

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: S3/13/97 S3/21/97

## A Bill

SENATE BILL 612

5 By: Senators Boozman, Jeffries and Hunter  
6 By: Representatives Hendren, Simon, Magnus, Fuqua, Joe Hudson, Hausam, Ferguson, Bryant, Willems, Thomas and DeLay  
7

### For An Act To Be Entitled

9 "AN ACT TO BAN PARTIAL-BIRTH ABORTIONS; AND FOR OTHER  
10 PURPOSES."

### Subtitle

13 "AN ACT TO BAN PARTIAL-BIRTH ABORTIONS."  
14

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
16

17 SECTION 1. Short Title. This act may be cited as the "Partial-Birth  
18 Abortion Ban Act of 1997".  
19

20 SECTION 2. Definitions. As used in this act, "partial-birth abortion"  
21 means an abortion in which the person performing the abortion partially  
22 vaginally delivers a living fetus before taking the life of the fetus and  
23 completing the delivery or as defined by the United States Supreme Court.  
24

25 SECTION 3. Partial-birth abortions prohibited.

26 (a) Whoever knowingly performs a partial-birth abortion and thereby  
27 takes the life of a human fetus shall be guilty of a Class D felony.

28 (b) A woman upon whom a partial-birth abortion is performed may not be  
29 prosecuted under this section for conspiracy, solicitation, attempt or  
30 complicity to violate this section.

31 (c) It is an affirmative defense to a prosecution under this section,  
32 which must be proved by a preponderance of the evidence, that the partial-  
33 birth abortion was performed by a physician who reasonably believed:

34 (1) the partial-birth abortion was necessary to save the life of  
35 the woman upon whom it was performed; and

36 (2) no other form of abortion would suffice for that purpose.

1 (d) Prior to charging a person under this section, a prosecutor shall  
2 refer the investigation to the State Medical Board, which shall determine  
3 whether the procedure at issue in the investigation is a partial-birth  
4 abortion as defined by this act. If the State Medical Board determines that  
5 the procedure being investigated is not a partial birth abortion as defined by  
6 this act, the prosecutor shall not proceed with the case.

7 (e) This act is operative and shall be enforced to the extent permitted  
8 by the federal constitution and laws.

9  
10 SECTION 4. Whoever knowingly performs a partial-birth abortion shall be  
11 subject to disciplinary action by the State Medical Board. Disciplinary  
12 action taken by the State Medical Board against a physician who violates this  
13 act shall include a fine not greater than ten thousand dollars (\$10,000), or  
14 suspension of the physicians license for a period not greater than one (1)  
15 year, or revocation of the physicians license, as determined by the board.

16  
17 SECTION 5. All provisions of this act of a general and permanent nature  
18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
19 Revision Commission shall incorporate the same in the Code.

20  
21 SECTION 6. If any provision of this act or the application thereof to  
22 any person or circumstance is held invalid, such invalidity shall not affect  
23 other provisions or applications of the act which can be given effect without  
24 the invalid provision or application, and to this end the provisions of this  
25 act are declared to be severable.

26  
27 SECTION 7. All laws and parts of laws in conflict with this act are  
28 hereby repealed.

29 /s/Boozman et al

30  
31  
32  
33  
34