

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1572

Page 1, line 1, after "A BILL" replace the remainder of the bill with "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 and a new section to chapter 12.1-31 of the North Dakota Century Code, relating to the crimes of dismemberment, torture, and abortion; 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 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 in embryonic form, irrespective of the method of reproduction, who possesses a genome specific for and consistent with an individual member of the human species.
 - c. "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:
 - a. The right to life is the paramount right of a person. The right to life is a more fundamental right of a preborn child than the mother's right to liberty or pursuit of happiness, which does not include the right to kill one's own child.
 - b. The legislative assembly may not attempt to immediately solve all the effects of preborn personhood until after thorough study and more importantly until after actually establishing preborn personhood and waiting for the courts to recognize it.
 - c. When the uterus with a child inside is placed back inside the mother, personhood extends to all other preborn children due to equal protection of the laws.
 - d. Because scientists have discovered a way of creating pluripotent cells using umbilical stem cells, there is no need to kill children to obtain their embryonic stem cells.
 - e. It is not yet possible to conclusively determine whether all chemical contraception is abortifacient or not.
 - f. All abortions, whether surgically or chemically induced, terminate the life of a whole, separate, unique, living human being.
 - g. Because all preborn children are human beings, no abortion performed with specific intent is legal. A direct abortion is always performed with the specific intent to bring death to a preborn child.
 - h. When the mother needs a life-saving medical operation, then an indirect abortion is not legally or morally considered abortion because it is not performed with specific intent to bring death to a preborn child. The death of the child may be permitted as an indirect and unavoidable result of steps necessary to save the mother's life. Physicians shall make, in all cases, every effort to preserve both the life of the mother and the life of the preborn child. Physicians shall provide equal care and equal consideration to the mother and child.
 - i. Medical treatment that has as its primary purpose to cure a disease of the pregnant woman or of a twin preborn human being may not be considered abortion. The pregnant woman must be given the choice of which treatment to receive provided it is treatment intended to act upon or cure a disease. This excludes the possibility of ever performing an abortion under the pretense of a medical necessity since a preborn human being is not a disease.
 - j. In the case of twins, all medical procedures that are designed to address specific medical conditions that affect both twins are lawful

provided as long as the physician's actions are performed with the specific intent to save the life of the preborn human being with the highest chance of survival.

k. It is the prerogative of the legislative assembly to immunize from criminal prosecution under section 8 of this Act, the pregnant female upon whom the abortion was performed.

l. If a pregnant woman's health is in danger during a pregnancy, the physician may not be held criminally responsible for unintentionally causing the death of the preborn human being from legitimate treatment administered to the pregnant woman. Chemotherapy, radiation treatment, and other medical procedures that are not intended to cause the death of the preborn human being but that are likely to do so, may not be prohibited if prescribed to cure the pregnant woman. Under no circumstance may abortion be considered legitimate treatment.

3. Sections 1 and 2 of this Act may not be construed to prohibit embryo transfer.

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

Dismemberment - Penalty.

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

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

Torture - Penalty.

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

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

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

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

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

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

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

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

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

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

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

SECTION 8. A new section to chapter 12.1-31 of the North Dakota Century Code is created and enacted as follows:

Abortion.

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

SECTION 9. STATE TO DEFEND CHALLENGE. The legislative assembly, by concurrent resolution, may appoint one or more of its members, as a matter of right and in the legislative member's official capacity, to intervene to defend this Act in any case in which this Act's constitutionality is challenged."

Renumber accordingly