

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1466

Introduced by

Representatives Kerzman, Metcalf

Senators Christmann, Erbele

1 A BILL for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota
2 Century Code, relating to the prohibition of the performance of abortions; to amend and reenact
3 section 14-10-17 of the North Dakota Century Code, relating to consent of a minor; to provide a
4 penalty; and to provide an effective date.

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

6 **SECTION 1.** A new section to chapter 12.1-31 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Abortion - Affirmative defenses.**

9 **1. As used in this section:**

10 **a. "Abortion" means the use or prescription of any substance, device,**
11 **instrument, medicine, or drug to intentionally terminate the pregnancy of an**
12 **individual known to be pregnant. The term does not include an act made with**
13 **the intent to increase the probability of a live birth; preserve the life or health**
14 **of a child after live birth; or remove a dead, unborn child who died as a result**
15 **of a spontaneous miscarriage, an accidental trauma, or a criminal assault**
16 **upon the pregnant female or her unborn child.**

17 **b. "Physician" means an individual licensed to practice medicine under chapter**
18 **43-17.**

19 **c. "Professional judgment" means a medical judgment that would be made by a**
20 **reasonably prudent physician who is knowledgeable about the case and the**
21 **treatment possibilities with respect to the medical conditions involved.**

22 **2. It is a class C felony for a person, other than the pregnant female upon whom the**
23 **abortion was performed, to perform an abortion.**

24 **3. The following are affirmative defenses under this section:**

- a. That the abortion was necessary in professional judgment and was intended to prevent the death of the pregnant female.
- b. That the abortion was to terminate a pregnancy that resulted from gross sexual imposition, sexual imposition, sexual abuse of a ward, or incest, as those offenses are defined in chapter 12.1-20.
- c. That the individual was acting within the scope of that individual's regulated profession and under the direction of or at the direction of a physician.

SECTION 2. AMENDMENT. Section 14-10-17 of the North Dakota Century Code is amended and reenacted as follows:

14-10-17. Minors - Treatment for sexually transmitted disease - Drug abuse - Alcoholism - Pregnancy-related care.

1. Any person of the age of fourteen years or older may contract for and receive examination, care, or treatment for sexually transmitted disease, alcoholism, ~~or~~ drug abuse, or pregnancy-related care without permission, authority, or consent of a parent or guardian.
2. For purposes of this section, "pregnancy-related care" means pregnancy testing, prenatal care, and pain management related to pregnancy. This section does not authorize a minor to consent to abortion or otherwise supersede the requirements of chapter 14-02.1. Notwithstanding subsection 1, a physician or other health care professional may not be compelled against the physician's or health care professional's best judgment to provide pregnancy-related care under this section.
3. If a minor requests pregnancy-related care under this section, the physician or health care professional shall encourage the minor to involve her parents or guardian. A physician or other health care professional who provides pregnancy-related care to a minor under this section may inform the minor's parent or guardian of any pregnancy-related care given or needed if:
 - a. In the judgment of the physician or other health care professional:
 - (1) Failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child; or
 - (2) Informing the parent or guardian would benefit the health of the minor or her unborn child; and

- 1 b. Before the disclosure, the physician or health care professional informs the
2 minor of the intent to disclose and the reasons for the disclosure.

3 **SECTION 3. EFFECTIVE DATE.** Section 1 of this Act becomes effective on the date
4 the legislative council approves by motion the recommendation of the attorney general to the
5 legislative council that it is reasonably probable that Section 1 of this Act would be upheld as
6 constitutional.