

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:

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

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

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

- 12 1. Any person of the age of fourteen years or older may contract for and receive
13 examination, care, or treatment for sexually transmitted disease, alcoholism, ~~or~~
14 drug abuse, or pregnancy-related care without permission, authority, or consent of
15 a parent or guardian.
- 16 2. For purposes of this section, "pregnancy-related care" means pregnancy testing,
17 prenatal care, and pain management related to pregnancy. This section does not
18 authorize a minor to consent to abortion or otherwise supersede the requirements
19 of chapter 14-02.1. Notwithstanding subsection 1, a physician or other health care
20 professional may not be compelled against the physician's or health care
21 professional's best judgment to provide pregnancy-related care under this section.
- 22 3. If a minor requests pregnancy-related care under this section, the physician or
23 health care professional shall encourage the minor to involve her parents or
24 guardian. A physician or other health care professional who provides
25 pregnancy-related care to a minor under this section may inform the minor's parent
26 or guardian of any pregnancy-related care given or needed if:
- 27 a. In the judgment of the physician or other health care professional:
- 28 (1) Failure to inform the parent or guardian would seriously jeopardize the
29 health of the minor or her unborn child; or
- 30 (2) Informing the parent or guardian would benefit the health of the minor
31 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.