

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

3

HOUSE BILL 303
Committee Substitute Favorable 4/24/97
Third Edition Engrossed 5/1/97

Short Title: Ban Partial-Birth Abortions.

(Public)

Sponsors:

Referred to:

February 24, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO BAN PARTIAL-BIRTH ABORTIONS.

3 The General Assembly of North Carolina enacts:

4 Section 1. Article 11 of Chapter 14 of the General Statutes is amended by
5 adding a new Part to read:

6 "Part 2. Partial-Birth Abortion Ban.

7 "**§ 14-46.1. Definitions.**

8 For purposes of this Part, the term 'partial-birth abortion' means an abortion in which
9 the person performing the abortion partially vaginally delivers a living fetus before
10 killing the fetus and completing the delivery.

11 "**§ 14-46.2. Partial-birth abortions prohibited; criminal penalty.**

12 (a) No person shall intentionally perform a partial-birth abortion.

13 (b) A violation of this section is a Class H felony.

14 "**§ 14-46.3. Partial-birth abortions prohibited; civil remedies and penalties.**

15 (a) The following persons may obtain appropriate relief in a civil action for a
16 violation of this Part, unless the pregnancy resulted from the plaintiff's criminal conduct
17 or the plaintiff consented to the abortion:

- 1 (1) The father of the fetus, if the father was married to the mother at the
2 time of the partial-birth abortion procedure.
- 3 (2) The maternal grandparents of the fetus if the mother was an
4 unemancipated minor at the time of the partial-birth abortion procedure.
- 5 (b) The civil remedies available under this Part include the following:
- 6 (1) Money damages for all damages or injuries caused by a violation of this
7 Part; and
- 8 (2) Statutory damages equal to three times the cost of the partial-birth
9 abortion.

10 **"§ 14-46.4. Application of Part.**

- 11 (a) This Part does not apply to a person who performs a partial-birth abortion if:
- 12 (1) The continuance of the pregnancy would endanger the life or gravely
13 impair the physical health of the woman; and
- 14 (2) In the medical opinion of the treating physician, the procedure is the
15 safest medical procedure available to terminate the woman's pregnancy.

16 (b) A woman upon whom a partial-birth abortion is performed may not be
17 prosecuted under this Part. A woman upon whom a partial-birth abortion is performed is
18 not civilly liable under this Part."

19 Section 2. Article 11 of Chapter 14 of the General Statutes is recodified as Part
20 1 of Article 11 of Chapter 14 of the General Statutes.

21 Section 3. (a) If any one or more provisions, clauses, phrases, or words of G.S. 14-
22 46.1, as enacted by Section 1 of this act or the application of G.S. 14-46.1 to any person
23 or circumstance is found to be unconstitutional, G.S. 14-46.1, as enacted by Section 1 of
24 this act, is declared to be inseverable. If any one or more provisions, clauses, phrases, or
25 words of G.S. 14-46.4, as enacted by Section 1 of this act or the application of G.S. 14-
26 46.4 to any person or circumstance is found to be unconstitutional, G.S. 14-46.4, as
27 enacted by Section 1 of this act, is declared to be inseverable.

28 (b) If any one or more of the provisions, sections, subsections, sentences,
29 clauses, phrases, or words of the remaining sections or the application thereof, to any
30 person or circumstance is found to be unconstitutional, the same are declared to be
31 severable, and the balance of the act shall remain effective notwithstanding such
32 unconstitutionality.

33 The General Assembly declares that it would have passed this act, and each
34 provision, section, subsection, sentence, clause, phrase, or word of the act, with the
35 exception of G.S. 14-46.1 and G.S. 14-46.4 as enacted by Section 1 of this act,
36 irrespective of the fact that any one or more provisions, sections, subsections, sentences,
37 clauses, phrases, or words be declared unconstitutional.

38 Section 4. This act is effective when it becomes law and applies to offenses
39 committed and claims for relief arising on or after that date.