

ND House Human Services Committee

HB 1373

David Hanson

Mr. Chairman and members of the committee, I apologize I could not be present today, but thank you for allowing me the opportunity to express my thoughts on this bill. I'm testifying in favor of HB 1373 because it will advance the constitutional recognition of the personhood and protection of those people who are yet unborn.

Now when I read this bill, I understood it to provide definitions and recognition of the unborn children as persons as it relates to murder, assaults, and wrongful deaths. You might be questioning if we can legally pass this bill and/or if we should pass this bill. I hope point out a few things as to the constitutionality of it.

The question of when life begins is a major topic in the abortion debate that has mostly been avoided, because if this question is finally answered it settles this issue. Without getting into too much detail, I will simply say that the embryo or fetus has distinct DNA and a heartbeat separate from its mother. This is enough to justify that the fetus is a separate living individual that deserves the equal protection under the law that you and I enjoy today.

In the 5th Amendment of the U.S. Constitution it guarantees that, "No person shall...be deprived of life, liberty, or property, without due process of law;". It says the same thing in the 14th Amendment, but the 14th Amendment goes further to say, "nor deny to any person within its jurisdiction the equal protection of the laws." Clearly then, if we assert that the unborn person is in fact a person, their right to life is indeed being taken away without due process as required under the Constitution.

The 14th Amendment in Section 5. gives Congress the power to "enforce this article with appropriate legislation". There have been many bills introduced into Congress that would acknowledge that from conception until death that each person was protected under the 14th Amendment. This would have essentially required the states to treat abortion as murder. Fortunately, Roe v. Wade has been overturned, but even that Court acknowledged that, "If this suggestion of personhood is established, the appellant's case, of course collapses, (410 U.S. 113,157) for the fetus' right to life would then be guaranteed specifically by the [14th] Amendment." The Court went on to say, "We need not resolve the difficult question of when life begins. When those trained in their respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in development of man's knowledge, is not in a position to speculate as to the answer." The good news is we are already well past the stage of knowing when life begins; we need only to finally answer and recognize it.

So, HB 1373 would not wait for Congress to require North Dakota or any other state to recognize the fetus as a person and a right to the equal protection of the law. Our state has the responsibility to provide justice for all persons within our borders.

Should we pass it? Yes, this bill would recognize the 5th and 14th Amendment's right to life that cannot be taken without due process of law and that each person is protected equally under the law. This bill will go a long way to recognizing and protecting the unborn child's inalienable right to live. Thank you for your time.