

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1227

2005 HOUSE HUMAN SERVICES

HB 1227

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1227

House Human Services Committee

Conference Committee

Hearing Date February 9, 2005

Tape Number	Side A	Side B	Meter #
1	x		530-6800

Committee Clerk Signature



Minutes:

**Chairman Price** opened the hearing on HB 1227.

She indicated there would be a limit of one hour for pro's and one hour for con's.

**Rep. Dan Ruby, Dist. 38:** Testimony attached.

**Rep. Nelson:** The exemption in state law now, do you know when that was added and the reason for that.

**Rep. Ruby:** Don't know when it was put in, similar to CA. law. I would guess that when this was written, for it to be passed, without controversy, that clause was probably added for the bill to be passed.

**Rep. Devlin:** As I read the bill, to make this clear, you are not just talking about the Dr., your talking about the potential parent, the young mother and father. You would put both in jail for life also?

**Rep. Ruby:** It present law, it doesn't specify the mother/father, it's simply the intentional termination of life. Law enforcement/prosecutors would have to try to put together a case for that, it would be up to them to decide whether they would have a case on anything like that.

Unless it was a morning after pill, I don't see how they could charge someone else, other than the Dr. If it is someone intentionally trying to end the life of that child, then they could be charged.

**Rep. Devlin:** Maybe we are beating around the bush abit here, but if the mother or the father intentionally decides to have an abortion, under this bill your proposing, it would be life in prison, correct?

**Rep. Ruby:** It would be difficult to prove a double A felony, you have to have beyond reasonable doubt and proof that is what is knowingly. I know that it was criticism to this bill last session, that it was applied to the mother. I don't know how law enforcement would deal with this. If someone intentionally ends the life of the child, they should be prosecuted, just as any one who takes a life.

**Rep. Weisz:** Who is going to decide the line, if there is any issue, to save the life of one or the other. Isn't this taking it out of the Dr. hands? It seems that anything he does that would cause the one or the other, seems he would be wailcing a tight rope now, how are you going to decide that?

**Rep. Ruby:** I thought about that and applied a real world and how it works. If there is a car accident with a pregnant woman is critically injured. The Dr. attempts to save both, however, they find they may lose the baby, they will deliver the baby to attempt to save its life, in the process of saving the mother. That is how I see that scenario.

**Rep. Weisz:** You don't see that as a conflict with the language you have introduced

**Rep. Ruby:** No, I don't.

**Chairman Price:** Why didn't you just address the exception piece of it and just take out that section?

**Rep. Ruby:** We could remove the exception, but allowing the language to the duties of the physician. If this bill would pass, I would ask that an amendment **be put on to** remove that exception.

**Chairman Price:** If the father writes a check to the abortion clinic, that would be willing and knowingly, correct?

**Rep. Ruby:** I don't know the waiver laws to give a good answer to that. (Tape is in inaudible)  
It is a separate human being.

**MR# 1655-1798.**

**Rep. Sitte:** 25 years ago, I lost my first child, and pregnant with the second child. Dr. said you will probably lose this one also, I will schedule you for a D/C. I told him I felt different about this and went to a clinic across town, where a Dr. told me of a new procedure called a Sonogram. I found out I was 4 weeks pregnant. He is now my 6' 5" son named Dan. I get emotional when I remember that day, but I think we all need to look at the emotional part of this issue. Tape MR inaudible 196 1-2009. Copy of 1973 Session laws attached, proposed amendments regarding Line, replace "on" with "except for the pregnant women and on line 8 just insert a sentence, " a woman that unintentional destroys or terminates the life of her pre born child is guilty of a Class A misdemeanor", which put in text with the laws prior to 1973.

