

**Calendar No. 127**104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 939**

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

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## IN THE SENATE OF THE UNITED STATES

JUNE 16 (legislative day, JUNE 5), 1995

Mr. SMITH (for himself and Mr. GRAMM) introduced the following bill; which  
was read the first time

JUNE 19, 1995

Read the second time and placed on the calendar

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**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:

## “CHAPTER 74—PARTIAL-BIRTH ABORTIONS

“Sec.

“1531. Partial-birth abortions prohibited.

1 **“§ 1531. Partial-birth abortions prohibited**

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

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

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

14       “(2) Such relief shall include—

15               “(A) money damages for all injuries, psycho-  
16 logical and physical, occasioned by the violation of  
17 this section; and

18               “(B) statutory damages equal to three times  
19 the cost of the partial-birth abortion;

20 even if any party consented to the performance of an abor-  
21 tion.

22       “(d) A woman upon whom a partial-birth abortion  
23 is performed may not be prosecuted under this section for

1 a conspiracy to violate this section, or an offense under  
2 section 2, 3, or 4 of this title based on a violation of this  
3 section.

4 “(e) It is an affirmative defense to a prosecution or  
5 a civil action under this section, which must be proved by  
6 a preponderance of the evidence, that the partial-birth  
7 abortion was performed by a physician who reasonably be-  
8 lieved—

9 “(1) the partial-birth abortion was necessary to  
10 save the life of the woman upon whom it was per-  
11 formed; and

12 “(2) no other form of abortion would suffice for  
13 that purpose.”.

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

“74. Partial-birth abortions ..... 1531”.

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