

Sixty-first  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO.

Introduced by

Representative Ruby

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 two new sections to chapter 12.1-17, relating to the crimes of dismemberment and torture; to amend and reenact subsection 3 of section 12.1-20-03, section 12.1-20-11, subsection 2 of section 12.1-20-17, and section 12.1-27.2-04.1 of the North Dakota Century Code, relating to penalties for crimes against born alive children; 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" means 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, including their preborn offspring at every stage of their biological development.

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 unborn, partially born, born alive, and born alive who reenter the womb, at every stage of biological development, irrespective of age, health, function, condition of dependency, or method of reproduction.

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;

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

g. When the uterus with a child inside is placed back inside the mother.

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

1. With respect to preborn personhood, it is the intent of the legislative assembly to:

1           a.   Immunize a woman from criminal prosecution for abortion.

2           b.   Increase and decrease the penalties for crimes against persons.

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

6        3.   It is the finding of the legislative assembly that:

7           a.   The right to life is the paramount right of a person. The right to life is a more  
8           fundamental right of a preborn child than the mother's right to liberty or pursuit  
9           of happiness, which does not include the right to kill other people. In no way  
10          does a child's right to life interfere with a mother's right to life.

11          b.   The state does not need to prove that it has a prerogative or a compelling  
12          interest before the courts allow this state to recognize that all children are  
13          natural persons and natural human beings, which they are. The legislative  
14          assembly may not attempt to immediately solve all the effects of preborn  
15          personhood until after thorough study and more importantly until after actually  
16          establishing preborn personhood and waiting for the courts to recognize it.

17          c.   Because scientists have discovered a way of creating pluripotent cells using  
18          umbilical stem cells, there is no need to kill children to obtain their embryonic  
19          stem cells.

20          d.   It is not yet possible to conclusively determine whether chemical  
21          contraception is abortifacient or not.

22          e.   All abortions, whether surgically or chemically induced, terminate the life of a  
23          whole, separate, unique, living human being. There is an existing relationship  
24          between a pregnant woman and her preborn child during the entire period of  
25          gestation.

26          f.   Because all preborn children are persons, no abortion performed with specific  
27          intent is legal. A direct abortion is always performed with the specific intent to  
28          bring death to a preborn child; it is a deprivation of the right to life and the right  
29          to the equal protection of the law and is the ultimate manifestation of the  
30          involuntary servitude of one human being to another.

- 1           g. A mother is not going to die by recognizing her child's right to life. When the  
2           mother needs a life-saving medical operation, then an indirect abortion is not  
3           legally or morally considered abortion because it is not performed with specific  
4           intent to bring death to a preborn child. The death of the child may be  
5           permitted as an indirect and unavoidable result of steps necessary to save the  
6           mother's life. Physicians shall make, in all cases, every effort to preserve  
7           both the life of the mother and the life of the preborn child. Physicians shall  
8           provide equal care and equal consideration to the mother and child.
- 9           h. Medical treatment that has as its primary purpose to cure a disease of the  
10          pregnant woman or of a twin preborn human being may not be considered  
11          abortion. The pregnant woman must be given the choice of which treatment  
12          to receive provided it is treatment intended to act upon or cure a disease.  
13          This excludes the possibility of ever performing an abortion under the  
14          pretense of a medical necessity since a preborn human being is not a  
15          disease.
- 16          i. In the case of twins, all medical procedures designed to address specific  
17          medical conditions that affect both twins are lawful provided as the physician's  
18          actions are performed with the specific intent to save the life of the preborn  
19          human being with highest chance of survival.
- 20          j. If a pregnant woman's health is in danger during a pregnancy, the physician  
21          may not be held criminally responsible for unintentionally causing the death of  
22          the preborn human being from legitimate treatment administered to the  
23          pregnant woman. Chemotherapy, radiation treatment, and other medical  
24          procedures that are not intended to cause the death of the preborn human  
25          being but that are likely to do so, may not be prohibited if prescribed to cure  
26          the pregnant woman. Under no circumstance may abortion be considered  
27          legitimate treatment.

