

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1456

Introduced by

Representatives Grande, Brabandt, Heller, Hunskor, Rohr, Toman

Senators Berry, Burckhard, Kilzer, Laffen, Luick, Unruh

1 A BILL for an Act to create and enact two new sections to chapter 14-02.1 and a new  
2 subsection to section 43-17-31 of the North Dakota Century Code, relating to limitations on  
3 abortion after determination of detectable heartbeat in an unborn child and to grounds for  
4 disciplinary action for physicians; and to provide a penalty.

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

6 **SECTION 1.** A new section to chapter 14-02.1 of the North Dakota Century Code is created  
7 and enacted as follows:

8 **Determination of detectable heartbeat in unborn child before abortion - Exception.**

- 9 1. Except when a medical emergency exists that prevents compliance with this  
10 subsection, an individual may not perform an abortion on a pregnant woman before  
11 determining, in accordance with standard medical practice, if the unborn child the  
12 pregnant woman is carrying has a detectable heartbeat. Any individual who performs  
13 an abortion on a pregnant woman based on the exception in this subsection shall note  
14 in the pregnant woman's medical records that a medical emergency necessitating the  
15 abortion existed.
- 16 2. If a physician performs an abortion on a pregnant woman before determining if the  
17 unborn child the pregnant woman is carrying has a detectable heartbeat, that  
18 physician is subject to disciplinary action under section 43-17-31.

19 **SECTION 2.** A new section to chapter 14-02.1 of the North Dakota Century Code is created  
20 and enacted as follows:

21 **Abortion after detectable heartbeat in unborn child prohibited - Exception - Penalty.**

- 22 1. Notwithstanding any other provision of law, an individual may not knowingly perform  
23 an abortion on a pregnant woman with the specific intent of causing or abetting the

1 termination of the life of the unborn child the pregnant woman is carrying and whose  
2 heartbeat has been detected according to the requirements of section 1 of this Act.

- 3 2. a. An individual is not in violation of subsection 1 if that individual performs a  
4 medical procedure designed to or intended, in that individual's reasonable  
5 medical judgment, to prevent the death of a pregnant woman, to prevent a  
6 serious risk of the substantial and irreversible impairment of a major bodily  
7 function of the pregnant woman, or to save the life of an unborn child.
- 8 b. Any individual who performs a medical procedure as described in subsection 1  
9 shall declare in writing, under penalty of perjury, that the medical procedure is  
10 necessary, to the best of that individual's reasonable medical judgment, to  
11 prevent the death of the pregnant woman or to prevent a serious risk of the  
12 substantial and irreversible impairment of a major bodily function of the pregnant  
13 woman. That individual also shall provide in that written document, under penalty  
14 of perjury, the medical condition of that pregnant woman that the medical  
15 procedure performed as described in subdivision a assertedly will address, and  
16 the medical rationale for the conclusion that the medical procedure is necessary  
17 to prevent the death of the pregnant woman or to prevent a serious risk of the  
18 substantial and irreversible impairment of a major bodily function of the pregnant  
19 woman.
- 20 c. The individual who performs a medical procedure as described in subdivision a  
21 shall place the written documentation required under subdivision b in the  
22 pregnant woman's medical records and shall maintain a copy of the written  
23 documentation in the individual's own records for at least seven years.
- 24 3. An individual is not in violation of subsection 1 if that individual has performed an  
25 examination for the presence of a heartbeat in the unborn child utilizing standard  
26 medical practice and that examination does not reveal a heartbeat in the unborn child  
27 or the individual has been informed by a physician who has performed the  
28 examination for unborn child's heartbeat that the examination did not reveal a  
29 heartbeat in the unborn child.
- 30 4. It is a class C felony for an individual to willingly perform an abortion in violation of  
31 subsection 1. The pregnant woman upon whom the abortion is performed in violation

1           of subsection 1 may not be prosecuted for a violation of subsection 1 or for conspiracy  
2           to violate subsection 1.

3           5. This section does not prohibit the sale, use, prescription, or administration of a  
4           measure, drug, or chemical designed for contraceptive purposes.

5           **SECTION 3.** A new subsection to section 43-17-31 of the North Dakota Century Code is  
6 created and enacted as follows:

7           The performance of an abortion on a pregnant woman prior to determining if the  
8           unborn child the pregnant woman is carrying has a detectable heartbeat, as provided  
9           in subsection 1 of section 1 of this Act.