

SENATE BILL 194

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SB 145/98 - JPR

1999 Regular Session  
9lr0375  
CF 9lr0353

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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

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 25, 1999

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CHAPTER \_\_\_\_\_

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:

1 **Article - Health - General**

2 20-210.

3 (A) (1) THIS SECTION MAY NOT BE CONSTRUED TO IMPOSE ANY PENALTIES  
4 ON A WOMAN ON WHOM A PARTIAL-BIRTH ABORTION IS PERFORMED.5 (2) THIS SECTION MAY NOT BE CONSTRUED TO INTERFERE WITH THE  
6 DECISION OF A WOMAN TO TERMINATE A PREGNANCY UNDER § 20-209 OF THIS  
7 SUBTITLE BY ANY PROCEDURE OTHER THAN THE PARTIAL-BIRTH ABORTION  
8 PROCEDURE.9 (3) THIS SECTION APPLIES TO PHYSICIANS AND TO INDIVIDUALS WHO  
10 ARE NOT PHYSICIANS OR ARE NOT OTHERWISE AUTHORIZED BY LAW TO PERFORM  
11 AN ABORTION, BUT WHO DIRECTLY PERFORM A PARTIAL-BIRTH ABORTION.12 (B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
13 INDICATED.14 (2) "DELIVERS A LIVING FETUS VAGINALLY BEFORE KILLING THE  
15 FETUS" MEANS DELIBERATELY AND INTENTIONALLY INITIATES THE BIRTH PROCESS  
16 BY DELIVERING INTO THE VAGINA THROUGH A BREECH PRESENTATION A LIVING  
17 FETUS, OR A SUBSTANTIAL PORTION OF A LIVING FETUS, FOR THE PURPOSE OF  
18 PERFORMING A PROCEDURE THE INDIVIDUAL KNOWS WILL KILL THE FETUS AND  
19 KILLS THE FETUS.20 ~~(3) "PARTIAL-BIRTH ABORTION" MEANS AN ABORTION IN WHICH THE~~  
21 ~~INDIVIDUAL PERFORMING THE ABORTION THROUGH A BREACH PRESENTATION~~  
22 ~~DELIVERS A LIVING FETUS VAGINALLY BEFORE KILLING THE FETUS AND~~  
23 ~~COMPLETING THE DELIVERY.~~24 (3) "PARTIAL-BIRTH ABORTION" MEANS A PROCEDURE PERFORMED  
25 AFTER 16 WEEKS GESTATION THAT TERMINATES A PREGNANCY BY DELIVERING A  
26 LIVING FETUS VAGINALLY BEFORE KILLING THE FETUS AND COMPLETING THE  
27 DELIVERY.28 (4) "PHYSICIAN" HAS THE MEANING STATED IN § 14-101(J) OF THE  
29 HEALTH OCCUPATIONS ARTICLE.30 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN  
31 INDIVIDUAL WHO KNOWINGLY PERFORMS A PARTIAL-BIRTH ABORTION AND KILLS A  
32 ~~HUMAN LIVING~~ FETUS SHALL BE GUILTY OF A MISDEMEANOR AND ON CONVICTION  
33 IS SUBJECT TO A FINE OF \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 2 YEARS  
34 OR BOTH.35 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A  
36 PARTIAL-BIRTH ABORTION THAT IS NECESSARY TO SAVE THE LIFE OF A MOTHER  
37 WHOSE LIFE IS ENDANGERED BY A PHYSICAL DISORDER, ILLNESS, OR INJURY.

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

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

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

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

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

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

22 (2) CIVIL RELIEF UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL  
23 INCLUDE:

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

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

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