

Introduced by

Senators Wanzek, Christmann, D. Mathern, Watne

Representatives Kliniske, Sandvig

1 A BILL for an Act relating to the performance of partial-birth abortions; and to provide a penalty.

2 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

3 **SECTION 1. Definitions.** As used in this Act:

4 1. "Partially born" means the living intact fetus's body, with the entire head attached,  
5 is delivered so that any of the following has occurred:

6 a. The living intact fetus's entire head, in the case of a cephalic presentation, or  
7 any portion of the living intact fetus's torso above the navel, in the case of a  
8 breech presentation, is delivered past the mother's vaginal opening; or

9 b. The living intact fetus's entire head, in the case of a cephalic presentation, or  
10 any portion of the living intact fetus's torso above the navel, in the case of a  
11 breech presentation, is delivered outside the mother's abdominal wall.

12 2. "Sharp curettage or suction curettage abortion" means an abortion in which the  
13 developing child and products of conception are evacuated from the uterus with a  
14 sharp curettage or through a suction cannula with an attached vacuum apparatus.

15 **SECTION 2. Prohibition - Penalty - Exception.**

16 1. Any person who intentionally causes the death of a living intact fetus while that  
17 living intact fetus is partially born is guilty of a class AA felony. A mother whose  
18 living intact fetus dies while partially born may not be prosecuted for a violation of  
19 this Act or for conspiracy to violate this Act.

20 2. This Act does not apply to a sharp curettage or suction curettage abortion or to any  
21 offense committed under chapter 12.1-17.1 or chapter 14-02.1.

22 **SECTION 3. Exception for life of mother.** Section 2 does not prohibit a physician  
23 from taking measures that in the physician's medical judgment are necessary to save the life of  
24 a mother whose life is endangered by a physical disorder, illness, or injury, if:

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