

Introduced by

Representative Murphy

1 A BILL for an Act to create and enact sections 14-02.1-04.3, 14-02.1-04.4, and 14-02.1-04.5 of
2 the North Dakota Century Code, relating to the creation of an abortion approval committee, a
3 framework for abortion, and an emergency medical exception; to amend and reenact sections
4 12.1-19.1-03, 14-02.1-02, 14-02.1-02.1, 14-02.1-02.2, and 14-02.1-03, subsection 1 of section
5 14-02.1-03.1, sections 14-02.1-05, 14-02.1-07, 14-02.1-08, 14-02.1-09, and 14-10-15, and
6 subsection 3 of section 14-10-19 of the North Dakota Century Code, relating to abortion
7 procedures, consent, and reporting requirements; and to repeal sections 14-02.1-03.4,
8 14-02.1-03.5, and 14-02.1-04 of the North Dakota Century Code, relating to abortion
9 restrictions.

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

11 **SECTION 1. AMENDMENT.** Section 12.1-19.1-03 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **12.1-19.1-03. Exceptions.**

14 This chapter does not apply to:

- 15 1. ~~An abortion deemed necessary based on reasonable medical judgment which was~~
16 ~~intended to prevent the death or a serious health risk to the pregnant female performed~~
17 ~~in accordance with chapter 14-02.1.~~
- 18 2. ~~An abortion to terminate a pregnancy that based on reasonable medical judgment~~
19 ~~resulted from gross sexual imposition, sexual imposition, sexual abuse of a ward, or~~
20 ~~incest, as those offenses are defined in chapter 12.1-20, if the probable gestational~~
21 ~~age of the unborn child is six weeks or less.~~
- 22 3. An individual assisting in performing an abortion if the individual was acting within the
23 scope of that individual's regulated profession, was under the direction of or at the

1 direction of a physician, and did not know the physician was performing an abortion in
2 violation of this chapter.

3 **SECTION 2. AMENDMENT.** Section 14-02.1-02 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **14-02.1-02. Definitions.**

6 As used in this chapter:

- 7 1. "Abortion" means the act of using or prescribing any instrument, medicine, drug, or
8 any other substance, device, or means with the intent to terminate the clinically
9 diagnosable pregnancy of a woman, including the elimination of one or more ~~unborn-~~
10 ~~children~~fetuses in a multifetal pregnancy, with knowledge that the termination by those
11 means will with reasonable likelihood cause the death of the ~~unborn-child~~fetus. Such
12 use, prescription, or means is not an abortion if done with the intent to:
- 13 a. Remove a dead ~~unborn-child~~fetus caused by spontaneous abortion;
 - 14 b. Treat a woman for an ectopic pregnancy; or
 - 15 c. Treat a woman for a molar pregnancy.
- 16 2. "Abortion facility" means a licensed healthcare facility in which abortions are
17 performed. The term includes a clinic, ambulatory surgical center, or physician's office,
18 ~~or any other place or facility in which abortions are performed or prescribed, other-~~
19 ~~than. The term does not include a hospital.~~
- 20 3. "Abortion-inducing drug" means a medicine, drug, or any other substance prescribed
21 or dispensed with the intent of causing an abortion.
- 22 4. ~~"Drug label" means the pamphlet accompanying an abortion-inducing drug which-~~
23 ~~outlines the protocol tested and authorized by the federal food and drug administration-~~
24 ~~and agreed upon by the drug company applying for the federal food and drug-~~
25 ~~administration authorization of that drug. Also known as "final printing labeling-~~
26 ~~instructions", drug label is the federal food and drug administration document that~~
27 ~~delineates how a drug is to be used according to the federal food and drug-~~
28 ~~administration approval.~~
- 29 5. "Fertilization" means the fusion of a human spermatozoon with a human ovum.
- 30 5. "Fetus" means an unborn human offspring from conception until birth.

