



WISCONSIN
RIGHTTOLIFE

LEGISLATIVE ANALYSIS

2007-2008 LEGISLATIVE SESSION

WISCONSIN PARTIAL-BIRTH ABORTION BAN ACT

PURPOSE OF THE BILL

The purpose of this legislation is to enact a state ban on partial-birth abortion that mirrors the language of the federal Partial-Birth Abortion Ban Act of 2003 which was recently ruled to be constitutional by the U.S. Supreme Court.

WHY THIS BILL IS NECESSARY

On April 18, 2007, in the *Gonzales v. Carhart* decision, the U.S. Supreme Court upheld the federal ban on the gruesome, late-term partial-birth abortion procedure. The federal ban makes the performance of a partial-birth abortion illegal throughout the United States.

The most important reason for Wisconsin to pass its own ban on partial-birth abortion is because the federal ban could be repealed and then partial-birth abortions would be legal in Wisconsin and all other states again.

It is also important for individual states to pass their own bans on partial-birth abortion because with just a federal ban, prosecution of partial-birth abortion cases would only be handled by federal prosecutors. Prosecution of partial-birth abortion cases are best handled when state and local prosecutors also have the tools they need to ensure that the ban on partial-birth abortions is expeditiously enforced. A parallel state ban is essential to allow state and local prosecutors to become involved as well.

WISCONSIN'S CURRENT BAN ON PARTIAL-BIRTH ABORTION IS UNENFORCEABLE

In 1998 Wisconsin enacted a ban on partial-birth abortion, with criminal penalties and civil remedies, which was immediately challenged in federal court. The Wisconsin ban was ultimately held to be unenforceable because it is similar to the partial-birth abortion ban in Nebraska that was struck down by the U.S. Supreme Court in the 2000 *Stenberg v. Carhart* decision.

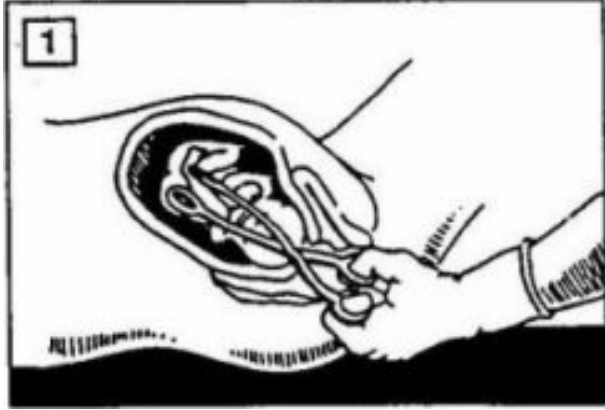
WHAT THE BILL WOULD DO

The Wisconsin Partial-Birth Abortion Ban Act completely mirrors the federal ban on partial-birth abortion which contains both criminal penalties and civil remedies. The key provisions of this legislation are as follows:

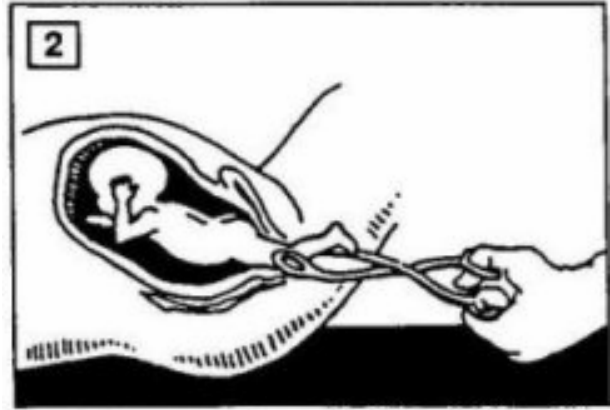
1. Under the bill “partial-birth abortion” means an abortion in which the person performing the abortion does all of the following:
 - a. Deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.
 - b. Performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.
2. Under the new version of s. 940.16, any physician or any other person who intentionally performs a partial-birth abortion and thereby kills a human fetus is guilty of a Class I felony. This criminal penalty does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.
3. A physician who is criminally charged with violating the new version of s. 940.16 has a right to seek a hearing before the medical examining board on whether the physician’s conduct was necessary to save the life of the mother. The board’s findings on that issue are admissible on that issue at the defendant’s trial. Upon the defendant’s motion, the trial court shall delay the beginning of the defendant’s trial for not more than 30 days to permit the hearing to take place.
4. The civil remedy for partial-birth abortions under the new version of s. 895.038 would be essentially the same except for the addition of the federal requirement that the father of the fetus has a cause of action only if he was married to the mother at the time the partial-birth abortion was performed.

Please contact your state legislators and urge them to support the Wisconsin Partial-Birth Abortion Ban Act.

THE REALITY OF THE PARTIAL- BIRTH ABORTION PROCEDURE



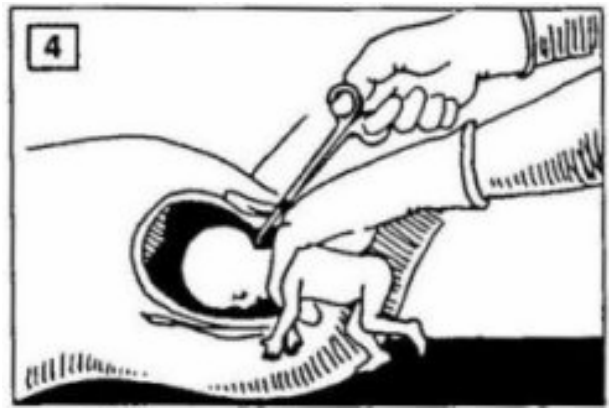
Guided by ultrasound, the abortionist grabs the baby's leg with forceps.



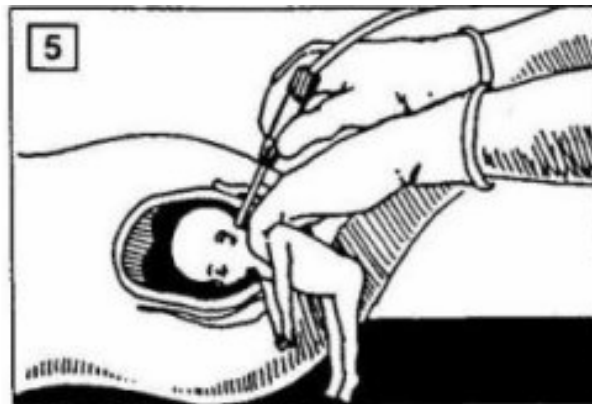
The baby's leg is pulled out into the birth canal.



The abortionist delivers the baby's entire body, except for the head.



The abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hole.



The scissors are removed and a suction catheter is inserted. The child's brains are sucked out, causing the skull to collapse. The dead baby is then removed.