

2-4-98 Do Pass  
H-2/11/98 Do Pass  
FILED JAN 27 1998

HUMAN RESOURCES

SENATE FILE 2073

BY BEHN, REDWINE, KING, MCKIBBEN,  
DOUGLAS, MCKEAN, ANGELO,  
REHBERG, SCHUERER, HEDGE,  
FREEMAN, IVERSON, BOETTGER,  
JENSEN, RENSINK, FLYNN, BARTZ,  
REDFERN, McCOY, McLAREN, and  
BORLAUG

(p. 215)  
Passed Senate, Date 2/5/98  
Vote: Ayes 42 Nays 5  
Approved March 4, 1998

(p. 288)  
Passed House, Date 2/18/98  
Vote: Ayes 84 Nays 16

A BILL FOR

1 An Act prohibiting the performance of partial-birth abortions  
2 relative to a human fetus, establishing a cause of action for  
3 violation of the prohibition, and providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2073

1 Section 1. NEW SECTION. 707.8A PARTIAL-BIRTH ABORTION  
2 PROHIBITED -- EXCEPTIONS -- PENALTIES.

3 1. As used in this section, unless the context otherwise  
4 requires:

5 a. "Abortion" means abortion as defined in section 146.1.

6 b. "Fetus" means a human fetus.

7 c. "Partial-birth abortion" means an abortion in which a  
8 person partially vaginally delivers a living fetus before  
9 killing the fetus and completing the delivery.

10 d. "Vaginally delivers a living fetus before killing the  
11 fetus" means deliberately and intentionally delivering into  
12 the vagina a living fetus or a substantial portion of a living  
13 fetus for the purpose of performing a procedure the person  
14 knows will kill the fetus, and then killing the fetus.

15 2. A person shall not knowingly perform or attempt to  
16 perform a partial-birth abortion. This prohibition shall not  
17 apply to a partial-birth abortion that is necessary to save  
18 the life of the mother whose life is endangered by a physical  
19 disorder, physical illness, or physical injury.

20 3. This section shall not be construed to create a right  
21 to an abortion.

22 4. a. The mother on whom a partial-birth abortion is  
23 performed, the father of the fetus, or if the mother is less  
24 than eighteen years of age or unmarried at the time of the  
25 partial-birth abortion, a maternal grandparent of the fetus,  
26 may bring an action against a person violating subsection 2 to  
27 obtain appropriate relief, unless the pregnancy resulted from  
28 the plaintiff's criminal conduct or the plaintiff consented to  
29 the partial-birth abortion.

30 b. In an action brought under this subsection, appropriate  
31 relief may include any of the following:

32 (1) Statutory damages which are equal to three times the  
33 cost of the partial-birth abortion.

34 (2) Compensatory damages for all injuries, psychological  
35 and physical, resulting from violation of subsection 2.

1 5. A person who violates subsection 2 is guilty of a class  
2 "C" felony.

3 6. A mother upon whom a partial-birth abortion is  
4 performed shall not be prosecuted for violation of subsection  
5 2 or for conspiracy to violate subsection 2.

6 7. a. A licensed physician subject to the authority of  
7 the state board of medical examiners who is accused of a  
8 violation of subsection 2 may seek a hearing before the board  
9 on whether the physician's conduct was necessary to save the  
10 life of the mother whose life was endangered by a physical  
11 disorder, physical illness, or physical injury.

12 b. The board's findings concerning the physician's conduct  
13 are admissible at the criminal trial of the physician. Upon a  
14 motion of the physician, the court shall delay the beginning  
15 of the trial for not more than thirty days to permit the  
16 hearing before the board of medical examiners to take place.

17 EXPLANATION

18 This bill prohibits a person from performing a partial-  
19 birth abortion relative to a human fetus. Notwithstanding the  
20 prohibition, the bill provides that a person may perform a  
21 partial-birth abortion, if the partial-birth abortion is  
22 necessary to save the life of a mother whose life is  
23 endangered by a physical disorder, physical illness, or  
24 physical injury.

