

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 349

Short Title: Ban Partial-Birth Abortions.

(Public)

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Sponsors: Senators Allran; Ballantine, Carpenter, Carrington, Cochrane, East, Forrester, Foxx, Garwood, Horton, Hoyle, Martin of Pitt, Moore, Rucho, Shaw of Guilford, and Webster.

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Referred to: Children and Human Resources.

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March 15, 1999

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 (a) The following definitions apply in this Part:

9 (1) ' Partial-birth abortion' means an abortion in which the person  
10 performing the abortion partially vaginally delivers a living fetus before  
11 killing the fetus and completing the delivery.

12 (2) ' Physician' means a doctor of medicine or osteopathy licensed to  
13 practice medicine and surgery under Chapter 90 of the General Statutes.

14 (3) ' Vaginally delivers a living fetus before killing the fetus' means  
15 deliberately and intentionally delivers into the vagina a living fetus, or a  
16 substantial portion thereof, for the purpose of performing a procedure  
17 the physician knows will kill the fetus, kills the fetus.

18 **"§ 14-46.2. Partial-birth abortions prohibited; criminal penalty.**

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

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

3 **"§ 14-46.3. Partial-birth abortions prohibited; civil remedies and penalties.**

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

7 (1) The father of the fetus, if the father was married to the mother at the  
8 time of the partial-birth abortion procedure.

9 (2) The maternal grandparents of the fetus if the mother was an  
10 unemancipated minor at the time of the partial-birth abortion procedure.

11 (b) The civil remedies available under this Part include the following:

12 (1) Money damages for all damages or injuries caused by a violation of this  
13 Part; and

14 (2) Statutory damages equal to three times the cost of the partial-birth  
15 abortion.

16 (c) A defendant accused of an offense under this Part, who is a physician, may  
17 seek a hearing before the North Carolina Medical Board on whether the physician's  
18 conduct was necessary to save the life of the mother whose life was endangered by a  
19 physical disorder, illness, or injury.

20 (d) Upon a motion of the defendant, who is a physician, a court shall delay the  
21 beginning of the defendant's trial for not more than 30 days to permit a hearing before the  
22 North Carolina Medical Board as provided for in subsection (c) of this section. The  
23 findings of the hearing before the North Carolina Medical Board are admissible at the  
24 defendant's trial.

25 **"§ 14-46.4. Application of Part.**

26 (a) This Part does not apply to a physician who performs a partial-birth  
27 abortion if:

28 (1) The mother's life is endangered by a physical disorder, illness, or injury;  
29 and

30 (2) The procedure is necessary to save the life of the mother.

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

34 Section 2. Article 11 of Chapter 14 of the General Statutes is recodified as Part  
35 1 of Article 11 of Chapter 14 of the General Statutes.

36 Section 3.(a) If any one or more provisions, clauses, phrases, or words of G.S. 14-  
37 46.1, as enacted by Section 1 of this act or the application of G.S. 14-46.1 to any person  
38 or circumstance is found to be unconstitutional, G.S. 14-46.1, as enacted by Section 1 of  
39 this act, is declared to be inseverable. If any one or more provisions, clauses, phrases, or  
40 words of G.S. 14-46.4, as enacted by Section 1 of this act or the application of G.S. 14-  
41 46.4 to any person or circumstance is found to be unconstitutional, G.S. 14-46.4, as  
42 enacted by Section 1 of this act, is declared to be inseverable.

1       Section 3.(b)   If any one or more of the provisions, sections, subsections,  
2 sentences, clauses, phrases, or words of the remaining sections or the application thereof,  
3 to any person or circumstance is found to be unconstitutional, the same are declared to be  
4 severable, and the balance of the act shall remain effective notwithstanding such  
5 unconstitutionality.

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

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