

SENATE BILL 145

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1998 Regular Session
8lr0595

By: **Senators Haines, Stone, McCabe, Dyson, Ferguson, Hafer, Stoltzfus,
Colburn, Roesser, Hogan, Jimeno, and Middlebrooks**

Introduced and read first time: January 23, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Partial-Birth Abortions - Prohibition**

3 FOR the purpose of prohibiting the performance of partial-birth abortions unless
4 necessary to save the life of the mother; establishing penalties for performing
5 partial-birth abortions; authorizing an individual who is charged with a certain
6 offense to seek a hearing before the State Board of Physician Quality Assurance
7 concerning a certain issue; authorizing certain findings of the Board to be
8 admissible at a certain trial of an individual; requiring the court, on motion of
9 the individual, to delay the beginning of a trial for a certain period of time for a
10 certain purpose; establishing certain civil remedies; providing for the scope of
11 this Act; defining certain terms; and generally relating to prohibiting the
12 performance of partial-birth abortions.

13 BY adding to
14 Article - Health - General
15 Section 20-210
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1997 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Health - General**

21 20-210.

22 (A) (1) THIS SECTION MAY NOT BE CONSTRUED TO IMPOSE ANY PENALTIES
23 ON A WOMAN ON WHOM A PARTIAL-BIRTH ABORTION IS PERFORMED.

24 (2) THIS SECTION APPLIES TO PHYSICIANS AND TO INDIVIDUALS WHO
25 ARE NOT PHYSICIANS OR ARE NOT OTHERWISE AUTHORIZED BY LAW TO PERFORM
26 AN ABORTION, BUT WHO DIRECTLY PERFORM A PARTIAL-BIRTH ABORTION.

1 (B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) "DELIVERS A LIVING FETUS VAGINALLY BEFORE KILLING THE
4 FETUS" MEANS DELIBERATELY AND INTENTIONALLY DELIVERING INTO THE VAGINA
5 A LIVING FETUS, OR A SUBSTANTIAL PORTION OF A LIVING FETUS, FOR THE
6 PURPOSE OF PERFORMING A PROCEDURE THE INDIVIDUAL KNOWS WILL KILL THE
7 FETUS AND KILLS THE FETUS.

8 (3) "PARTIAL-BIRTH ABORTION" MEANS AN ABORTION IN WHICH THE
9 INDIVIDUAL PERFORMING THE ABORTION PARTIALLY DELIVERS A LIVING FETUS
10 VAGINALLY BEFORE KILLING THE FETUS AND COMPLETING THE DELIVERY.

11 (4) "PHYSICIAN" HAS THE MEANING STATED IN § 14-101(J) OF THE
12 HEALTH - OCCUPATIONS ARTICLE.

13 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN
14 INDIVIDUAL WHO KNOWINGLY PERFORMS A PARTIAL-BIRTH ABORTION AND KILLS A
15 HUMAN FETUS SHALL BE GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
16 SUBJECT TO A FINE OF \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR
17 BOTH.

18 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A
19 PARTIAL-BIRTH ABORTION THAT IS NECESSARY TO SAVE THE LIFE OF A MOTHER
20 WHOSE LIFE IS ENDANGERED BY A PHYSICAL DISORDER, ILLNESS, OR INJURY.

21 (D) (1) AN INDIVIDUAL CHARGED WITH AN OFFENSE UNDER THIS SECTION
22 MAY SEEK A HEARING BEFORE THE STATE BOARD OF PHYSICIAN QUALITY
23 ASSURANCE CONCERNING WHETHER THE CONDUCT OF THE INDIVIDUAL WAS
24 NECESSARY TO SAVE THE LIFE OF THE MOTHER WHOSE LIFE WAS ENDANGERED BY
25 A PHYSICAL DISORDER, ILLNESS, OR INJURY.

26 (2) THE FINDINGS OF THE BOARD OF PHYSICIAN QUALITY ASSURANCE
27 ON THE ISSUE SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION ARE ADMISSIBLE
28 ON THAT ISSUE AT THE TRIAL OF THE INDIVIDUAL.

29 (3) ON MOTION OF THE INDIVIDUAL, THE COURT SHALL DELAY THE
30 BEGINNING OF THE TRIAL FOR NOT MORE THAN 30 DAYS TO ALLOW THE HEARING
31 SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION TO TAKE PLACE.

32 (E) (1) THE FOLLOWING INDIVIDUALS MAY SEEK APPROPRIATE RELIEF
33 THROUGH A CIVIL ACTION AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION
34 AGAINST AN INDIVIDUAL WHO PERFORMS A PARTIAL-BIRTH ABORTION, UNLESS THE
35 PREGNANCY RESULTED FROM CRIMINAL CONDUCT OF THE INDIVIDUAL OR THE
36 INDIVIDUAL CONSENTED TO THE PARTIAL-BIRTH ABORTION:

37 (I) THE FATHER OF THE ABORTED FETUS, IF THE FATHER IS
38 MARRIED TO THE MOTHER AT THE TIME OF THE PARTIAL-BIRTH ABORTION; OR

1 (II) THE MATERNAL GRANDPARENTS OF THE FETUS, IF THE
2 MOTHER WAS LESS THAN 18 YEARS OLD AT THE TIME OF THE PARTIAL-BIRTH
3 ABORTION.

4 (2) CIVIL RELIEF UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL
5 INCLUDE:

6 (I) DAMAGES FOR ANY PHYSICAL OR PSYCHOLOGICAL INJURIES
7 RESULTING FROM A VIOLATION OF THIS SECTION; AND

8 (II) DAMAGES EQUAL TO THREE TIMES THE COST OF THE
9 PARTIAL-BIRTH ABORTION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 1998.