

SENATE BILL 194

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SB 145/98 - JPR

1999 Regular Session
9lr0375
CF 9lr0353

By: **Senators Haines, Jimeno, Stone, DeGrange, Dyson, Hooper, Harris,
Mooney, Ferguson, Madden, Stoltzfus, Collins, Colburn, Hogan,
McCabe, Jacobs, Hafer, Munson, and Roesser**

Introduced and read first time: February 1, 1999

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; specifying that this Act does not
5 interfere with a woman's decision to terminate a pregnancy under certain
6 circumstances; establishing penalties for performing partial-birth abortions;
7 authorizing an individual who is charged with a certain offense to seek a
8 hearing before the State Board of Physician Quality Assurance concerning a
9 certain issue; authorizing certain findings of the Board to be admissible at a
10 certain trial of an individual; requiring the court, on motion of the individual, to
11 delay the beginning of a trial for a certain period of time for a certain purpose;
12 establishing certain civil remedies; providing for the scope of this Act; defining
13 certain terms; and generally relating to prohibiting the performance of
14 partial-birth abortions.

15 BY adding to
16 Article - Health - General
17 Section 20-210
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1998 Supplement)

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

22 **Article - Health - General**

23 20-210.

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

1 (2) THIS SECTION MAY NOT BE CONSTRUED TO INTERFERE WITH THE
2 DECISION OF A WOMAN TO TERMINATE A PREGNANCY UNDER § 20-209 OF THIS
3 SUBTITLE.

4 (3) THIS SECTION APPLIES TO PHYSICIANS AND TO INDIVIDUALS WHO
5 ARE NOT PHYSICIANS OR ARE NOT OTHERWISE AUTHORIZED BY LAW TO PERFORM
6 AN ABORTION, BUT WHO DIRECTLY PERFORM A PARTIAL-BIRTH ABORTION.

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

9 (2) "DELIVERS A LIVING FETUS VAGINALLY BEFORE KILLING THE
10 FETUS" MEANS DELIBERATELY AND INTENTIONALLY INITIATES THE BIRTH PROCESS
11 BY DELIVERING INTO THE VAGINA A LIVING FETUS, OR A SUBSTANTIAL PORTION OF
12 A LIVING FETUS, FOR THE PURPOSE OF PERFORMING A PROCEDURE THE
13 INDIVIDUAL KNOWS WILL KILL THE FETUS AND KILLS THE FETUS.

14 (3) "PARTIAL-BIRTH ABORTION" MEANS AN ABORTION IN WHICH THE
15 INDIVIDUAL PERFORMING THE ABORTION THROUGH A BREACH PRESENTATION
16 DELIVERS A LIVING FETUS VAGINALLY BEFORE KILLING THE FETUS AND
17 COMPLETING THE DELIVERY.

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

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

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

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

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

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

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

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

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

11 (2) CIVIL RELIEF UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL
12 INCLUDE:

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

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1999.