

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

Senator Miller

A BILL for an Act to provide for equality and rights to all human beings at every stage of biological development; to create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to the crime of abortion; to provide legislative intent; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Equality and rights guaranteed to all human beings.

1. For purposes of this Act:

- a. "Born", "birth", "partially born", "born alive", and any derivation thereof, apply to any child located inside a uterus, which is pulled out of the mother; or who has ever had any part of its body, including the head, pulled out of the uterus, such as during natural birth, artificial birth, or abortion.
- b. "Human being" means any organism, including the single-cell human embryo, irrespective of the method of reproduction, who possesses a genome specific for and consistent with an individual member of the human species.
- c. "Human embryo" means all human beings from the beginning of the embryonic period of their biological development through eight weeks, irrespective of age, health, function, physical dependency, or method of reproduction, whether in vivo or in vitro.
- d. "Human fetus" means all human beings from the beginning of the fetal period of their biological development, which begins at nine weeks gestation through birth, irrespective of age, health, function, physical dependency, or method of reproduction, whether in vivo or in vitro.

e. "Human genome" means the total amount of nuclear and extra-nuclear DNA genetic material that constitutes an organism as an individual member of the human species, including the single-cell human embryo.

f. "Person" or "individual" includes the legal recognition of a human being's full status as a human person that applies to all human beings, irrespective of age, health, function, physical dependency, or method of reproduction.

2. The state shall naturalize all preborn persons and shall afford to them all the privileges and immunities of state citizenship guaranteed in section 21 of article I of the Constitution of North Dakota, except that the state is not required to include preborn children in state and local censuses.

3. The state shall afford the equality and inherent rights guaranteed to individuals in section 1 of article I of the Constitution of North Dakota and the right to due process guaranteed to persons in section 12 of article I of the Constitution of North Dakota to all human beings, including the preborn, partially born, born alive, and born alive who reenter the womb.

4. Personhood may not be denied:

a. If all the body parts are pulled out of the uterus except the legs or arms or portions of legs or arms are still inside the uterus;

b. When the child is about to be born;

c. When the child's head is taken out and placed back inside the uterus;

d. If a child's head is pushed back inside the uterus;

e. To partially born or born alive babies; or

f. Once a uterus is placed back inside the mother.

SECTION 2. Legislative findings regarding certain effects of establishing personhood.

1. It is the intent of the legislative assembly that every available means to assert preborn personhood be used, which has been denied to even late term preborn and partially born children.

2. It is the finding of the legislative assembly that:

- 1 a. The right to life is the paramount right of a person. The right to life is a more
2 fundamental right of a preborn child than the mother's right to liberty or pursuit
3 of happiness, which does not include the right to kill other people.
- 4 b. The state does not need to prove that it has a prerogative or a compelling
5 interest before the courts allow this state to recognize that all children are
6 persons and human beings, which they are. The legislative assembly may
7 not attempt to immediately solve all the effects of preborn personhood until
8 after thorough study and more importantly until after actually establishing
9 preborn personhood and waiting for the courts to recognize it.
- 10 c. When the uterus with a child inside is placed back inside the mother,
11 personhood extends to all other preborn children due to equal protection of
12 the laws.
- 13 d. Because scientists have discovered a way of creating pluripotent cells using
14 umbilical stem cells, there is no need to kill children to obtain their embryonic
15 stem cells.
- 16 e. It is not yet possible to conclusively determine whether all chemical
17 contraception is abortifacient or not.
- 18 f. All abortions, whether surgically or chemically induced, terminate the life of a
19 whole, separate, unique, living human being.
- 20 g. Because all preborn children are human beings, no abortion performed with
21 specific intent is legal. A direct abortion is always performed with the specific
22 intent to bring death to a preborn child.
- 23 h. When the mother needs a life-saving medical operation, then an indirect
24 abortion is not legally or morally considered abortion because it is not
25 performed with specific intent to bring death to a preborn child. The death of
26 the child may be permitted as an indirect and unavoidable result of steps
27 necessary to save the mother's life. Physicians shall make, in all cases, every
28 effort to preserve both the life of the mother and the life of the preborn child.
29 Physicians shall provide equal care and equal consideration to the mother
30 and child.

- 1 i. Medical treatment that has as its primary purpose to cure a disease of the
2 pregnant woman or of a twin preborn human being may not be considered
3 abortion. The pregnant woman must be given the choice of which treatment
4 to receive provided it is treatment intended to act upon or cure a disease.
5 This excludes the possibility of ever performing an abortion under the
6 pretense of a medical necessity since a preborn human being is not a
7 disease.
- 8 j. In the case of twins, all medical procedures that are designed to address
9 specific medical conditions that affect both twins are lawful provided as long
10 as the physician's actions are performed with the specific intent to save the
11 life of the preborn human being with the highest chance of survival.
- 12 k. If a pregnant woman's health is in danger during a pregnancy, the physician
13 may not be held criminally responsible for unintentionally causing the death of
14 the preborn human being from legitimate treatment administered to the
15 pregnant woman. Chemotherapy, radiation treatment, and other medical
16 procedures that are not intended to cause the death of the preborn human
17 being but that are likely to do so, may not be prohibited if prescribed to cure
18 the pregnant woman. Under no circumstance may abortion be considered
19 legitimate treatment.

20 **SECTION 3.** A new section to chapter 12.1-31 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Abortion.**

- 23 1. As used in this section "abortion" means the use or prescription of any substance,
24 device, instrument, medicine, or drug to intentionally terminate the pregnancy of an
25 individual known to be pregnant. The term does not include an act made with the
26 intent to increase the probability of a live birth; preserve the life or health of a child
27 after live birth; or remove a dead, unborn child who died as a result of a
28 spontaneous miscarriage, an accidental trauma, or a criminal assault upon the
29 pregnant female or her unborn child.
- 30 2. It is a class AA felony for a person, other than the pregnant female upon whom the
31 abortion was performed, to perform an abortion.

1 **SECTION 4. STATE TO DEFEND CHALLENGE.** The legislative assembly, by joint
2 resolution, may appoint one or more of its members, as a matter of right and in the legislative
3 member's official capacity, to intervene to defend this law in any case in which its
4 constitutionality is challenged.