

By: Representative Fleming

To: Judiciary B

HOUSE BILL NO. 44

1 AN ACT TO CREATE A NEW CODE SECTION THAT RESTRICTS THE PERIOD
2 OF TIME DURING WHICH AN ABORTION IS LEGAL AND PROVIDE PENALTIES
3 FOR VIOLATIONS; TO AMEND SECTION 41-41-73, MISSISSIPPI CODE OF
4 1972, IN CONFORMITY TO THE PRECEDING PROVISION; AND FOR RELATED
5 PURPOSES.

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

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

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

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

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

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

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

26 (4) Any physician who knowingly performs an abortion in
27 violation of this section shall be guilty of a felony and, upon
28 conviction thereof, shall be fined not more that Twenty-five



29 Thousand Dollars (\$25,000.00) or imprisoned in the State
30 Penitentiary for not more than two (2) years, or both.

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

33 41-41-73. (1) Any physician who knowingly performs a
34 partial-birth abortion and thereby kills a human fetus shall be
35 guilty of a felony and, upon conviction thereof, shall be fined
36 not more than Twenty-five Thousand Dollars (\$25,000.00) or
37 imprisoned in the State Penitentiary for not more than two (2)
38 years, or both. This subsection shall not apply to a
39 partial-birth abortion performed during the second trimester that
40 is necessary to save the life of a mother whose life is endangered
41 by a physical disorder, illness, or injury if no other medical
42 procedure would suffice for that purpose.

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

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

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

60 (b) Such relief shall include:



61 (i) Money damages for all injuries, psychological
62 and physical, occasioned by the violation of this section; and

63 (ii) Statutory damages equal to three (3) times
64 the cost of the partial-birth abortion.

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

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

70 **SECTION 4.** This act shall take effect and be in force from
71 and after July 1, 2004.

