

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

187A0545

HOUSE BILL NO. 1088

Introduced by: Representatives Hunt, Belatti, Brown (Jarvis), Chicoine, Crisp, Diedrich, Duenwald, Fiegen, Fischer-Clemens, Fitzgerald, Gabriel, Gleason, Hagg, Hassard, Jaspers, Kazmerzak, Koetzle, Koskan, Kredit, Madden, Matthews, McNenny, Monroe, Moore, Pederson (Gordon), Putnam, Rost, Schrempp, Smidt, Van Gerpen, Waltman, Weber, Wetz, and Wick and Senators Aker, Benson, Drake, Dunn (Rebecca), Frederick, Hainje, Halverson, Hunhoff, Hutmacher, Johnson (William), Kleven, Lange, Lawler, Reedy, Rounds, Staggers, Symens, and Vitter

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

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

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

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

10 Section 3. In the case of the death of a human fetus or infant as the result of a partial-birth
11 abortion, the father of the human fetus or infant and, if the mother has not attained the age of
12 eighteen years at the time of the partial-birth abortion, the maternal grandparents of the human

1 fetus or infant may file a civil action to obtain appropriate relief, unless the plaintiff consented
2 to the partial-birth abortion or unless the plaintiff's criminal conduct caused the pregnancy.

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

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

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

13 Section 7. For the purposes of this Act, the term, fetus, and the term, infant, are used
14 interchangeably to refer to the biological offspring of human parents.