

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

House Engrossed  
**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

CHAPTER 170  
**HOUSE BILL 2400**

AN ACT

AMENDING SECTION 13-3603.01, ARIZONA REVISED STATUTES; RELATING TO FAMILY  
OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3603.01, Arizona Revised Statutes, is amended to  
3 read:

4 13-3603.01. Partial-birth abortions; classification; civil  
5 action; definitions

6 A. ~~A person~~ ANY PHYSICIAN who knowingly performs a partial-birth  
7 abortion and ~~who~~ THEREBY kills a human fetus is guilty of a class 6 felony  
8 AND SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN TWO YEARS, OR  
9 BOTH.

10 B. This section does not apply to a partial-birth abortion that is  
11 necessary to save the life of a mother whose life is endangered by a physical  
12 disorder, PHYSICAL illness or PHYSICAL injury, ~~if no other medical procedure~~  
13 ~~would save the mother's life~~ INCLUDING A LIFE-ENDANGERING PHYSICAL CONDITION  
14 CAUSED BY OR ARISING FROM THE PREGNANCY ITSELF.

15 C. The father of the fetus if married to the mother at the time she  
16 receives a partial-birth abortion PROCEDURE and the maternal grandparents of  
17 the fetus if the mother is not at least eighteen years of age at the time of  
18 the partial-birth abortion may bring a civil action to obtain appropriate  
19 relief unless the pregnancy resulted from the plaintiff's criminal conduct or  
20 the plaintiff consented to the partial-birth abortion. Relief pursuant to  
21 this subsection includes the following:

22 1. Monetary MONEY damages for all injuries, PSYCHOLOGICAL AND  
23 PHYSICAL, resulting from the ~~partial-birth abortion, including psychological~~  
24 ~~and physical damages~~ VIOLATION OF THIS SECTION.

25 2. STATUTORY damages in an amount equal to three times the cost of the  
26 partial-birth abortion.

27 D. This section ~~does~~ SHALL not subject a woman upon whom a  
28 partial-birth abortion is performed to ANY criminal prosecution or civil  
29 liability ~~under this section~~.

30 E. A DEFENDANT WHO IS ACCUSED OF AN OFFENSE UNDER THIS SECTION MAY  
31 SEEK A HEARING BEFORE THE ARIZONA MEDICAL BOARD IF THE DEFENDANT IS LICENSED  
32 PURSUANT TO TITLE 32, CHAPTER 13 OR THE ARIZONA BOARD OF OSTEOPATHIC  
33 EXAMINERS IN MEDICINE AND SURGERY IF THE DEFENDANT IS LICENSED PURSUANT TO  
34 TITLE 32, CHAPTER 17 ON WHETHER THE PHYSICIAN'S CONDUCT WAS NECESSARY TO SAVE  
35 THE LIFE OF THE MOTHER WHOSE LIFE WAS ENDANGERED BY A PHYSICAL DISORDER,  
36 PHYSICAL ILLNESS OR PHYSICAL INJURY, INCLUDING A LIFE-ENDANGERING PHYSICAL  
37 CONDITION CAUSED BY OR ARISING FROM THE PREGNANCY ITSELF. THE FINDINGS ON  
38 THAT ISSUE ARE ADMISSIBLE, IN THE COURT'S DISCRETION, ON THAT ISSUE AT THE  
39 TRIAL OF THE DEFENDANT. ON A MOTION OF THE DEFENDANT, THE COURT SHALL, IN  
40 ITS DISCRETION, DELAY THE BEGINNING OF THE TRIAL FOR NOT MORE THAN THIRTY  
41 DAYS TO PERMIT A HEARING TO TAKE PLACE.

42 ~~E.~~ F. For the purposes of this section:

43 1. "Partial-birth abortion" means an abortion in which the person  
44 performing the abortion ~~partially vaginally delivers a living fetus before~~  
45 ~~killing the fetus and completing the delivery~~ DOES BOTH OF THE FOLLOWING:

1 (a) DELIBERATELY AND INTENTIONALLY VAGINALLY DELIVERS A LIVING FETUS  
2 UNTIL, IN THE CASE OF A HEADFIRST PRESENTATION, THE ENTIRE FETAL HEAD IS  
3 OUTSIDE THE BODY OF THE MOTHER OR, IN THE CASE OF BREECH PRESENTATION, ANY  
4 PART OF THE FETAL TRUNK PAST THE NAVAL IS OUTSIDE THE BODY OF THE MOTHER FOR  
5 THE PURPOSE OF PERFORMING AN OVERT ACT THAT THE PERSON KNOWS WILL KILL THE  
6 PARTIALLY DELIVERED LIVING FETUS.

7 (b) PERFORMS THE OVERT ACT, OTHER THAN COMPLETION OF DELIVERY, THAT  
8 KILLS THE PARTIALLY DELIVERED LIVING FETUS.

9 2. ~~"Person" includes a physician~~ "PHYSICIAN" MEANS A DOCTOR OF  
10 MEDICINE OR A DOCTOR OF OSTEOPATHY who is licensed pursuant to title 32,  
11 chapter 13 or 17, ~~a person who is~~ OR ANY OTHER INDIVIDUAL legally authorized  
12 by this state to perform abortions. ~~or a person~~ ANY INDIVIDUAL who is not A  
13 PHYSICIAN OR WHO IS NOT OTHERWISE legally authorized by this state to perform  
14 abortions but who NEVERTHELESS directly performs a partial-birth abortion  
15 SHALL BE SUBJECT TO THIS SECTION.

16 Sec. 2. Severability

17 If a provision of this act or its application to any person or  
18 circumstance is held invalid, the invalidity does not affect other provisions  
19 or applications of the act that can be given effect without the invalid  
20 provision or application, and to this end the provisions of the act are  
21 severable.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

Passed the House March 11, 20 09

by the following vote: 37 Ayes,

19 Nays, 4 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate June 23, 20 09

by the following vote: 20 Ayes,

8 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

1st day of July, 20 09

at 8:25 o'clock A. M.

[Signature]  
Secretary to the Governor

Approved this 13th day of

July 2009

at 9:14 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13th day of July, 20 09

at 7:35 o'clock P. M.

[Signature]  
Secretary of State