

SUBSTITUTE FOR  
SENATE BILL NO. 888

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 16299, 17016, and 17516 (MCL 333.16299,  
333.17016, and 333.17516), sections 17016 and 17516 as added by  
1996 PA 273.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 16299. (1) ~~—A—~~ EXCEPT AS OTHERWISE PROVIDED IN  
2 SUBSECTION (2), A person who violates or aids or abets another in  
3 the violation of this article other than those matters described  
4 in sections 16294 and 16296 is guilty of a misdemeanor, punish-  
5 able as follows:

6       (a) For the first offense, by imprisonment for not more than  
7 90 days, or a fine of not more than \$100.00, or both.

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1 (b) For the second or subsequent offense, by imprisonment  
2 for not less than 90 days nor more than 6 months, or a fine of  
3 not less than \$200.00 nor more than \$500.00, or both.

4 (2) SUBSECTION (1) DOES NOT APPLY TO A VIOLATION OF  
5 SECTION 17016(1) OR 17516(1).

6 Sec. 17016. (1) Except as otherwise provided in  
7 subsection (2), a physician or an individual performing an act,  
8 task, or function under the delegatory authority of a physician  
9 shall not perform a partial-birth abortion, even if the abortion  
10 is otherwise permitted by law.

11 (2) A physician or an individual described in subsection (1)  
12 may perform a partial-birth abortion if the physician or other  
13 individual reasonably believes that performing the partial-birth  
14 abortion is necessary to save the life of a pregnant woman whose  
15 life is endangered by a physical disorder, physical illness, or  
16 physical injury and that no other medical procedure will accom-  
17 plish that purpose.

18 (3) This section does not create a right to abortion.

19 (4) Notwithstanding any other provision of this section, a  
20 person shall not perform an abortion that is prohibited by law.

21 (5) A PHYSICIAN OR OTHER INDIVIDUAL WHO VIOLATES  
22 SUBSECTION (1) IS SUBJECT TO ADMINISTRATIVE SANCTIONS UNDER  
23 SECTIONS 16221 AND 16226, BUT IS NOT SUBJECT TO CRIMINAL SANC-  
24 TIONS UNDER SECTION 16299.

25 (6) THE LEGISLATURE FINDS ALL OF THE FOLLOWING:

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1 (A) THAT, AS OF 1997, THE AMERICAN MEDICAL ASSOCIATION HAD  
2 DETERMINED THAT NO MEDICAL CIRCUMSTANCES EXIST THAT NECESSITATE  
3 THE PERFORMANCE OF A PARTIAL-BIRTH ABORTION.

4 (B) THAT BY ENACTING THIS SECTION AND THE AMENDATORY ACT  
5 THAT ADDED THIS SUBSECTION, THE LEGISLATURE INTENDS TO PROHIBIT  
6 ONLY THE PARTIAL-BIRTH ABORTION PROCEDURE.

7 (C) THAT TESTIMONY FROM PHYSICIANS INDICATES THAT SUFFI-  
8 CIENT, SAFE ALTERNATIVE ABORTION PROCEDURES, OTHER THAN  
9 PARTIAL-BIRTH ABORTION, EXIST FOR WOMEN SEEKING PREVIABILITY  
10 ABORTIONS.

11 (7) ~~(5)~~ As used in this section:

12 (a) "Abortion" means the intentional use of an instrument,  
13 drug, or other substance or device to terminate a woman's preg-  
14 nancy for a purpose other than to increase the probability of a  
15 live birth, to preserve the life or health of the child after  
16 live birth, or to remove a dead fetus. Abortion does not include  
17 a procedure to complete a spontaneous abortion or the use or pre-  
18 scription of a drug or device intended as a contraceptive.

19 (b) "Fetus" means an individual organism of the species homo  
20 sapiens at any time before complete delivery from a pregnant  
21 woman.

22 (c) "Partial-birth abortion" means an abortion in which the  
23 physician PERFORMING THE ABORTION or AN individual acting under  
24 the delegatory authority of the physician ~~performing the~~  
25 ~~abortion~~ partially vaginally delivers a living, INTACT fetus  
26 before killing the fetus and completing the delivery.

27 PARTIAL-BIRTH ABORTION DOES NOT INCLUDE A PROCEDURE IN WHICH THE

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1 LIFE OF THE FETUS IS TERMINATED WHILE THE FETUS IS STILL IN THE  
2 UTERUS. AS USED IN THIS SUBDIVISION, "PARTIALLY VAGINALLY DELIV-  
3 ERS A LIVING, INTACT FETUS BEFORE KILLING THE FETUS" MEANS THE  
4 DELIBERATE AND INTENTIONAL DELIVERY INTO THE VAGINA OF A LIVING,  
5 INTACT FETUS OR A SUBSTANTIAL PORTION OF THE LIVING, INTACT FETUS  
6 FOR THE PURPOSE OF PERFORMING A PROCEDURE THAT THE PHYSICIAN OR  
7 OTHER INDIVIDUAL KNOWS WILL KILL THE FETUS, AND SUBSEQUENTLY KIL-  
8 LING THE FETUS.

9       Sec. 17516. (1) Except as otherwise provided in  
10 subsection (2), a physician or an individual performing an act,  
11 task, or function under the delegatory authority of a physician  
12 shall not perform a partial-birth abortion, even if the abortion  
13 is otherwise permitted by law.

14       (2) A physician or an individual described in subsection (1)  
15 may perform a partial-birth abortion if the physician or other  
16 individual reasonably believes that performing the partial-birth  
17 abortion is necessary to save the life of a pregnant woman whose  
18 life is endangered by a physical disorder, physical illness, or  
19 physical injury and that no other medical procedure will accom-  
20 plish that purpose.

21       (3) This section does not create a right to abortion.

22       (4) Notwithstanding any other provision of this section, a  
23 person shall not perform an abortion that is prohibited by law.

24       (5) A PHYSICIAN OR OTHER INDIVIDUAL WHO VIOLATES  
25 SUBSECTION (1) IS SUBJECT TO ADMINISTRATIVE SANCTIONS UNDER  
26 SECTIONS 16221 AND 16226, BUT IS NOT SUBJECT TO CRIMINAL  
27 SANCTIONS UNDER SECTION 16299.

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4 THE PERFORMANCE OF A PARTIAL-BIRTH ABORTION.

5 (B) THAT BY ENACTING THIS SECTION AND THE AMENDATORY ACT  
6 THAT ADDED THIS SUBSECTION, THE LEGISLATURE INTENDS TO PROHIBIT  
7 ONLY THE PARTIAL-BIRTH ABORTION PROCEDURE.

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1 PARTIAL-BIRTH ABORTION DOES NOT INCLUDE A PROCEDURE IN WHICH THE  
2 LIFE OF THE FETUS IS TERMINATED WHILE THE FETUS IS STILL IN THE  
3 UTERUS. AS USED IN THIS SUBDIVISION, "PARTIALLY VAGINALLY DELIV-  
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