28           **SECTION 3.** Two new sections to chapter 12.1-17 of the North Dakota Century Code  
29   are created and enacted as follows:

30           **Dismemberment - Penalty.**

1       1.   A person is guilty of an offense if that person intentionally dismembers the body of  
2           another human being, as defined in section 1 of this Act, without causing the death  
3           of the other human being.

4       2.   The offense is a class C felony, except if the victim is a born alive child, as defined  
5           in section 1 of this Act, the offense is a class B felony.

6       **Torture - Penalty.**

7       1.   A person is guilty of an offense if that person intentionally inflicts excruciating pain  
8           on another human being, as defined in section 1 of this Act, without causing the  
9           death of the other human being.

10      2.   The offense is a class C felony, except if the victim is a born alive child, as defined  
11         in section 1 of this Act, the offense is a class B felony.

12      **SECTION 4. AMENDMENT.** Subsection 3 of section 12.1-20-03 of the North Dakota  
13 Century Code is amended and reenacted as follows:

14      3.   a.   An offense under this section is a class AA felony if in the course of the  
15           offense the actor inflicts serious bodily injury upon the victim, if the victim is a  
16           born alive child, as defined in section 1 of this Act, if the actor's conduct  
17           violates subdivision a of subsection 1, or if the actor's conduct violates  
18           subdivision d of subsection 1 and the actor was at least twenty-two years of  
19           age at the time of the offense. For any conviction of a class AA felony under  
20           subdivision a of subsection 1, the court shall impose a minimum sentence of  
21           twenty years' imprisonment, with probation supervision to follow the  
22           incarceration. The court may deviate from the mandatory sentence if the  
23           court finds that the sentence would impose a manifest injustice as defined in  
24           section 39-01-01 and the defendant has accepted responsibility for the crime  
25           or cooperated with law enforcement. However, a defendant convicted of a  
26           class AA felony under this section may not be sentenced to serve less than  
27           five years of incarceration.

28      b.   Otherwise the offense is a class A felony.

29      **SECTION 5. AMENDMENT.** Section 12.1-20-11 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1           **12.1-20-11. Incest.** A person who intermarries, cohabits, or engages in a sexual act  
2 with another person related to him within a degree of consanguinity within which marriages are  
3 declared incestuous and void by section 14-03-03, knowing such other person to be within said  
4 degree of relationship, is guilty of a class C felony. If the victim is a born alive child, as defined  
5 in section 1 of this Act, the person is guilty of a class B felony.

6           **SECTION 6. AMENDMENT.** Subsection 2 of section 12.1-20-17 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8           2. A person who, knowing that that person is or has been afflicted with acquired  
9 immune deficiency syndrome, afflicted with acquired immune deficiency syndrome  
10 related complexes, or infected with the human immunodeficiency virus, willfully  
11 transfers any of that person's body fluid to another person is guilty of a class A  
12 felony. The person is guilty of a class AA felony if the victim is under the age of  
13 fifteen or the victim is a born alive child as defined in section 1 of this Act.

14           **SECTION 7. AMENDMENT.** Section 12.1-27.2-04.1 of the North Dakota Century Code  
15 is amended and reenacted as follows:

16           **12.1-27.2-04.1. Possession of certain materials prohibited.** A person is guilty of a  
17 class C felony if, knowing of its character and content, that person knowingly possesses any  
18 motion picture, photograph, or other visual representation that includes sexual conduct by a  
19 minor. A person is guilty of a class B felony if the minor is a born alive child as defined in  
20 section 1 of this Act.

21           **SECTION 8. STATE TO DEFEND CHALLENGE.** If this Act is enjoined in court, the  
22 attorney general shall defend this Act without consideration of costs. The legislative assembly,  
23 by joint resolution, may appoint one or more of its members who sponsored or cosponsored this  
24 Act, as a matter of right and in the legislative member's official capacity, to intervene to defend  
25 this law in any case in which its constitutionality is challenged.