VETO OF H.R. 1122

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

HIS VETO OF H.R. 1122, A BILL TO AMEND TITLE 18, UNITED STATES CODE, TO BAN PARTIAL-BIRTH ABORTIONS

OCTOBER 21, 1997.—Message and bill referred to the Committee on the Judiciary and ordered to be printed
To the House of Representatives:

I am returning herewith without my approval H.R. 1122, which would prohibit doctors from performing a certain kind of abortion. I am returning H.R. 1122 for exactly the same reasons I returned an earlier substantially identical version of this bill, H.R. 1833, last year. My veto message of April 10, 1996, fully explains my reasons for returning that bill and applies to H.R. 1122 as well. H.R. 1122 is a bill that is consistent neither with the Constitution nor sound public policy.

As I have stated on many occasions, I support the decision in Roe v. Wade protecting a woman’s right to choose. Consistent with that decision, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, H.R. 1122 does not contain an exception to the measure’s ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury.

I have asked the Congress repeatedly, for almost 2 years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe the Congress should work in a bipartisan manner to fashion such legislation.

WILLIAM J. CLINTON.
One Hundred Fifth Congress
of the
United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday,
the seventh day of January, one thousand nine hundred and ninety-seven

An Act

To amend title 18, United States Code, to ban partial-birth abortions.

Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Partial-Birth Abortion Ban Act
of 1997”.

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) In general.—Title 18, United States Code, is amended
by inserting after chapter 73 the following:

“CHAPTER 74—PARTIAL-BIRTH ABORTIONS

“Sec.

“1531. Partial-birth abortions prohibited.

“§ 1531. Partial-birth abortions prohibited

“(a) Any physician who, in or affecting interstate or foreign
commerce, knowingly performs a partial-birth abortion and thereby
kills a human fetus shall be fined under this title or imprisoned
not more than two years, or both. This paragraph shall 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, illness,
or injury. This paragraph shall become effective one day after
enactment.

“(b)(1) As used in this section, the term ‘partial-birth abortion’
means an abortion in which the person performing the abortion
partially vaginally delivers a living fetus before killing the fetus
and completing the delivery.

“(2) As used in this section, the term ‘physician’ means a
doctor of medicine or osteopathy legally authorized to practice medi-
cine and surgery by the State in which the doctor performs such
activity, or any other individual legally authorized by the State
to perform abortions: Provided, however, That any individual who
is not a physician or not otherwise legally authorized by the State
to perform abortions, but who nevertheless directly performs a
partial-birth abortion, shall be subject to the provisions of this
section.

“(3) As used in this section, the term ‘vaginally delivers a
living fetus before killing the fetus’ means deliberately and inten-
tionally delivers into the vagina a living fetus, or a substantial
portion thereof, for the purpose of performing a procedure the
physician knows will kill the fetus, and kills the fetus.
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“(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff’s criminal conduct or the plaintiff consented to the abortion.

“(2) Such relief shall include—

“(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

“(B) statutory damages equal to three times the cost of the partial-birth abortion.

“(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician’s conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

“(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

“(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

“74. Partial-birth abortions ........................................................................ 1531”.

NEWT GINGRICH,
Speaker of the House of Representatives.

STROM THURMOND,
President pro tempore of the Senate.

[Endorsement on back of bill:] I certify that this Act originated in the House of Representatives.

ROBIN H. CARLE, Clerk.