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SENATE BILL 191

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

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

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1 delivers into the vagina a living fetus, or a substantial
2 portion of a living fetus, and then with the specific
3 intention of killing the fetus performs a procedure that kills
4 the fetus; and

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

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

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

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

19 Section 4. CIVIL REMEDIES. --

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

25 (1) the person on whom a partial-birth

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1 abortion was performed;

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

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

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

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

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

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

17 (1) compensatory damages for loss caused by
18 violation of Section 3 of the Partial-Birth Abortion Ban Act;
19 and

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

22 Section 5. CRIMINAL PENALTY--EXCEPTION. --

23 A. Except as provided in Subsection B of this
24 section, a person who violates Section 3 of the Partial-Birth
25 Abortion Ban Act is guilty of a fourth degree felony and shall

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1 be sentenced pursuant to Section 31-18-15 NMSA 1978.

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

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

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

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

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5 February 19, 1999

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8 Mr. President:

9
10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 191

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

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19 Respectfully submitted,

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Shannon Robinson, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 1 Against

Yes: 5

No: Robinson

Excused: Feldman, Garcia, Leavell

Absent: None

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 18, 1999
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8 Mr. Speaker:
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10 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to
11 whom has been referred
12

13 SENATE BILL 191
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,
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22 _____
23 Patsy Trujillo Knauer, Chairwoman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HCPAC/SB 191

Page 8

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 4 For 2 Against

Yes: 4

No: Beam, Knauer

Excused: King

Absent: None

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