

HOUSE BILL NO. 1313

Introduced by

Representatives Hoverson, Bellew, Ertelt, Kading, Magrum

1 A BILL for an Act to create and enact section 12.1-17.1-09 of the North Dakota Century Code,
2 relating to promoting the commission of an abortion; to amend and reenact sections
3 12.1-17.1-02 and 12.1-17.1-07 of the North Dakota Century Code, relating to murder of an
4 unborn child and exceptions for offenses against unborn children; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 12.1-17.1-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **12.1-17.1-02. Murder of an unborn child.**

9 1. a. A person is guilty of murder of an unborn child, a class AA felony, if the person:

10 a. (1) Intentionally or knowingly causes the death of an unborn child;

11 b. (2) Causes the death of an unborn child under circumstances manifesting
12 extreme indifference to the value of the life of the unborn child or the
13 pregnant woman; or

14 e. (3) Acting either alone or with one or more other persons, commits or attempts
15 to commit treason, robbery, burglary, kidnapping, felonious restraint, arson,
16 gross sexual imposition, or escape and, in the course of and in furtherance
17 of ~~such~~the crime or of immediate flight ~~therefrom~~from the crime, the person,
18 or another participant, if any, causes the death of an unborn child; except
19 that in any prosecution under this subsection in which the defendant was
20 not the only participant in the underlying crime, it is an affirmative defense
21 that the defendant:

22 ~~(1)~~(a) Did not commit the homicidal act or in any way solicit, command,
23 induce, procure, counsel, or aid the commission ~~thereof~~of the act;

- 1 (2)(b) Was not armed with a firearm, destructive device, dangerous weapon,
2 or other weapon that under the circumstances indicated a readiness
3 to inflict serious bodily injury;
- 4 (3)(c) Reasonably believed that no other participant was armed with such a
5 weapon; and
- 6 (4)(d) Reasonably believed that no other participant intended to engage in
7 conduct likely to result in death or serious bodily injury.

8 Subdivisions a and b

9 b. Paragraphs 1 and 2 of subdivision a are inapplicable in the circumstances
10 covered by subsection 2.

11 2. A person is guilty of murder of an unborn child, a class A felony, if the person causes
12 the death of an unborn child under circumstances which would be class AA murder,
13 except that the person causes the death of the unborn child under the influence of
14 extreme emotional disturbance for which there is reasonable excuse. The
15 reasonableness of the excuse must be determined from the viewpoint of a person in
16 the person's situation under the circumstances as the person believes them to be. An
17 extreme emotional disturbance is excusable, within the meaning of this subsection
18 only, if it is occasioned by substantial provocation or a serious event or situation for
19 which the offender was not culpably responsible.

20 3. This section applies to any person that willingly performs an abortion of an unborn
21 child for any reason other than to save the life of the pregnant woman.

22 **SECTION 2. AMENDMENT.** Section 12.1-17.1-07 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **12.1-17.1-07. Exception.**

25 This chapter does not apply to acts or omissions that cause the death or injury of an unborn-
26 child if those acts or omissions are committed during an abortion performed by or under the
27 supervision of a licensed physician to which the pregnant woman has consented, nor does it
28 apply to acts or omissions that are committed pursuant to usual and customary standards of
29 medical practice during diagnostic or therapeutic treatment performed by or under the
30 supervision of a licensed physician.

1 **SECTION 3.** Section 12.1-17.1-09 of the North Dakota Century Code is created and
2 enacted as follows:

3 **12.1-17.1-09. Promoting the commission of an abortion.**

4 A person that intentionally or knowingly aids, abets, facilitates, solicits, or incites another
5 person to commit an abortion is guilty of a class C felony.