

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# SENATE BILL 1048

AN ACT

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

(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 felony  
8 AND SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN TWO YEARS, OR  
9 BOTH.

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

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

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

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

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

30 E. A DEFENDANT WHO IS ACCUSED OF AN OFFENSE UNDER THIS SECTION MAY  
31 SEEK A HEARING BEFORE THE ARIZONA MEDICAL BOARD ON WHETHER THE PHYSICIAN'S  
32 CONDUCT WAS NECESSARY TO SAVE THE LIFE OF THE MOTHER WHOSE LIFE WAS  
33 ENDANGERED BY A PHYSICAL DISORDER, PHYSICAL ILLNESS OR PHYSICAL INJURY,  
34 INCLUDING A LIFE-ENDANGERING PHYSICAL CONDITION CAUSED BY OR ARISING FROM THE  
35 PREGNANCY ITSELF. THE FINDINGS ON THAT ISSUE ARE ADMISSIBLE ON THAT ISSUE AT  
36 THE TRIAL OF THE DEFENDANT. ON A MOTION OF THE DEFENDANT, THE COURT SHALL  
37 DELAY THE BEGINNING OF THE TRIAL FOR NOT MORE THAN THIRTY DAYS TO PERMIT A  
38 HEARING TO TAKE PLACE.

39 ~~E.~~ F. For the purposes of this section:

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

43 (a) DELIBERATELY AND INTENTIONALLY VAGINALLY DELIVERS A LIVING FETUS  
44 UNTIL, IN THE CASE OF A HEADFIRST PRESENTATION, THE ENTIRE FETAL HEAD IS  
45 OUTSIDE THE BODY OF THE MOTHER OR, IN THE CASE OF BREECH PRESENTATION, ANY

1 PART OF THE FETAL TRUNK PAST THE NAVAL IS OUTSIDE THE BODY OF THE MOTHER FOR  
2 THE PURPOSE OF PERFORMING AN OVERT ACT THAT THE PERSON KNOWS WILL KILL THE  
3 PARTIALLY DELIVERED LIVING FETUS.

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

6 2. ~~"Person" includes a physician~~ "PHYSICIAN" MEANS A DOCTOR OF  
7 MEDICINE OR A DOCTOR OF OSTEOPATHY who is licensed pursuant to title 32,  
8 chapter 13 or 17, ~~a person~~ OR ANY OTHER INDIVIDUAL ~~who is~~ legally authorized  
9 by this state to perform abortions. ~~or a person~~ ANY INDIVIDUAL who is not A  
10 PHYSICIAN OR WHO IS NOT OTHERWISE legally authorized by this state to perform  
11 abortions but who NEVERTHELESS directly performs a partial-birth abortion  
12 SHALL BE SUBJECT TO THIS SECTION.

13 Sec. 2. Severability

14 If a provision of this act or its application to any person or  
15 circumstance is held invalid, the invalidity does not affect other provisions  
16 or applications of the act that can be given effect without the invalid  
17 provision or application, and to this end the provisions of the act are  
18 severable.

19 Sec. 3. Emergency

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