

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 274

90TH GENERAL ASSEMBLY

Reported from the Committee on Public Health and Welfare, April 12, 1999, with recommendation that the Senate Committee Substitute do pass.

S0851.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 188.015, RSMo 1994, and to enact in lieu thereof two new sections relating to abortion and infanticide, including infanticide during the birth process commonly referred to as "partial birth abortion", with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 188.015, RSMo 1994, is repealed and two new sections enacted in lieu thereof, to be known as sections 188.015 and 565.300, to read as follows:

188.015. [Unless the language or context clearly indicates a different meaning is intended, the following words or phrases for the purposes of sections 188.010 to 188.130 shall be given the meaning ascribed to them] **As used in this chapter, the following terms shall mean:**

(1) "Abortion", the intentional destruction of the life of an embryo or fetus in his or her mother's womb or the intentional termination of the pregnancy of a mother with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child;

(2) "Abortion facility", a clinic, physician's office, or any other place or facility in which abortions are performed other than a hospital;

(3) **"Born" or "birth", complete separation of the child's body from the mother's body, irrespective of the duration of pregnancy and regardless of whether the umbilical cord is cut or the placenta is detached;**

[(3)] (4) "Conception", the fertilization of the ovum of a female by a sperm of a male;

[(4)] (5) **"Gestation" or "gestational age", [length] duration of pregnancy or age of an unborn child** as measured from the first day of the woman's last menstrual period;

(6) **"Partially born" or "partial birth", partial separation of a child's body from the mother's body, post-viability. Partial separation occurs during a vaginal delivery with a cephalic presentation, when the child's body with the head attached is delivered**

to the extent that the child's head is completely beyond the mother's external cervical os; or during a vaginal delivery with a breech presentation, when the child's body with the head attached is delivered to the extent that the child's torso, from the buttocks to at least above the navel, is beyond the mother's external cervical os. Partial separation occurs during an abdominal delivery with a cephalic presentation, when the child's body with the head attached is delivered to the extent that the child's head is completely beyond the mother's external abdominal wall; or during an abdominal delivery with a breech presentation, when the child's body with the head attached is delivered to the extent that the child's torso, from the buttocks to at least above the navel, is beyond the mother's external abdominal wall;

[(5)] (7) "Physician", any person licensed to practice medicine in this state by the state board of registration of the healing arts;

[(6)] (8) "Unborn child", the offspring of human beings from the moment of conception until **partial** birth [and] at every stage of [its] biological development, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;

[(7)] (9) "Viability", that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

565.300. 1. A person commits the crime of infanticide if he causes the partial birth of a child, post-viability, with the intent of killing the child, post-viability, while partially born, and then performs an additional overt act on the partially born child with the intent of killing the child, and such act causes the death of the child.

2. It is a defense to a prosecution pursuant to subsection 1 of this section that the defendant, based on his good faith clinical judgment, believed his actions were necessary to preserve the life of or prevent serious physical injury to the mother. The defendant shall have the burden of injecting the issue pursuant to this subsection.

3. As used in this section, the terms "partially born" and "partial birth" shall be defined as provided in section 188.015, RSMo.

4. As used in this section, the term "serious physical injury", means a physical injury which, if left untreated, creates a substantial risk of death or could progress to such a point that death or permanent injury could result.

5. The mother of the child killed shall not be subject to prosecution pursuant to subsection 1 of this section or any other state law which would otherwise impose criminal responsibility on the mother for the killing of her child in the manner described in subsection 1 of this section.

6. Infanticide is a class A felony.