

AN ACT

ENTITLED, An Act to prohibit partial-birth abortions, to provide a criminal penalty therefor, and to establish a civil cause of action.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. No person may perform a partial-birth abortion which results in the death of a human fetus or infant. A violation of this section is a Class 6 felony.

Section 2. The provisions of this Act do not apply to any partial-birth abortion that is necessary to save the life of the mother because her life is endangered by a physical disorder, illness, or injury, including a life-endangering condition caused by or arising from the pregnancy itself, if no other medical procedure would suffice for that purpose.

Section 3. In the case of the death of a human fetus or infant as the result of a partial-birth abortion, the father of the human fetus or infant and, if the mother has not attained the age of eighteen years at the time of the partial-birth abortion, the maternal grandparents of the human fetus or infant may file a civil action to obtain appropriate relief, unless the plaintiff consented to the partial-birth abortion or unless the plaintiff's criminal conduct caused the pregnancy.

Section 4. Civil relief pursuant to section 3 of this Act includes money damages for all injuries, psychological or physical, that are proximately caused by a partial-birth abortion in violation of section 1 of this Act. Any plaintiff with standing to sue pursuant to section 3 of this Act who has paid for the costs of a partial-birth abortion may recover treble the costs in damages.

Section 5. No woman upon whom a partial-birth abortion is performed may be prosecuted under the provisions of this Act for conspiracy to violate section 1 of this Act.

Section 6. For the purposes of this Act, a partial-birth abortion is any abortion in which the person who performs the abortion causes a living human fetus to be partially vaginally delivered before killing the infant and completing the delivery.

Section 7. For the purposes of this Act, the term, fetus, and the term, infant, are used

interchangeably to refer to the biological offspring of human parents.

An Act to prohibit partial-birth abortions, to provide a criminal penalty therefor, and to establish a civil cause of action.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1088

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1088  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_ ,

19\_\_ at \_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 19\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State