

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2769

AN ACT

AMENDING SECTION 13-3603.01, ARIZONA REVISED STATUTES; RELATING TO FAMILY OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3603.01, Arizona Revised Statutes, is amended to  
3 read:

4 13-3603.01. Partial-birth abortions; classification; civil  
5 action; definitions

6 A. ~~A person~~ ANY PHYSICIAN who knowingly performs a partial-birth  
7 abortion and ~~who~~ THEREBY kills a human fetus is guilty of a class ~~6- 5~~  
8 felony.

9 B. This section does not apply to a partial-birth abortion that is  
10 necessary to save the life of a mother whose life is endangered by a physical  
11 disorder, PHYSICAL illness or PHYSICAL injury ~~if no other medical procedure~~  
12 ~~would save the mother's life~~, INCLUDING A LIFE-ENDANGERING PHYSICAL CONDITION  
13 CAUSED BY OR ARISING FROM THE PREGNANCY ITSELF.

14 C. The father of the fetus if married to the mother at the time she  
15 receives a partial-birth abortion PROCEDURE and the maternal grandparents of  
16 the fetus if the mother is not at least eighteen years of age at the time of  
17 the partial-birth abortion may bring a civil action to obtain appropriate  
18 relief unless the pregnancy resulted from the plaintiff's criminal conduct or  
19 the plaintiff consented to the partial-birth abortion. Relief pursuant to  
20 this subsection includes the following:

21 1. ~~Monetary~~ MONEY damages for all injuries, PSYCHOLOGICAL AND  
22 PHYSICAL, resulting from the ~~partial-birth abortion, including psychological~~  
23 ~~and physical damages~~ VIOLATION OF THIS SECTION.

24 2. STATUTORY damages in an amount equal to three times the cost of the  
25 partial-birth abortion.

26 D. This section ~~does~~ SHALL not subject a woman upon whom a  
27 partial-birth abortion is performed to ANY criminal prosecution or civil  
28 liability ~~under this section~~.

29 E. For the purposes of this section:

30 1. "Partial-birth abortion" means an abortion in which the person  
31 performing the abortion ~~partially vaginally delivers a living fetus before~~  
32 ~~killing the fetus and completing the delivery~~ DOES BOTH OF THE FOLLOWING:

33 (a) DELIBERATELY AND INTENTIONALLY VAGINALLY DELIVERS A LIVING FETUS  
34 UNTIL, IN THE CASE OF A HEADFIRST PRESENTATION, THE ENTIRE FETAL HEAD IS  
35 OUTSIDE THE BODY OF THE MOTHER OR, IN THE CASE OF BREECH PRESENTATION, ANY  
36 PART OF THE FETAL TRUNK PAST THE NAVAL IS OUTSIDE THE BODY OF THE MOTHER FOR  
37 THE PURPOSE OF PERFORMING AN OVERT ACT THAT THE PERSON KNOWS WILL KILL THE  
38 PARTIALLY DELIVERED LIVING FETUS.

39 (b) PERFORMS THE OVERT ACT, OTHER THAN COMPLETION OF DELIVERY, THAT  
40 KILLS THE PARTIALLY DELIVERED LIVING FETUS.

41 2. ~~"Person" includes a physician~~ "PHYSICIAN" MEANS A DOCTOR OF  
42 MEDICINE OR A DOCTOR OF OSTEOPATHY who is licensed pursuant to title 32,  
43 chapter 13 or 17, ~~a person~~ OR ANY OTHER INDIVIDUAL ~~who is~~ legally authorized  
44 by this state to perform abortions. ~~or a person~~ ANY INDIVIDUAL who is not A  
45 PHYSICIAN OR WHO IS NOT OTHERWISE legally authorized by this state to perform

1 abortions but who **NEVERTHELESS** directly performs a partial-birth abortion  
2 **SHALL BE SUBJECT TO THIS SECTION.**

3       Sec. 2. Severability

4       If a provision of this act or its application to any person or  
5 circumstance is held invalid, the invalidity does not affect other provisions  
6 or applications of the act that can be given effect without the invalid  
7 provision or application, and to this end the provisions of the act are  
8 severable.

9       Sec. 3. Emergency

10       This act is an emergency measure that is necessary to preserve the  
11 public peace, health or safety and is operative immediately as provided by  
12 law.