- 1 6. "Hospital" means an institution licensed by the department of health and human
2 services under chapter 23-16 and any hospital operated by the United States or this
3 state.
- 4 7. "Human being" means an individual living member of the species of homo sapiens,
5 ~~including the unborn human being during the entire embryonic and fetal ages from~~
6 ~~fertilization to full gestation.~~
- 7 8. "Infant born alive" means a born child which exhibits either heartbeat, spontaneous
8 respiratory activity, spontaneous movement of voluntary muscles or pulsation of the
9 umbilical cord if still attached to the child.
- 10 9. "Informed consent" means voluntary consent to abortion by the woman upon whom
11 the abortion is to be performed or induced provided:
- 12 a. The woman is told the following by the physician who is to perform the abortion,
13 by the referring physician, or by the physician's agent, ~~at least twenty-four hours~~
14 ~~before the abortion:~~
- 15 (1) The name of the physician who will perform the abortion;
- 16 (2) ~~The abortion will terminate the life of a whole, separate, unique, living~~
17 ~~human being;~~
- 18 (3) The particular medical risks associated with the particular abortion
19 procedure to be employed including, when medically accurate, the risks of
20 infection, hemorrhage, danger to subsequent pregnancies, and infertility;
- 21 (4)(3) The probable gestational age of the ~~unborn child~~fetus at the time the
22 abortion is to be performed; and
- 23 (5)(4) The medical risks associated with carrying her child to term.
- 24 b. ~~The woman is informed, by the physician or the physician's agent, at least~~
25 ~~twenty-four hours before the abortion:~~
- 26 (1) ~~That medical assistance benefits may be available for prenatal care,~~
27 ~~childbirth, and neonatal care and that more detailed information on the~~
28 ~~availability of that assistance is contained in the printed materials given to~~
29 ~~her as described in section 14-02.1-02.1;~~

- 1 (2) ~~That the printed materials given to her and described in section-~~
2 ~~14-02.1-02.1 describe the unborn child and list agencies that offer-~~
3 ~~alternatives to abortion;~~
- 4 (3) ~~That the father is liable to assist in the support of her child, even in-~~
5 ~~instances in which the father has offered to pay for the abortion; and~~
- 6 (4) ~~That she is free to withhold or withdraw her consent to the abortion at any-~~
7 ~~time without affecting her right to future care or treatment and without the-~~
8 ~~loss of any state or federally funded benefits to which she might otherwise-~~
9 ~~be entitled.~~
- 10 e. The woman certifies in writing, before the abortion, that the information described
11 in ~~subdivisions a and b~~subdivision a has been furnished to her.
- 12 ~~d.c.~~ Before the performance of the abortion, the physician who is to perform or induce
13 the abortion or the physician's agent receives a copy of the written certification
14 prescribed by subdivision ~~eb~~.
- 15 e. ~~The physician has not received or obtained payment for a service provided to a-~~
16 ~~patient who has inquired about an abortion or has scheduled an abortion before-~~
17 ~~the twenty-four-hour period required by this section.~~
- 18 10. "Medical emergency" means a condition that, in reasonable medical judgment, so
19 complicates the medical condition of the pregnant woman that it necessitates an
20 immediate abortion to prevent her death or a serious health risk.
- 21 11. "Physician" means an individual licensed to practice medicine or osteopathy under
22 chapter 43-17 or a physician who practices in the armed services of the United States
23 or in the employ of the United States.
- 24 12. "Probable gestational age of the ~~unborn child~~fetus" means what, in reasonable
25 medical judgment, will with reasonable probability be the gestational age of the ~~unborn-~~
26 ~~child~~fetus.
- 27 13. "Reasonable medical judgment" means a medical judgment that would be made by a
28 reasonably prudent physician, knowledgeable about the case and the treatment
29 possibilities with respect to the medical conditions involved.
- 30 14. "Serious health risk" means a condition that, in reasonable medical judgment,
31 complicates the medical condition of the pregnant woman so that it necessitates an

1 abortion to prevent substantial physical impairment of a major bodily function, not
2 including any psychological or emotional condition. The term may not be based on a
3 claim or diagnosis that the woman will engage in conduct that will result in her death or
4 in substantial physical impairment of a major bodily function.