**Senator Tollefson, Dist. 38.** If you study history, Adolph Hitler became very effective and was able to manipulate the laws that would allow him to take the lives of millions of Jewish people and gypsies throughout Europe called the holocaust. We in the US, were involved in slavery. The slaves were considered a non-person and was not protected by the law. What has happened now, we don't recognize an unborn child, it is nothing in the eyes of the law. This bill addresses this in a direct way. It says it is murder to take the life of an unborn child, that unborn child, in reality, is a person, that should and is protected under the laws in the US. I am a strong supporter HB 1227 and of life. I hope you put that in consideration when voting on the bill. Tape is inaudible

**MR2381-2479.**

**Chairman Price:** If we do this, we will go to court, would it be better to have an open election?

**Sen. Tollefson.** We need more education on the issues, I am afraid it wouldn't be addressed properly, until the process of informing the public is completed. I truly believe that abortion is only for saving the mother and the child.

Tape inaudible **MR2516-2576.**

**Chairman Price:** Thank you Sen. Tollefson, but I must say, I have more faith in our citizens than that.

**Mr. Peter Carey, Fargo.**

If you were representatives 150 years ago, how would you have dealt with the black issue, or 65 years ago, with the concentration camps. You have the ability to change that situation today. We have rules, Thou shalt not kill, Abortion is murder. You talked about giving the vote to the citizens, how many would stand up against those who were in charge. We lose a classroom of

children every week (30). This city of Minot would have been lost. I would like to challenge you to quit discriminating against the pre-born. They deserve the same protection that we have.

Please help fight this problem. Pass HB 1227. Let this legislation go forward and tell the world/nation that we will not kill pre born children.

**Chairman Price:** I understand your remarks but I still believe that a vote of the people would be more effective than the legislator. That is my only comment on that.

**David Haberberger:** I will only speak for a moment, I ask you that you research the 10th and 14th amendments. Roe vs. Wade was established on a lie. During the next generations, we will be remembered for selling souls to abortion. I ask that you stand on the truth.

**Yule Stevenson:** I feel this is an extremely important bill. We have to look at this as murder, it is killing defenseless children, it is a curse on our nation. The Fargo Clinic is a slaughter house. Men are just as guilty, this is stupid to let this going on. These pre born children are innocent, There are so many families that would adopt those children that were not wanted. This is so emotionally devastating.

**Side B:**

**Mary Armstrong:** In favor, testimony attached.

**Teresa Armstrong:** In favor, testimony attached.

**Patti Armstrong:** In favor, testimony attached.

**Tim Lindgren, ND Life League.** Testimony attached.

I am not going to read my testimony, but want you to know that ND Life League supports this bill as written. I would like to address some of the issues that have been raised already. One was "how would the AA felony, apply to the mother? Prior to R vsW, when there were penalties that

did apply to women, prosecutors usually used that penalty to solicit testimony from the mothers in order to prosecute the abortionist. The mother is not prosecuted, but can be prosecuted, which helps solicit that information. That is how that law was handled. One other thing, what about the life of the mother. Tape inaudible 590-630. The Dr. tries to save the baby, there is a major difference in abortion than try to save the life of a child. ND Life League supports this bill as written.

**Kathy Kirkeby:** Testimony attached.

**Alexa Ortis, Oriska, ND** Testimony attached.

**Karen Mikkelson:** I have questions about the amendments and Class A Felony, maximum one year in prison, \$2000.00 fine or both. The sentence for manslaughter is more. I feel the legal definitions need to be met. Please let our state do something for the unborn children.

**Phil Heich:** I just want you to remember that this is **intentional murder**.

**Opposition:**

**MR: 2091**

**Jessica McSparrow-Brein, Sexual Assault Policy and Program Coordinator, ND Council on Abused Women Services and the Coalition against Sexual Assault.** Testimony Attached.

**Stacey Pfligher, Ex. Director of ND Right to Life.** I stand in opposition of this bill. Test. Att.

**Rep. Damnschen:** Wouldn't that situation be better dealt with individually, aren't there instances that a mother chooses an abortion?

**S. Pfliger:** I realize there are some of those instances, but I am concerned for under 15 year olds that have abortions and could be put in jail for life.

**Rep. Damschen:** Is that sentence mandatory, or is there no determination of criminally responsible.

**Rep. Weisz:** I have a question for J. Brein, do you have any numbers on the sexual assault on ND rates, regarding pregnancies?