25 The bill defines "abortion", "fetus", "partial-birth  
26 abortion", and "vaginally delivers a living fetus before  
27 killing the fetus" for the purposes of the bill. The bill  
28 also provides that the provisions in the bill are not to be  
29 construed to create a right to an abortion.

30 The bill provides that the mother, the father of the fetus,  
31 or, if the mother is less than 18 years of age or unmarried at  
32 the time of the performance of the partial-birth abortion, a  
33 maternal grandparent of the fetus, may bring a civil action  
34 against a person violating the criminal provisions of the bill  
35 for relief which includes statutory and compensatory damages.

1 A person who performs a partial-birth abortion in violation  
2 of the bill is guilty of a class "C" felony which carries a  
3 maximum sentence of confinement not to exceed 10 years and a  
4 fine of at least \$500 but not to exceed \$10,000.

5 The bill excludes the mother upon whom a partial-birth  
6 abortion is performed from prosecution for violation of the  
7 bill, or for conspiracy to violate the bill.

8 If a licensed physician subject to the authority of the  
9 board of medical examiners is accused of an offense under the  
10 bill, the licensed physician may seek a hearing before the  
11 board as to whether the physician's conduct was necessary to  
12 save the mother's life. Upon the motion of an accused  
13 licensed physician, the court is to delay the beginning of a  
14 criminal trial for 30 days to permit the hearing before the  
15 board.

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SENATE FILE 2073

S-5021

1 Amend Senate File 2073 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 707.8A PARTIAL-BIRTH  
5 ABORTION PROHIBITED -- EXCEPTIONS -- PENALTY.

6 1. As used in this section, unless the context  
7 otherwise requires:

8 a. "Abortion" means abortion as defined in section  
9 146.1.

10 b. "Fetus" means a human fetus that has achieved  
11 viability as defined in section 702.20.

12 c. "Intact dilation and extraction procedure"  
13 means a procedure in which a fetus in utero is  
14 manipulated to breech position, a partial breech  
15 delivery is performed leaving the head of the fetus in  
16 utero, and then the head of the fetus is punctured,  
17 collapsed, or compressed and delivery of the fetus is  
18 completed. "Intact dilation and extraction procedure"  
19 does not include the vacuum aspiration, suction  
20 aspiration, dilation and curettage, suction curettage,  
21 induction, or dilation and evacuation procedures.

22 d. "Partial-birth abortion" means an abortion  
23 which is performed using the intact dilation and  
24 extraction procedure on a fetus.

25 2. A person shall not knowingly perform or attempt -  
26 to perform a partial-birth abortion. This prohibition  
27 shall not apply to a partial-birth abortion that is  
28 necessary to preserve the life or health of the woman  
29 upon whom the partial-birth abortion is performed.

30 3. This section shall not be construed to create a  
31 right to an abortion.

32 4. a. The woman on whom a partial-birth abortion  
33 is performed may bring an action against a person  
34 violating subsection 2 to obtain appropriate relief,  
35 unless the pregnancy resulted from the plaintiff's  
36 criminal conduct or the plaintiff consented to the  
37 partial-birth abortion.

38 b. In an action brought under this subsection,  
39 appropriate relief may include any of the following:

40 (1) Statutory damages which are equal to three  
41 times the cost of the partial-birth abortion.

42 (2) Compensatory damages for all injuries,  
43 psychological and physical, resulting from violation  
44 of subsection 2.

45 5. A person who violates subsection 2 is guilty of  
46 a class "C" felony.

47 6. A woman upon whom a partial-birth abortion is  
48 performed shall not be prosecuted for violation of  
49 subsection 2 or for conspiracy to violate subsection  
50 2.

S-5021

S-5021

Page 2

1 7. a. A licensed physician subject to the  
2 authority of the state board of medical examiners who  
3 is accused of a violation of subsection 2 may seek a  
4 hearing before the board on whether the physician's  
5 conduct was necessary to preserve the life or health  
6 of the woman upon whom the partial-birth abortion was  
7 performed.