5 15. ~~"Unborn child" means the offspring of human beings from conception until birth.~~

6 16. "Viable" means the ability of ~~an unborn child~~ a fetus to live outside the mother's womb,
7 albeit with artificial aid.

8 **SECTION 3. AMENDMENT.** Section 14-02.1-02.1 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **14-02.1-02.1. Printed information - Referral service.**

11 1. The department of health and human services shall publish ~~in English, and in every~~
12 ~~other language that the department determines is the primary language of a significant~~
13 ~~number of state residents,~~ the following materials in an easily comprehensible printed
14 materials and scientifically accurate format:

15 a. Geographically indexed materials designed to inform the woman of public and
16 private agencies and services available to assist a woman through pregnancy,
17 upon childbirth, and while the child is dependent, including adoption agencies.
18 The materials must include a comprehensive list of the agencies available, a
19 description of the services they offer and a description of the manner, ~~including~~
20 ~~telephone numbers,~~ in which they might be contacted, ~~or, at the option of the~~
21 ~~department, printed materials, including a toll-free, twenty-four-hour-a-day~~
22 ~~telephone number that may be called to obtain, orally, such a list and description~~
23 ~~of agencies in the locality of the caller and of the services they offer.~~ The
24 materials must state that it is unlawful for any individual to coerce a woman to
25 undergo an abortion and that if a minor is denied financial support by the minor's
26 parent, guardian, or custodian due to the minor's refusal to have an abortion
27 performed, the minor is deemed to be emancipated for the purposes of eligibility
28 for public assistance benefits, except that those benefits may not be used to
29 obtain an abortion. The materials also must state that any physician who
30 performs an abortion upon a woman without her informed consent may be liable
31 to her for damages in a civil action and that the law permits adoptive parents to

1 pay costs of prenatal care, childbirth, and neonatal care. The materials must
2 include the following statement: There are many public and private agencies
3 willing and able to help you to carry your child to term and to assist you and your
4 child after your child is born, whether you choose to keep your child or to place
5 your child for adoption. The state of North Dakota strongly urges you to contact
6 one or more of these agencies before making a final decision about abortion. The
7 law requires that your physician or your physician's agent give you the
8 opportunity to call agencies like these before you undergo an abortion.

9 b. Materials, published in a booklet format, designed to inform the woman of the
10 probable anatomical and physiological characteristics of the unborn child/fetus at
11 ~~two-week~~ gestational increments from the time when a woman can be known to
12 be pregnant to full term, including any relevant information on the possibility of
13 the survival of the unborn child/fetus and color photographs of the development of
14 an unborn child/fetus at ~~two-week~~ gestational increments. The descriptions must
15 include information about brain and heart function, the presence of external
16 members and internal organs during the applicable states of development, and
17 any relevant information on the possibility of the unborn child's survival. The
18 materials must be objective, nonjudgmental, and designed to convey only
19 accurate scientific information about the unborn child/fetus at the various
20 gestational ages. The materials required under this subsection must be reviewed,
21 updated, and reprinted as needed.

22 c. Materials that include information on the support obligations of the father of a
23 child ~~who is born alive~~, including the father's legal duty to support his child, which
24 may include child support payments and health insurance, and the fact that
25 paternity may be established by the father's signature on an acknowledgment of
26 paternity or by court action. The printed material must also state that more
27 information concerning paternity establishment and child support services and
28 enforcement may be obtained by calling state public assistance agencies or
29 human service zones.

30 d. Materials that contain objective information ~~describing~~on the various surgical and
31 drug-induced methods of abortion as well as the immediate and long-term

1 medical risks commonly associated with each abortion method, including the
2 risks of infection, hemorrhage, cervical or uterine perforation or rupture, danger to
3 subsequent pregnancies, ~~the possible increased risk of breast cancer,~~ the
4 possible adverse psychological effects associated with an abortion, and the
5 medical risks associated with carrying a child to term, and information on
6 common causes for a nonviable pregnancy.

