

SENATE AMENDMENT 3 TO hb1351.

deleting Section 2 and Section 3 in their entireties on lines 22 through 36 of page 1 and substituting therefor the following:

"SECTION 2. Definitions. As used in this act, "partial-birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before taking the life of the fetus and completing the delivery or as defined by the United States Supreme Court.

SECTION 3. Partial-birth abortions prohibited.

(a) Whoever knowingly performs a partial-birth abortion and thereby takes the life of a human fetus shall be guilty of a Class D felony.

(b) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for conspiracy, solicitation, attempt or complicity to violate this section.

(c) It is an affirmative defense to a prosecution under this section, which must be proved by a preponderance of the evidence, that the partial-birth abortion was performed by a physician who reasonably believed:

(1) the partial-birth abortion was necessary to save the life of the woman upon whom it was performed; and

(2) no other form of abortion would suffice for that purpose.

(d) Prior to charging a person under this section, a prosecutor shall refer the investigation to the State Medical Board, which shall determine whether the procedure at issue in the investigation is a partial-birth abortion as defined by this act. If the State Medical Board determines that the procedure being investigated is not a partial birth abortion as defined by this act, the prosecutor shall not proceed with the case.

(e) This act is operative and shall be enforced to the extent permitted by the federal constitution and laws.

SECTION 4. Whoever knowingly performs a partial-birth abortion shall be subject to disciplinary action by the State Medical Board. Disciplinary action taken by the State Medical Board against a physician who violates this act shall include a fine not greater than ten thousand dollars (\$10,000), or suspension of the physician s license for a period not greater than one (1) year, or revocation of the physician s license, as determined by the board."

AND

by appropriately renumbering subsequent sections of the bill.