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H.57

Representative Bancroft of Westford moves that the bill be amended by striking out Sec. 3 (effective date) in its entirety and inserting in lieu thereof the following:

Sec. 3. 13 V.S.A. § 106 is added to read:

§ 105. PARTIAL-BIRTH ABORTIONS PROHIBITED

(a) Definition. As used in this section “partial-birth abortion” means an abortion in which the person performing the abortion:

(1) deliberately and intentionally vaginally delivers a living fetus until, in the case of a headfirst presentation, the entire fetal head is outside the body of the mother or, in the case of breech presentation, any part of the fetal trunk past the naval is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(2) performs an overt act, other than completion of delivery, that kills the partially delivered living fetus.

(b) Prohibition. No person shall knowingly perform a partial-birth abortion and as a result kill a human fetus.

(c) Penalty. A person who violates subsection (b) of this section shall be imprisoned for up to five years or fined not more than \$10,000.00, or both.

(d) Exceptions.

1 (1) This section does not apply to a partial-birth abortion that is
2 necessary to save the life of a patient whose life is endangered by a physical
3 disorder, physical illness, or physical injury, including a life-endangering
4 physical condition caused by or arising from the pregnancy itself.

5 (2) An individual upon whom a partial-birth abortion is performed shall
6 not be subject to criminal prosecution under this section.

7 (e) Evidence admissible at trial. A person engaged in the practice of
8 medicine as defined in 26 V.S.A. § 1311 who is charged with a violation of
9 this section may seek a hearing before the Board of Medical Practice on
10 whether the person’s conduct was necessary to save the life of the patient. Any
11 findings of the Board on this fact are admissible, at the court’s discretion, at
12 the trial of the defendant. On the motion of the defendant, the court may, in its
13 discretion, delay the trial for not more than 30 days to allow the hearing to
14 occur.

15 Sec. 4. EFFECTIVE DATE

16 This act shall take effect on passage.