8 b. The board's findings concerning the physician's  
9 conduct are admissible at the criminal trial of the  
10 physician. Upon a motion of a physician, the court  
11 shall delay the beginning of the trial for not more  
12 than thirty days to permit the hearing before the  
13 board of medical examiners to take place."

By MARY NEUHAUSER

S-5021 FILED FEBRUARY 5, 1998

LOST (P. 214)

## SENATE FILE 2073

S-5022

1 Amend Senate File 2073 as follows:

2 1. Page 1, line 17, by inserting before the word  
3 "necessary" the following: "medically necessary to  
4 preserve the physical health or future fertility of  
5 the woman or that is".

6 2. Page 1, line 18, by striking the word "mother"  
7 and inserting the following: "woman".

8 3. Page 1, line 22, striking the word "mother"  
9 and inserting the following: "woman".

10 4. Page 1, by striking line 23 and inserting the  
11 following: "performed, the husband of the woman if  
12 the woman is married, or if the woman is less".

13 5. Page 1, by striking line 25 and inserting the  
14 following: "partial-birth abortion, a parent of the  
15 woman,".

16 6. Page 2, line 3, by striking the word "mother"  
17 and inserting the following: "woman".

18 7. Page 2, line 9, by inserting before the word  
19 "necessary" and inserting the following: "medically  
20 necessary to preserve the physical health or future  
21 fertility of the woman or was".

22 8. Page 2, line 10, by striking the word "mother"  
23 and inserting the following: "woman".

By ROBERT E. DVORSKY

S-5022 FILED FEBRUARY 5, 1998

LOST

(P. 214)

## SENATE FILE 2073

S-5023

1 Amend Senate File 2073 as follows:  
2 1. Page 1, by striking lines 7 through 14 and  
3 inserting the following:  
4 "c. "Intact dilation and extraction procedure"  
5 means a procedure in which a fetus in utero is  
6 manipulated to breech position, a partial breech  
7 delivery is performed leaving the head of the fetus in  
8 utero, and then the head of the fetus is punctured,  
9 collapsed, or compressed and delivery of the fetus is  
10 completed. "Intact dilation and extraction procedure"  
11 does not include the vacuum aspiration, suction  
12 aspiration, dilation and curettage, suction curettage,  
13 induction, or dilation and evacuation procedures.  
14 d. "Partial-birth abortion" means an abortion  
15 which is performed using the intact dilation and  
16 extraction procedure on a fetus."

By BILL FINK

S-5023 FILED FEBRUARY 5, 1998

LOST (P. 214)

## SENATE FILE 2073

S-5024

1 Amend Senate File 2073 as follows:  
2 1. Page 1, line 17, by inserting after the words  
3 "necessary to" the following: "preserve the health of  
4 the mother or to".  
5 2. Page 2, line 9, by inserting after the word  
6 "to" the following: "preserve the health of the  
7 mother or to".

By PATRICIA HARPER

S-5024 FILED FEBRUARY 5, 1998

LOST (P. 214)

## SENATE FILE 2073

S-5025

1 Amend Senate File 2073 as follows:  
2 1. Page 1, line 6, by inserting after the word  
3 "a" the following: "viable".  
4 2. Page 1, line 8, by striking the word "living".  
5 3. Page 1, line 10, by striking the word  
6 "living".  
7 4. Page 1, by striking line 12 and inserting the  
8 following: "the vagina a fetus or a substantial  
9 portion of a".

By ELAINE SZYMONIAK

S-5025 FILED FEBRUARY 5, 1998

LOST (P. 214)



## SENATE FILE 2073

H-8061

1 Amend Senate File 2073, as passed by the Senate, as  
2 follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 707.8A PARTIAL-BIRTH  
6 ABORTION PROHIBITED -- EXCEPTIONS -- PENALTY.

