

CHAPTER 14-02.6 PARTIAL-BIRTH ABORTION

14-02.6-01. Definitions.

As used in this chapter:

1. "Partially born" means the living intact fetus's body, with the entire head attached, is delivered so that any of the following has occurred:
 - a. The living intact fetus's entire head, in the case of a cephalic presentation, or any portion of the living intact fetus's torso above the navel, in the case of a breech presentation, is delivered past the mother's vaginal opening; or
 - b. The living intact fetus's entire head, in the case of a cephalic presentation, or any portion of the living intact fetus's torso above the navel, in the case of a breech presentation, is delivered outside the mother's abdominal wall.
2. "Sharp curettage or suction curettage abortion" means an abortion in which the developing child and products of conception are evacuated from the uterus with a sharp curettage or through a suction cannula with an attached vacuum apparatus.

14-02.6-02. Prohibition - Penalty - Exception.

1. Any person who intentionally causes the death of a living intact fetus while that living intact fetus is partially born is guilty of a class AA felony. A mother whose living intact fetus dies while partially born may not be prosecuted for a violation of this chapter or for conspiracy to violate this chapter.
2. This chapter does not apply to a sharp curettage or suction curettage abortion or to any offense committed under chapter 12.1-17.1 or chapter 14-02.1.

14-02.6-03. Exception for life of mother.

Section 14-02.6-02 does not prohibit a physician from taking measures that in the physician's medical judgment are necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, if:

1. Every reasonable precaution is also taken, in this case, to save the child's life; and
2. The physician first certifies in writing, setting forth in detail the facts upon which the physician relies in making this judgment. This certification is not required in the case of an emergency and the procedure is necessary to preserve the life of the mother.