

Union Calendar No. 138

104TH CONGRESS
1ST SESSION

H. R. 1833

[Report No. 104-267]

A BILL

To amend title 18, United States Code, to ban
partial-birth abortions.

SEPTEMBER 27, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 1995

Mr. CANADY of Florida (for himself, Mrs. VUCANOVICH, Mr. HALL of Ohio, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. GOODLATTE, Mr. SMITH of Texas, Mrs. SMITH of Washington, Mr. WELDON of Florida, Mr. SMITH of New Jersey, Mr. CHRISTENSEN, Mr. DORNAN, Mr. HILLEARY, Mr. BUNNING of Kentucky, Mr. CHABOT, Mr. EMERSON, Mr. HAYWORTH, Mr. LARGENT, Mr. WALSH, Mr. KNOLLENBERG, Mr. TALENT, Mr. WATTS of Oklahoma, Mrs. SEASTRAND, Mr. BARTON of Texas, Mr. BRYANT of Tennessee, Mr. YOUNG of Arkansas, Mr. LEWIS of Kentucky, Mr. STEARNS, and Mr. MCINTOSH) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 27, 1995

Additional sponsors: Mr. STENHOLM, Mr. BARCIA, Mr. BLILEY, Mr. PETERSON of Minnesota, Mr. HOSTETTLER, Mr. HOLDEN, Mrs. CHENOWETH, Mr. VOLKMER, Mr. MANZULLO, Mr. KLINK, Mr. SCARBOROUGH, Mr. TAUZIN, Mr. HASTERT, Mr. LIPINSKI, Mr. ISTOOK, Mr. BURTON of Indiana, Mr. HUTCHINSON, Mr. GUTKNECHT, Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Mr. TIAHRT, Mr. CRANE, Mr. SHADEGG, Mr. COLLINS of Georgia, Mr. BARRETT of Nebraska, Mr. MCDADE, Mr. MASCARA, Mr. SALMON, Mr. BONO, Mr. GRAHAM, Mr. HUNTER, Mr. SOLOMON, Mr. UNDERWOOD, Mr. WICKER, Mr. WAMP, Mr. ORTIZ, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. ENSIGN, Mrs. CUBIN, Ms. ROS-LEHTINEN, Mr. BOEHNER, Mr. THORNBERRY, Mr. HASTINGS of Washington, Mr. LIGHTFOOT, Mr. PORTMAN, Mr. HAYES, Mr. DIAZ-BALART, Mr. CRAPO, Mrs. WALDHOLTZ, Mr. PAXON, Mr. MCCOLLUM, Mr. BACHUS, Mr. BROWNBACK, Mr. RAHALL, Mr. BAKER of Louisiana, Mr. BARR, Mr. PARKER, Mr. HERGER, Mr. RADANOVICH, Mr. RIGGS, Mr. SAM JOHNSON of Texas, Mr. MANTON, Mr. DEAL of Georgia, Mr. DELAY, Mr. POMBO, Mr. SOUDER, Mr. DICKEY, Mr. BE-

REUTER, Mr. STOCKMAN, Mr. McCRERY, Mr. OBERSTAR, Mr. WHITFIELD, Mr. COBURN, Mr. ROEMER, Mr. BUNN of Oregon, Mr. MICA, Mr. CALVERT, Mr. BUYER, Mr. FUNDERBURK, Mr. STUMP, Mr. MYERS of Indiana, Mr. KINGSTON, Mr. CALLAHAN, Mr. WALKER, Mr. WOLF, and Mr. NEUMANN

SEPTEMBER 27, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 18, United States Code, to ban partial-birth abortions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “~~Partial-Birth Abortion~~
5 ~~Ban Act of 1995~~”.

6 **SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.**

7 ~~(a) IN GENERAL.~~—Title 18, United States Code, is
8 amended by inserting after chapter 73 the following:

9 **“CHAPTER 74—PARTIAL-BIRTH ABORTIONS**

“Sec.

“1531 Partial-birth abortions prohibited.

