical procedure would suffice for
17 the purpose of saving her life.

18 Section 4. CIVIL REMEDIES.--

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

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

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

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

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

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

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

12 C. A person authorized to bring a civil action
13 pursuant to this section may recover:

14 (1) compensatory damages for loss caused by
15 violation of Section 3 of the Partial-Birth Abortion Ban Act;
16 and

17 (2) additional statutory damages equal to
18 three times the cost of the partial-birth abortion.

19 Section 5. CRIMINAL PENALTY--EXCEPTION.--

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

24 B. A woman upon whom a partial-birth abortion has
25 been performed may not be prosecuted for a violation of the
Partial-Birth Abortion Ban Act or conspiracy to violate that
act.

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

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

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

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