7 e. ~~Materials including information it may be possible to reverse the effects of an~~
8 ~~abortion-inducing drug but time is of the essence. The materials must include~~
9 ~~information directing the patient where to obtain further information and~~
10 ~~assistance in locating a medical professional who can aid in the reversal of~~
11 ~~abortion-inducing drugs.~~

12 f. Materials including a notice that the performance of certain abortions is prohibited
13 by law.

14 2. The materials required under subsection 1 must be available at no cost from the
15 department of health and human services upon request ~~and in appropriate number~~ to
16 any person, facility, or hospital, and, except for copyrighted material, must be available
17 on the department's internet website. A woman may not be forced to accept
18 information prepared by the department. The department may make the copyrighted
19 material available on its internet website if the department pays the copyright royalties.

20 **SECTION 4. AMENDMENT.** Section 14-02.1-02.2 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **14-02.1-02.2. Abortion report form.**

23 The department of health and human services shall prepare ~~an abortion compliance report~~
24 ~~form~~ and an abortion data report form to be used by the physician for each abortion performed,
25 as required by section 14-02.1-07. ~~The abortion compliance report form must include a checklist~~
26 ~~designed to confirm compliance with all provisions of this chapter, chapter 14-02.3, chapter~~
27 ~~14-02.6, and section 23-16-14.~~ The abortion data report form must include:

- 28 1. The data called for in the United States standard report of induced termination of
29 pregnancy as recommended by the national center for health statistics; and
30 2. Whether the abortion was:

- 1 a. Necessary in reasonable medical judgment and was intended to prevent the
- 2 death of the pregnant female;
- 3 b. To terminate a pregnancy that resulted from gross sexual imposition, sexual
- 4 imposition, sexual abuse of a ward, or incest, as those offenses are defined in
- 5 chapter 12.1-20; or
- 6 c. Necessary to prevent a serious health risk.

7 **SECTION 5. AMENDMENT.** Section 14-02.1-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **14-02.1-03. Consent to abortion - Notification requirements.**

- 10 1. A physician may not perform an abortion unless before such performance the
- 11 physician certified in writing that the woman gave her informed consent as defined and
- 12 provided in section 14-02.1-02 and ~~shall certify in writing the pregnant woman's marital~~
- 13 ~~status and age based upon proof of age offered by her.~~
- 14 2. Before the period of pregnancy when the ~~unborn child~~fetus may reasonably be
- 15 expected to have reached viability, an abortion may not be performed upon an
- 16 unemancipated minor unless the attending physician certifies in writing that each of
- 17 the parents of the minor requesting the abortion has been provided by the physician in
- 18 person with the information provided for in section 14-02.1-02 at least twenty-four
- 19 hours before the minor's consent to the performance of abortion or unless the
- 20 attending physician certifies in writing that the physician has caused materials of
- 21 section 14-02.1-02 to be posted by certified mail to each of the parents of the minor
- 22 separately to the last-known addresses at least forty-eight hours before the minor's
- 23 consent to the performance of abortion. If a parent of the minor has died or rights and
- 24 interests of that parent have been legally terminated, this subsection applies to the
- 25 sole remaining parent. When both parents have died or the rights and interests of both
- 26 parents have been legally terminated, this subsection applies to the guardian or other
- 27 person standing in loco parentis. Notification by the attending physician is not required
- 28 if the minor elects not to allow the notification of one or both parents or her guardian
- 29 and the abortion is authorized by the juvenile court in accordance with section
- 30 14-02.1-03.1. None of the requirements of this subsection apply in the case of a
- 31 medical emergency, except that when a medical emergency compels the performance

1 of an abortion, the physician shall inform the woman, before the abortion if possible, of
2 the medical indications supporting the physician's judgment that an abortion is
3 necessary to prevent her death or prevent a serious health risk, and shall certify those
4 indications in writing.

5 ~~2.3.~~ Subsequent to the period of pregnancy when the ~~unborn child~~fetus may reasonably be
6 expected to have reached viability, an abortion, other than an abortion necessary to
7 preserve her life or to prevent a serious health risk, may not be performed upon any
8 woman in the absence of the written consent of a parent, if living, or the custodian or
9 legal guardian of the woman, if the woman is unmarried and under eighteen years of
10 age.

