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## The Nebraska PBA Ban: Facing Supreme Court Review

### The text of the statute includes the following sections:

Neb. Stat. § 28-328. Partial-birth abortion; prohibition; violation; penalties.

**(1) No partial-birth abortion shall be performed in this state, unless such procedure is necessary to save the life of the 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.**

(2) The intentional and knowing performance of an unlawful partial-birth abortion in violation of subsection (1) of this section is a Class III felony.

(3) No woman upon whom an unlawful partial-birth abortion is performed shall be prosecuted under this section or for conspiracy to violate this section.

(4) The intentional and knowing performance of an unlawful partial-birth abortion shall result in the automatic suspension and revocation of an attending physician's license to practice medicine in Nebraska by the Director of Regulation and Licensure pursuant to sections 71-147 to 71-161.20.

(5) Upon the filing of criminal charges under this section by the Attorney General or a county attorney, the Attorney General shall also file a petition to suspend and revoke the attending physician's license to practice medicine pursuant to section 71-150. A hearing on such administrative petition shall be set in accordance with section 71-153. At such hearing, the attending physician shall have the opportunity to present evidence that the physician's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life- endangering physical condition caused by or arising from the pregnancy itself. A defendant against whom criminal charges are brought under this section may bring a motion to delay the beginning of the trial until after the entry of an order by the Director of Regulation and Licensure pursuant to section 71- 155. The findings of the Director of Regulation and Licensure as to whether the attending physician's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, shall be admissible in the criminal proceedings brought pursuant to this section.

...

(9) Partial-birth abortion means an abortion procedure in which the person performing the abortion partially delivers vaginally a living unborn child before killing the unborn child and completing the delivery. For purposes of this subdivision, the term partially delivers vaginally a living unborn child before killing the unborn child means deliberately and intentionally delivering into the vagina a living unborn child , or a substantial portion thereof, for the purpose of performing a procedure that the person performing such procedure knows will kill the unborn child and does kill the unborn child.

Source: Laws 1997, LB 23, § 3. Effective date June 10, 1997.