**A** **BILL**

TO AMEND SECTION 44-41-85 OF THE 1976 CODE, RELATING TO PARTIAL BIRTH ABORTIONS, TO PROHIBIT DISMEMBERMENT ABORTIONS AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44-41-85 of the 1976 Code is amended to read:

“Section 44-41-85. (A) A physician who knowingly performs a partial‑birth abortion or a dismemberment abortion and thereby kills a human fetus is guilty of a felony and, upon conviction, must be fined not less than five thousand dollars or imprisoned for not less than five years, or both. This section shall not apply to a partial‑birth abortion or dismemberment abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, a physical illness, or a physical injury if no other medical procedure would suffice for that purpose.

(B) As used in this section:

(1) ~~the term ‘partial‑birth~~ ‘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.

(2) ~~the term ‘physician’~~ ‘Physician’ means a physician, surgeon, or osteopath authorized to practice medicine in this State and licensed pursuant to Chapter 47 of Title 40. However, an individual who is not a physician, but who directly and knowingly performs a partial‑birth abortion is also subject to the provisions of this section.

(3)(a) ‘Dismemberment abortion’ means, with the intent to cause the death of a human fetus, the dismemberment of a living human fetus and extraction one piece at a time from the uterus through the use of clamps, grasping forceps, tongs, scissors, or similar instruments that, through the convergence of two rigid levers, slice, crush, or grasp a portion of the unborn child’s body to cut or rip it off, including the use of suction to extract fetal parts after the death of the unborn child resulting from a method described in this item.

(b) Dismemberment abortion does not mean an abortion, by methods other than those identified in subitem (B)(3)(a), that uses suction to dismember the body of the human fetus by sucking fetal parts into a collection container.

(C)(1) The father, if married to the mother at the time she receives a partial‑birth abortion or a dismemberment abortion, and if the mother has not attained the age of eighteen years at the time of the abortion, the maternal grandparents of the fetus have a cause of action against the physician or other person unlawfully performing a partial‑birth abortion or a dismemberment abortion and may obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief includes, but is not limited to:

(a) actual damages which shall be trebled;

(b) punitive damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(c) reasonable costs and attorney's fees.

(D) A woman upon whom a partial‑birth abortion or a dismemberment abortion is performed may not be prosecuted for a violation of this section, for a conspiracy to violate this section, or for any other offense which is based on a violation of this section.”

SECTION 2. This act takes effect upon approval by the Governor.

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