11 ~~3.4.~~ No executive officer, administrative agency, or public employee of the state of North
12 Dakota or any local governmental body has power to issue any order requiring an
13 abortion, nor shall any such officer or entity coerce any woman to have an abortion,
14 nor shall any other person coerce any woman to have an abortion.

15 **SECTION 6. AMENDMENT.** Subsection 1 of section 14-02.1-03.1 of the North Dakota
16 Century Code is amended and reenacted as follows:

- 17 1. A person may not knowingly perform an abortion upon a pregnant woman under the
18 age of eighteen years unless:
- 19 a. The attending physician has secured the written consent of the minor woman and
20 both parents, if living, or the surviving parent if one parent is deceased, or the
21 custodial parent if the parents are separated or divorced, or the legal guardian or
22 guardians if the minor is subject to guardianship;
 - 23 b. The minor woman is married and the attending physician has secured her
24 informed written consent; ~~or~~
 - 25 c. The abortion has been authorized by the juvenile court in accordance with the
26 provisions of this section; or
 - 27 d. The abortion is performed in response to a medical emergency.

28 **SECTION 7.** Section 14-02.1-04.3 of the North Dakota Century Code is created and
29 enacted as follows:

1 **14-02.1-04.3. Abortion approval committee - Duties.**

2 1. A licensed hospital providing medical care under this chapter shall form an abortion
3 approval committee. Each committee must be comprised of the following board
4 certified physicians, licensed under chapter 43-17, on staff at the licensed hospital:

- 5 a. A physician specializing in obstetrics and gynecology;
6 b. A physician specializing in family practice; and
7 c. A physician specializing in internal medicine or pediatrics.

8 2. The abortion committee shall:

- 9 a. Form a decision based upon the woman's medical records, current pregnancy
10 status, and input from the woman's attending physician; and
11 b. Render a decision within five days, or sooner upon request.

12 3. The identity of each physician on the committee must remain confidential. A record,
13 including a physician's identity on an approval committee is not subject to section
14 44-04-18 and section-6 of article XI of the Constitution of North Dakota.

15 4. An abortion approval committee shall determine if a proposed abortion procedure is
16 medically necessary. A decision by the committee to determine a proposed abortion
17 procedure is medically necessary may be approved by a majority of the members of
18 the committee.

19 5. All discussion by a committee must remain confidential. The content of discussion
20 conducted by a committee is protected under the Federal Health Insurance Portability
21 and Accountability Act [42 U.S.C. section 1320d et al; 45 C.F.R. 160-164] and any
22 record of the discussion is not subject to section 44-04-18 and section 6 of article XI of
23 the Constitution of North Dakota.

24 **SECTION 8.** Section 14-02.1-04.4 of the North Dakota Century Code is created and
25 enacted as follows:

26 **14-02.1-04.4. Abortion limitations**

27 1. An abortion procedure may be performed from fertilization through fifteen weeks of
28 gestation. The abortion procedure must be performed:

- 29 a. Under the supervision of a physician licensed under chapter 43-17;
30 b. In a licensed healthcare facility; and
31 c. In compliance with section 14-02.1-03.

- 1 2. An abortion procedure may be performed from sixteen through twenty-six weeks
2 gestation only when:
3 a. Approved for a medical purpose, including a serious health risk, by the licensed
4 hospital's abortion approval committee under section 14-02.1-04.3, and
5 b. Performed by a physician, board certified or board eligible in:
6 (1) Obstetrics and gynecology; or,
7 (2) Family medicine with additional training in obstetrics and gynecology; and
8 c. In compliance with section 14-02.1-03.
9 3. An abortion procedure may be performed from twenty-seven weeks gestation through
10 parturition only when deemed medically required and approved by an abortion
11 approval committee.
12 4. This section does not apply in a medical emergency under section 14-02.1-04.5.

