HOUSE BILL NO. 211

AN ACT TO CREATE A NEW CODE SECTION THAT RESTRICTS THE PERIOD OF TIME DURING WHICH AN ABORTION IS LEGAL AND PROVIDE PENALTIES FOR VIOLATIONS; TO AMEND SECTION 41-41-73, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) A physician may perform an abortion during the first trimester of pregnancy after the voluntary and informed consent of the woman upon whom the abortion is to be performed. Consent to perform the abortion shall be obtained in accordance with Sections 41-41-31 through 41-41-39 and Sections 41-41-51 through 41-41-63.

(2) No abortion shall be performed during the second or third trimester of pregnancy. This subsection shall not apply to second trimester abortions that are necessary to save the life of a mother whose life is endangered by a physical disorder, illness or injury, or if the pregnancy is a result of rape or incest.

(3) As used in this section, the following terms shall have the meanings ascribed in this subsection:

(a) "First trimester" means a period beginning at gestation and ending at the third month of pregnancy.

(b) "Second trimester" means a period beginning at the fourth month of pregnancy and ending at the sixth month.

(c) "Third trimester" means a period beginning at the seventh month of pregnancy and ending at the ninth month.

(4) Any physician who knowingly performs an abortion in violation of this section shall be guilty of a felony and, upon conviction thereof, shall be fined not more that Twenty-five
Thousand Dollars ($25,000.00) or imprisoned in the State Penitentiary for not more than two (2) years, or both.

SECTION 2. Section 41-41-73, Mississippi Code of 1972, is amended as follows:

41-41-73. (1) Any physician who knowingly performs a partial-birth abortion and thereby kills a human fetus shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Twenty-five Thousand Dollars ($25,000.00) or imprisoned in the State Penitentiary for not more than two (2) years, or both. This subsection shall not apply to a partial-birth abortion performed during the second trimester that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury if no other medical procedure would suffice for that purpose.

(2) (a) As used in this section, "partial-birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

(b) As used in this section, "physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State of Mississippi. However, any individual who is not a physician but who nevertheless directly performs a partial-birth abortion shall be subject to the provisions of this section.

(3) (a) The husband of a mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of eighteen (18) years at the time of the abortion, the mother's parents may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(b) Such relief shall include:
ST: Abortion; restrict the time period during which it will be legal.

(i) Money damages for all injuries, psychological and physical, occasioned by the violation of this section; and
(ii) Statutory damages equal to three (3) times the cost of the partial-birth abortion.

(4) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for a conspiracy to violate this section.

SECTION 3. Section 1 of this act shall be codified in Chapter 41, Title 41, Mississippi Code of 1972.

SECTION 4. This act shall take effect and be in force from and after July 1, 2003.