10 **“§ 1531 Partial-birth abortions prohibited**

11 “~~(a) Whoever, in or affecting interstate or foreign~~
12 ~~commerce, knowingly performs a partial-birth abortion~~
13 ~~and thereby kills a human fetus shall be fined under this~~
14 ~~title or imprisoned not more than two years, or both.~~

1 ~~“(b) As used in this section, the term ‘partial-birth~~
2 ~~abortion’ means an abortion in which the person perform-~~
3 ~~ing the abortion partially vaginally delivers a living fetus~~
4 ~~before killing the fetus and completing the delivery.~~

5 ~~“(c)(1) The mother, father, and if the mother has~~
6 ~~not attained the age of 18 years at the time of the abor-~~
7 ~~tion, the maternal grandparents of the fetus, may in a civil~~
8 ~~action obtain appropriate relief.~~

9 ~~“(2) Such relief shall include—~~

10 ~~“(A) money damages for all injuries, psycho-~~
11 ~~logical and physical, occasioned by the violation of~~
12 ~~this section; and~~

13 ~~“(B) statutory damages equal to three times~~
14 ~~the cost of the partial-birth abortion;~~
15 ~~even if any party consented to the performance of an abor-~~
16 ~~tion.~~

17 ~~“(d) A woman upon whom a partial-birth abortion~~
18 ~~is performed may not be prosecuted under this section for~~
19 ~~a conspiracy to violate this section, or an offense under~~
20 ~~section 2, 3, or 4 of this title based on a violation of this~~
21 ~~section.~~

22 ~~“(e) It is an affirmative defense to a prosecution or~~
23 ~~a civil action under this section, which must be proved by~~
24 ~~a preponderance of the evidence, that the partial-birth~~

1 abortion was performed by a physician who reasonably be-
 2 lieved—

3 ~~“(1) the partial-birth abortion was necessary to~~
 4 save the life of the woman upon whom it was per-
 5 formed; and

6 ~~“(2) no other form of abortion would suffice for~~
 7 that purpose.”.

8 ~~(b) CLERICAL AMENDMENT.—~~The table of chapters
 9 for part I of title 18, United States Code, is amended by
 10 inserting after the item relating to chapter 73 the follow-
 11 ing new item:

“74. Partial-birth abortions 1531”.

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “Partial-Birth Abortion*
 14 *Ban Act of 1995”.*

15 **SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.**

16 (a) *IN GENERAL.—*Title 18, United States Code, is
 17 amended by inserting after chapter 73 the following:

18 **“CHAPTER 74—PARTIAL-BIRTH ABORTIONS**

“Sec.

“1531. Partial-birth abortions prohibited.

19 **“§ 1531. Partial-birth abortions prohibited**

20 “(a) *Whoever, in or affecting interstate or foreign com-*
 21 *merce, knowingly performs a partial-birth abortion and*
 22 *thereby kills a human fetus shall be fined under this title*
 23 *or imprisoned not more than two years, or both.*

1 “(b) As used in this section, the term ‘partial-birth
2 abortion’ means an abortion in which the person perform-
3 ing the abortion partially vaginally delivers a living fetus
4 before killing the fetus and completing the delivery.

5 “(c)(1) The father, and if the mother has not attained
6 the age of 18 years at the time of the abortion, the maternal
7 grandparents of the fetus, may in a civil action obtain ap-
8 propriate relief, unless the pregnancy resulted from the
9 plaintiff’s criminal conduct or the plaintiff consented to the
10 abortion.

11 “(2) Such relief shall include—

12 “(A) money damages for all injuries, psycho-
13 logical and physical, occasioned by the violation of
14 this section; and

15 “(B) statutory damages equal to three times the
16 cost of the partial-birth abortion.

17 “(d) A woman upon whom a partial-birth abortion is
18 performed may not be prosecuted under this section, for a
19 conspiracy to violate this section, or for an offense under
20 section 2, 3, or 4 of this title based on a violation of this
21 section.

22 “(e) It is an affirmative defense to a prosecution or
23 a civil action under this section, which must be proved by
24 a preponderance of the evidence, that the partial-birth abor-

1 *tion was performed by a physician who reasonably be-*
 2 *lieved—*

3 “(1) *the partial-birth abortion was necessary to*
 4 *save the life of the mother; and*

5 “(2) *no other procedure would suffice for that*
 6 *purpose.*”.

7 (b) *CLERICAL AMENDMENT.—The table of chapters for*
 8 *part I of title 18, United States Code, is amended by insert-*
 9 *ing after the item relating to chapter 73 the following new*
 10 *item:*

“74. Partial-birth abortions 1531”.