7 1. As used in this section, unless the context  
8 otherwise requires:

9 a. "Abortion" means abortion as defined in section  
10 146.1.

11 b. "Fetus" means a human fetus that has achieved  
12 viability as defined in section 702.20.

13 c. "Intact dilation and extraction procedure"  
14 means a procedure in which a fetus in utero is  
15 manipulated to breech position, a partial breech  
16 delivery is performed leaving the head of the fetus in  
17 utero, and then the head of the fetus is punctured,  
18 collapsed, or compressed and delivery of the fetus is  
19 completed. "Intact dilation and extraction procedure"  
20 does not include the vacuum aspiration, suction  
21 aspiration, dilation and curettage, suction curettage,  
22 induction, or dilation and evacuation procedures.

23 d. "Partial-birth abortion" means an abortion  
24 which is performed using the intact dilation and  
25 extraction procedure on a fetus.

26 2. A person shall not knowingly perform or attempt  
27 to perform a partial-birth abortion. This prohibition  
28 shall not apply to a partial-birth abortion that is  
29 necessary to preserve the life or health of the woman  
30 upon whom the partial-birth abortion is performed.

31 3. This section shall not be construed to create a  
32 right to an abortion.

33 4. a. The woman on whom a partial-birth abortion  
34 is performed may bring an action against a person  
35 violating subsection 2 to obtain appropriate relief,  
36 unless the pregnancy resulted from the plaintiff's  
37 criminal conduct or the plaintiff consented to the  
38 partial-birth abortion.

39 b. In an action brought under this subsection,  
40 appropriate relief may include any of the following:

41 (1) Statutory damages which are equal to three  
42 times the cost of the partial-birth abortion.

43 (2) Compensatory damages for all injuries,  
44 psychological and physical, resulting from violation  
45 of subsection 2.

46 5. A person who violates subsection 2 is guilty of  
47 a class "C" felony.

48 6. A woman upon whom a partial-birth abortion is  
49 performed shall not be prosecuted for violation of  
50 subsection 2 or for conspiracy to violate subsection

H-8061

E-8061

Page 2

1 2.

2 7. a. A licensed physician subject to the  
3 authority of the state board of medical examiners who  
4 is accused of a violation of subsection 2 may seek a  
5 hearing before the board on whether the physician's  
6 conduct was necessary to preserve the life or health  
7 of the woman upon whom the partial-birth abortion was  
8 performed.

9 b. The board's findings concerning the physician's  
10 conduct are admissible at the criminal trial of the  
11 physician. Upon a motion of a physician, the court  
12 shall delay the beginning of the trial for not more  
13 than thirty days to permit the hearing before the  
14 board of medical examiners to take place."

By CHAPMAN of Linn  
MORELAND of Wapello

E-8061 FILED FEBRUARY 17, 1998

*lost 2/18/98 (p.283)*

## SENATE FILE 2073

E-8062

1 Amend Senate File 2073, as passed by the Senate, as  
2 follows:

3 1. Page 1, by striking lines 7 through 14 and  
4 inserting the following:

5 "c. "Partial-birth abortion" means an abortion  
6 which is performed using the intact dilation and  
7 extraction procedure on a fetus.

8 d. "Intact dilation and extraction procedure"  
9 means a procedure in which a fetus in utero is  
10 manipulated to breech position, a partial breech  
11 delivery is performed leaving the head of the fetus in  
12 utero, and then the head of the fetus is punctured,  
13 collapsed, or compressed and delivery of the fetus is  
14 completed. "Intact dilation and extraction procedure"  
15 does not include the vacuum aspiration, suction  
16 aspiration, dilation and curettage, suction curettage,  
17 induction, or dilation and evacuation procedures."

By GRUNDBERG of Polk  
NELSON of Marshall

E-8062 FILED FEBRUARY 17, 1998

*lost 2/18/98 (p.287)*

## SENATE FILE 2073

E-8075

1 Amend Senate File 2073, as passed by the Senate, as  
2 follows:

3 1. Page 1, line 25, by inserting after the word  
4 "maternal" the following: "or paternal".

