

Regular Session, 2007

HOUSE BILL NO. 614

BY REPRESENTATIVES BEARD AND SCALISE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ABORTION: Provides with respect to partial birth abortion

1 AN ACT

2 To enact R.S. 14:32.9, relative to partial birth abortion; to prohibit partial birth abortion; to
3 provide for criminal penalties; to provide for a civil action for damages; to provide
4 for a medical review of the conduct of the physician; to provide for definitions; to
5 provide for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:32.9 is hereby enacted to read as follows:

8 §32.9. Partial birth abortion

9 A. Any physician who knowingly performs a partial birth abortion and
10 thereby kills a human fetus shall be imprisoned at hard labor for not less than one nor
11 more than ten years, fined not less than ten thousand nor more than one hundred
12 thousand dollars, or both. This Section shall not apply to a partial birth abortion that
13 is necessary to save the life of a mother whose life is endangered by a physical
14 disorder, physical illness, or physical injury, including a life-endangering physical
15 condition caused by or arising from the pregnancy itself.

16 B. For purposes of this Section, the following words have the following
17 meanings:

18 (1) "Partial birth abortion" means an abortion in which:

19 (a) The person performing the abortion deliberately and intentionally
20 vaginally delivers a living fetus until, in the case of a head-first presentation, the

1 entire fetal head is outside the body of the mother, or, in the case of breech
2 presentation, any part of the fetal trunk past the navel is outside the body of the
3 mother for the purpose of performing an overt act that the person knows will kill the
4 partially delivered living fetus; and

5 (b) Performs the overt act, other than completion of delivery, that kills the
6 partially delivered living fetus.

7 (2) "Physician" means a doctor of medicine or osteopathy legally authorized
8 to practice medicine and surgery by the state in which the doctor performs such
9 activity, or any other individual legally authorized by this state to perform abortions,
10 provided, however, that any individual who is not a physician or not otherwise
11 legally authorized by this state to perform abortions, but who nevertheless directly
12 performs a partial birth abortion, shall be subject to the provisions of this Section.

13 C.(1) The father, if married to the mother at the time she receives a partial
14 birth abortion procedure, and if the mother has not attained the age of eighteen years
15 at the time of the abortion, the maternal grandparents of the fetus, may in a civil
16 action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's
17 criminal conduct or the plaintiff consented to the abortion.

18 (2) Such relief shall include the following:

19 (a) Monetary damages for all injuries, psychological and physical,
20 occasioned by the violation of this Section; and

21 (b) Statutory damages equal to three times the cost of the partial birth
22 abortion.

23 D.(1) A defendant accused of an offense under this Section may seek a
24 hearing before the Louisiana State Board of Medical Examiners on whether the
25 physician's conduct was necessary to save the life of the mother whose life was
26 endangered by a physical disorder, physical illness, or physical injury, including a
27 life-endangering physical condition caused by or arising from the pregnancy itself.

1 (2) The findings on that issue are admissible on that issue at the trial of the
2 defendant. Upon a motion of the defendant, the court shall delay the beginning of
3 the trial for not more than thirty days to permit such a hearing to take place.

4 E. A woman upon whom a partial birth abortion is performed shall not be
5 subject to prosecution for a violation of this Section as a principal, accessory, or
6 coconspirator thereto.

7 Section 2. This Act shall become effective upon signature by the governor or, if not
8 signed by the governor, upon expiration of the time for bills to become law without signature
9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
11 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Beard

HB No. 614

Abstract: Prohibits partial birth abortions by physicians and imposes criminal and civil sanctions.

Proposed law prohibits a physician from performing a partial birth abortion. Provides for an exception when the partial birth abortion is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury.

Proposed law defines "partial birth abortion" and "physician".

Proposed law authorizes certain persons to obtain relief through a civil action, including monetary damages for injuries, both psychological and physical, and for damages equal to three times the cost of the partial birth abortion.

Proposed law authorizes a defendant to seek a review by the La. State Board of Medical Examiners, and provides for admissibility of those findings in the trial of the defendant.

Proposed law prohibits a woman upon whom a partial birth abortion is performed from being prosecuted for this offense.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 14:32.9)