



FAMILY ISSUE FACT SHEET

No. 2008-01 (February 2008)

Partial-Birth Abortion Ban

EXECUTIVE SUMMARY

Arizona banned partial-birth abortion in 1997, but the law was blocked from going into effect by a federal judge. In April 2007, the U.S. Supreme Court issued an opinion which offers new guidance on partial-birth abortion and frees Arizona to again pass a ban on partial-birth abortion. This bill returns a ban on partial-birth abortion back to Arizona law with the language upheld by the U.S. Supreme Court.

BACKGROUND

Partial birth abortion is a particularly gruesome form of abortion. In 1996, when the U.S. Congress was first voting on a partial birth abortion ban, the *Los Angeles Times* described it as a procedure in which “a physician extracts a fetus feet first from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus’s skull, a suction catheter is inserted through the opening and the brain is removed.”¹

Thirty-one states, including Arizona, have passed laws banning partial-birth abortion.² Most of these bans are unenforceable due to the U.S. Supreme Court’s 2000 decision, *Stenberg v. Carhart*. Arizona’s ban on partial-birth abortion was passed in 1997. That same year, a federal judge blocked the law from going into effect. Because the *Stenberg* decision effectively blocked states from regulating partial-birth abortion, the battle shifted to the federal government.

In 2003, the U.S. Congress passed the Partial Birth Abortion Act of 2003. The act followed the guidance of the *Stenberg* opinion by providing physicians a clear explanation of the banned procedure.

In April 2007, the United States Supreme Court issued its decision in *Gonzales v. Carhart* stating that the federal partial-birth abortion ban was, in fact, constitutional.³ The *Gonzales* opinion shows how states need to word bans on partial-birth abortion in order to be considered constitutional.

The proposed Arizona bill takes the language from the federal bill and codifies it in Arizona statute, making it clear that partial-birth abortions are illegal in Arizona. This will replace the former Arizona ban that was overturned by the courts.

TALKING POINTS

- **Partial-birth abortion is a brutal and inhumane procedure.** The U.S. Supreme Court has recognized that the state has authority to regulate partial-birth abortion because the procedure is inconsistent with the state's interests in protecting the integrity of the medical profession, promoting live child birth, and encouraging respect for human life.
- **The bill language mirrors the federal law, which was upheld by the U.S. Supreme Court.**
- **Arizona needs to reassert its ban on partial-birth abortion.** The law is needed because the federal law only applies in limited scenarios, because parallel state and federal bans give prosecutors more options, and because regulating abortion is primarily the job of the states.

CONCLUSION

Partial birth abortion is a gruesome practice that borders on infanticide. In 2007, the U.S. Supreme Court overturned its ruling and declared that bans of this practice are constitutional. This bill mirrors the federal ban and codifies it in Arizona statute.

¹ "House Votes to Criminalize Partial-Birth Abortions," *Los Angeles Times* (March 28, 1996).

² Guttmacher Institute, *Bans on "Partial-birth Abortion"* (Jan. 2007), http://www.guttmacher.org/statecenter/spibs/spib_BPBA.pdf.

³ ___ U.S. ___, 127 S.Ct. 1610 (2007).