By CONNORS of Polk

E-8075 FILED FEBRUARY 18, 1998

RULES SUSPENSION REQUIRED - MOTION FAILED

*2/18/98*

SENATE FILE 2073

H-8055

- 1 Amend Senate File 2073, as passed by the Senate, as
- 2 follows:
- 3 1. Page 1, by striking lines 23 through 25 and
- 4 inserting the following: "performed".  
By DODERER of Johnson  
METCALF of Polk

H-8055 FILED FEBRUARY 17, 1998

*lost 2/18/98 (p.285)*

SENATE FILE 2073

H-8060

- 1 Amend Senate File 2073, as passed by the Senate, as
- 2 follows:
- 3 1. Page 1, line 12, by striking the word
- 4 "substantial" and inserting the following: "major".  
By DODERER of Johnson  
NELSON of Marshall

H-8060 FILED FEBRUARY 17, 1998

*lost 2/18/98 (p.283)*

SENATE FILE 2073

AN ACT

PROHIBITING THE PERFORMANCE OF PARTIAL-BIRTH ABORTIONS  
RELATIVE TO A HUMAN FETUS, ESTABLISHING A CAUSE OF  
ACTION FOR VIOLATION OF THE PROHIBITION, AND PROVIDING  
PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 707.8A PARTIAL-BIRTH ABORTION  
PROHIBITED -- EXCEPTIONS -- PENALTIES.

1. As used in this section, unless the context otherwise  
requires:

- a. "Abortion" means abortion as defined in section 146.1.
- b. "Fetus" means a human fetus.
- c. "Partial-birth abortion" means an abortion in which a  
person partially vaginally delivers a living fetus before  
killing the fetus and completing the delivery.
- d. "Vaginally delivers a living fetus before killing the  
fetus" means deliberately and intentionally delivering into  
the vagina a living fetus or a substantial portion of a living  
fetus for the purpose of performing a procedure the person  
knows will kill the fetus, and then killing the fetus.

2. A person shall not knowingly perform or attempt to  
perform a partial-birth abortion. This prohibition shall not  
apply to a partial-birth abortion that is necessary to save  
the life of the mother whose life is endangered by a physical  
disorder, physical illness, or physical injury.

3. This section shall not be construed to create a right  
to an abortion.

4. a. The mother on whom a partial-birth abortion is  
performed, the father of the fetus, or if the mother is less  
than eighteen years of age or unmarried at the time of the  
partial-birth abortion, a maternal grandparent of the fetus,  
may bring an action against a person violating subsection 2 to  
obtain appropriate relief, unless the pregnancy resulted from  
the plaintiff's criminal conduct or the plaintiff consented to  
the partial-birth abortion.

b. In an action brought under this subsection, appropriate  
relief may include any of the following:

- (1) Statutory damages which are equal to three times the  
cost of the partial-birth abortion.
- (2) Compensatory damages for all injuries, psychological  
and physical, resulting from violation of subsection 2.

5. A person who violates subsection 2 is guilty of a class  
"C" felony.

6. A mother upon whom a partial-birth abortion is  
performed shall not be prosecuted for violation of subsection  
2 or for conspiracy to violate subsection 2.

7. a. A licensed physician subject to the authority of  
the state board of medical examiners who is accused of a  
violation of subsection 2 may seek a hearing before the board  
on whether the physician's conduct was necessary to save the  
life of the mother whose life was endangered by a physical  
disorder, physical illness, or physical injury.

b. The board's findings concerning the physician's conduct  
are admissible at the criminal trial of the physician. Upon a  
motion of the physician, the court shall delay the beginning

of the trial for not more than thirty days to permit the hearing before the board of medical examiners to take place.

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MARY E. KRAMER  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2073, Seventy-seventh General Assembly.

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MARY PAT GUNDERSON  
Secretary of the Senate

Approved *Branstad*, 1998

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TERRY E. BRANSTAD  
Governor