13 **SECTION 9.** Section 14-02.1-04.5 of the North Dakota Century Code is created and
14 enacted as follows:

15 **14-02.1-04.5. Medical emergency abortion procedures.**

16 A medical emergency decision to perform an abortion does not require approval of the
17 abortion committee under 14-02.1-04.3. A medical emergency requiring an abortion procedure
18 may be carried out by any physician licensed under chapter 43-17 in a medical effort to
19 preserve the life of the mother and the fetus, at any point medically necessary during a
20 pregnancy.

21 **SECTION 10. AMENDMENT.** Section 14-02.1-05 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **14-02.1-05. Preserving life of a viable child - Penalty.**

24 An abortion of a viable child may be performed only when there is in attendance a physician
25 other than the physician performing the abortion who shall take control and provide immediate
26 medical care for the viable child born as a result of the abortion. The physician performing it,
27 and subsequent to the abortion, the physician required by this section to be in attendance, shall
28 take all reasonable steps in keeping with good medical practice, consistent with the procedure
29 used, to preserve the life and health of the ~~unborn child~~fetus. Failure to do so is a class C
30 felony.

1 **SECTION 11. AMENDMENT.** Section 14-02.1-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **14-02.1-07. Records required - Reporting of practice of abortion.**

4 1. a. All ~~abortion~~health care facilities and hospitals in which abortions are performed
5 shall keep records, ~~including admission and discharge notes, histories, results of~~
6 ~~tests and examinations, nurses' worksheets, social service records, and progress~~
7 ~~notes, and shall further keep a copy of all written certifications provided for in this~~
8 ~~chapter as well as a copy of the constructive notice forms, consent forms, court~~
9 ~~orders, abortion data reports, adverse event reports, abortion compliance reports,~~
10 ~~and complication reports. All abortion facilities shall keep the following records:~~

11 (1) The number of women who availed themselves of the opportunity to receive
12 and view an ultrasound image of their unborn children pursuant to section
13 14-02.1-04, and the number who did not; and of each of those numbers, the
14 number who, to the best of the reporting abortion facility's information and
15 belief, went on to obtain the abortion.

16 (2) A record of the probable gestational age of the unborn child at the time of
17 the abortion. If a probable gestational age of the unborn child was not made
18 because of a medical emergency, the record must include the basis of the
19 determination that a medical emergency existed in accordance with state
20 and federal law.

21 b. The medical records of abortion facilities and hospitals in which abortions are
22 performed and all information contained therein must remain confidential and
23 may be used by the department of health and human services only for gathering
24 statistical data and ensuring compliance with ~~the provisions of this chapter.~~

25 c. Records must be maintained in the permanent files of the hospital or abortion
26 facility for a period of not less than seven years.

27 d. An abortion committee formed by a hospital under section 14-02.1-04.3 shall
28 report annually:

29 (1) The number of cases considered by the committee; and

30 (2) The number of cases approved by the committee.

- 1 2. a. An individual ~~abortion compliance report and an~~ individual abortion data report for
2 each abortion performed upon a woman must be completed ~~by her attending~~
3 physician. The abortion data report must be confidential and may not contain the
4 name of the woman. The abortion data report must include the data called for in
5 the United States standard report of induced termination of pregnancy as
6 recommended by the national center for health statistics and whether:
- 7 (1) The abortion was performed to prevent the death of the pregnant female;
8 (2) The pregnancy resulted from gross sexual imposition, sexual imposition,
9 sexual abuse of a ward, or incest, as those offenses are defined in chapter
10 12.1-20; or
11 (3) Necessary due to a medical emergency.
- 12 b. All ~~abortion compliance reports must be signed by the attending physician within~~
13 ~~twenty-four hours and submitted to the department of health and human services~~
14 ~~within ten business days from the date of the abortion.~~ All abortion data and
15 complication reports must be signed by the attending physician and submitted to
16 the department of health and human services within thirty days from the date of
17 the abortion. If a physician provides an abortion-inducing drug to another for the
18 purpose of inducing an abortion and the physician knows that the individual
19 experiences during or after the use an adverse event, the physician shall provide
20 a written report of the adverse event within thirty days of the event to the
21 department of health and human services and the federal food and drug
22 administration via the medwatch reporting system. For purposes of this section,
23 "adverse event" is defined based upon the federal food and drug administration
24 criteria given in the medwatch reporting system. ~~If a determination of probable~~
25 ~~gestational age of the unborn child was not made, the abortion compliance report~~
26 ~~must state the basis of the determination that a medical emergency existed.~~
- 27 c. A copy of the abortion report, any complication report, and any adverse event
28 report must be made a part of the medical record of the patient at the facility or
29 hospital in which the abortion was performed. In cases when post-abortion
30 complications are discovered, diagnosed, or treated by physicians not associated
31 with the facility or hospital where the abortion was performed, the department of

