

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 536

Short Title: Ban Partial-Birth Abortions.

(Public)

Sponsors: Senators Page; Allran, Ballantine, Blust, Carpenter, Carrington, Clark, Cochrane, East, Forrester, Foxx, Garwood, Hartsell, Horton, Hoyle, Jenkins, Kerr, Kincaid, Ledbetter, Martin of Pitt, McDaniel, Rucho, Shaw of Cumberland, Shaw of Guilford, Warren, and Webster.

Referred to: Children and Human Resources.

March 27, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO BAN PARTIAL-BIRTH ABORTIONS.

3 The General Assembly of North Carolina enacts:

4 Section 1. Article 11 of Chapter 14 of the General Statutes is amended by
5 adding a new Part to read:

6 **"PART 2. PARTIAL-BIRTH ABORTION BAN.**

7 **"§ 14-46.1. Definitions.**

8 For purposes of this Part the term 'partial-birth abortion' means an abortion in which
9 the person performing the abortion partially vaginally delivers a living fetus before
10 killing the fetus and completing the delivery.

11 **"§ 14-46.2. Partial-birth abortions prohibited; criminal penalty.**

12 (a) No person shall intentionally perform a partial-birth abortion.

13 (b) A violation of this section is a Class H felony.

14 **"§ 14-46.3. Partial-birth abortions prohibited; civil remedies and penalties.**

15 (a) The following persons may obtain appropriate relief in a civil action for a
16 violation of this Part, unless the pregnancy resulted from the plaintiff's criminal conduct
17 or the plaintiff consented to the abortion:

- 1 (1) The father of the fetus, if the father was married to the mother at the
2 time of the partial-birth abortion procedure.
- 3 (2) The maternal grandparents of the fetus if the mother was an
4 unemancipated minor at the time of the partial-birth abortion procedure.
- 5 (b) The civil remedies available under this Part include the following:
- 6 (1) Money damages for all damages or injuries caused by a violation of this
7 Part; and
- 8 (2) Statutory damages equal to three times the cost of the partial-birth
9 abortion.

10 **"§ 14-46.4. Application of Part.**

11 (a) This Part does not apply to a person who performs a partial-birth abortion
12 if:

- 13 (1) The mother's life is endangered by a physical disorder, physical illness,
14 or physical injury; and
- 15 (2) The procedure is necessary to save the life of the mother; and
- 16 (3) No other medical procedure would suffice for that purpose.

17 (b) A woman upon whom a partial-birth abortion is performed may not be
18 prosecuted under this Part. A woman upon whom a partial-birth abortion is performed is
19 not civilly liable under this Part."

20 Section 2. Article 11 of Chapter 14 of the General Statutes is recodified as Part
21 1 of Article 11 of Chapter 14 of the General Statutes.

22 Section 3. (a) If any one or more provisions, clauses, phrases, or words of G.S. 14-
23 46.1 as enacted by Section 1 of this act or the application of G.S. 14-46.1 to any person or
24 circumstance is found to be unconstitutional, G.S. 14-46.1 as enacted by Section 1 of this
25 act is declared to be inseverable. If any one or more provisions, clauses, phrases, or
26 words of G.S. 14-46.4 as enacted by Section 1 of this act or the application of G.S. 14-
27 46.4 to any person or circumstance is found to be unconstitutional, G.S. 14-46.4 as
28 enacted by Section 1 of this act is declared to be inseverable.

29 (b) If any one or more of the provisions, sections, subsections, sentences, clauses,
30 phrases, or words of the remaining sections or the application thereof to any person or
31 circumstance is found to be unconstitutional, the same are declared to be severable and
32 the balance of the act shall remain effective notwithstanding such unconstitutionality.

33 The General Assembly declares that it would have passed this act, and each
34 provision, section, subsection, sentence, clause, phrase, or word of the act, with the
35 exception of G.S. 14-46.1 and G.S. 14-46.4 as enacted by Section 1 of this act,
36 irrespective of the fact that any one or more provisions, sections, subsections, sentences,
37 clauses, phrases, or words be declared unconstitutional.

38 Section 4. This act is effective when it becomes law and applies to offenses
39 committed and claims for relief arising on or after that date.