1 health and human services shall forward a copy of the report to that facility or
2 hospital to be made a part of the patient's permanent record.

3 d. The department of health and human services is responsible for collecting ~~all-~~
4 ~~abortion compliance reports,~~ abortion data reports, complication reports, and
5 adverse event reports and collating and evaluating all data gathered from these
6 reports and shall annually publish a statistical report based on data from
7 abortions performed in the previous calendar year. ~~All abortion compliance-~~
8 ~~reports received by the department of health and human services are public-~~
9 ~~records. Except for disclosure to a law enforcement officer or state agency, the-~~
10 ~~department may not disclose an abortion compliance report without first removing~~
11 ~~any individually identifiable health information and any other demographic-~~
12 ~~information, including race, marital status, number of previous live births, and-~~
13 ~~education regarding the woman upon whom the abortion was performed.~~

14 e. The department of health and human services shall report to the attorney general
15 any apparent violation of this chapter.

16 **SECTION 12. AMENDMENT.** Section 14-02.1-08 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **14-02.1-08. Protection of infant born alive - Penalty.**

19 1. A person is guilty of a class C felony if the person knowingly, or negligently, causes the
20 death of an infant born alive.

21 2. Whenever an ~~unborn child~~ fetus who is the subject of abortion is born alive and is
22 viable, it becomes an abandoned child and a child in need of protection, unless:

23 a. The termination of the pregnancy is necessary to preserve the life of the mother;
24 or

25 b. The mother and her spouse, or either of them, have agreed in writing in advance
26 of the abortion, or within seventy-two hours thereafter, to accept the parental
27 rights and responsibilities for the ~~unborn child~~ fetus if it survives the abortion
28 procedure.

29 **SECTION 13. AMENDMENT.** Section 14-02.1-09 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **14-02.1-09. Humane disposal of nonviable ~~unborn child~~fetus.**

2 The physician performing the abortion, if performed outside of a hospital, must see to it that
3 the ~~unborn child~~fetus is disposed of in a humane fashion under ~~regulations~~rules established by
4 the department of health and human services. A licensed hospital in which an abortion is
5 performed must dispose of a dead ~~unborn child~~fetus in a humane fashion in compliance with
6 ~~regulations promulgated~~rules adopted by the department of health and human services.

7 **SECTION 14. AMENDMENT.** Section 14-10-15 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **14-10-15. ~~Unborn child~~Fetus - When deemed existing person.**

10 A ~~child~~fetus conceived but not born is to be deemed an existing person so far as may be
11 necessary for its interests in the event of its subsequent birth.

12 **SECTION 15. AMENDMENT.** Subsection 3 of section 14-10-19 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 3. A physician or other health care professional who, pursuant to subsection 1, provides
15 pregnancy care services to a minor may inform the parent or guardian of the minor of
16 any pregnancy care services given or needed if the physician or other health care
17 professional discusses with the minor the reasons for informing the parent or guardian
18 prior to the disclosure and, in the judgment of the physician or other health care
19 professional:

- 20 a. Failure to inform the parent or guardian would seriously jeopardize the health of
21 the minor or her ~~unborn child~~fetus;
- 22 b. Surgery or hospitalization is needed; or
- 23 c. Informing the parent or guardian would benefit the health of the minor or her
24 ~~unborn child~~fetus.

25 **SECTION 16. REPEAL.** Sections 14-02.1-03.4, 14-02.1-03.5, and 14-02.1-04 of the North
26 Dakota Century Code are repealed.