**J. Brein:** You don't have to become pregnant from sexual assault, but there were 897 victims that reported sexual assault last year.

**Rep. Sandvig:** When a women becomes pregnant through rape, how can you justify emergency contraception?

**J. Brein:** I would have to refer you to a Dr. There are many intricacies involved in making those determinations.

**Christopher Dotson, Ex. Dir. of the ND Catholic Conference.**

This Bishop's position is against this bill, this bill is wrong, because there should be no penalty for a women. We feel that more than not, this situation is making the woman a victim again.  
Testimony attached.

**Rep. Damnschen:** Is there nothing or process that is available from the law, to determine the responsibility?

**C. Dotson:** Yes, they could choose not to prosecute, but under this law, they would have to prosecute.

**Rep. Damschen:** Doesn't the premise of being innocent until proven guilty still apply and wouldn't the mother have the same defense as anyone else charged with a crime.

**C. Dotson:** The answer is correct, but I am not sure that it applies to this situation. Tape is inaudible.

**MR 3412-3469.**

**Chairman Price:** If a woman goes to MN. can a woman be charged with abortion under this law?

**C. Dotson:** Yes.

**Rep. Sandvig:** Before R vs.W, if a women had an abortion, was a woman ever convicted of the crime of abortion.

Tape inaudible **MR3560-3813.**

**Rep. Devlin:** Why hasn't the church pursued this and helped taking this to the people?

**C. Dotson:** The church will participate in legislation when it feels it is the right time, this is just a law.

**Rep. Devlin:** In the last paragraph, in Mr. Forsyth's testimony, is that your position or your church's position as well?

**C. Dotson:** Rep. Devlin, No, it is abit over the top, about mailing the check. I serve on many right to life agencies.

**Rep. Damschen:** The position that the Catholic church is very clear, and I applaud them for their position but doesn't it seem like a law that made it a criminal offense to have an abortion would be a fairly effective deterrent for a 14-15 year old girl, and if that is the case, if life is the issue, why wouldn't an organization that is so outspoken, support that.

**C. Dotson:** In Catholic teachings, not everything that is morally wrong needs to be prohibited in civil law. You do that what you can do to prevent an evil, and in some cases, you don't need to prevent an evil if it is contrary to public order or breakdown. In this case the main point is that it is not necessary to punish the woman in order to prevent the evil.

**C. Two Eagles:** I am opposed to this bill for several reasons, one is that it makes the mother a victim. That is wrong, she has a tough enough row to hoe, being pregnant. In our cultures, the adult is more valuable over all, we regard abortion as an occasional necessity especially in war time. While ND population is dropping, Mother Earth's is not. We are not the most important species. We have a primary responsibility to take care of all the species and limit our human population ourselves. It is better to prevent conception than have an abortion, but abortion is the answer sometimes. I had Elders who guided me, I have been pregnant twice. I have had two abortions, one that the child was dead, and the other due to cancer. This is her responsibility. I think this a really bad bill and I hope you don't pass it.

**Rep. Damschen:** How do you move in a house that has been destroyed?

**C. Two Eagles:** You don't.

**Rep. Damschen:** It is my believe, the baby has no choice.

**C. Two Eagles:** Mother is responsible. **Chairman Price:** Any more to testify in opposition?

Close hearing on HB 1227.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1227

House Human Services Committee

Conference Committee

Hearing Date Feb. 14, 2005

Tape Number

1

Side A

x

Side B

Meter #

3090-3600

Committee Clerk Signature



Minutes:

**Chairman Price** opened discussion on HB 1227

**Rep. Devlin:** I move Do Not Pass.

**Rep. Nelson:** Second

**Rep. Nelson:** I would like an explanation about the life with out parole for Dr. and Mother.

It seems to me that is pretty steep.

**C. Dotson, Catholic Conferences:** The Catholic Conference and Right to Life do not support this bill and its content. We feel there is an alternative through education and counseling.

**Chairman Price:** Is there any other discussion?

**Vote:** 9-2-1. **Carrier:** Rep. Kreidt.

Date: 2/14/05

Roll Call Vote #: /

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~HB~~ HB1227

House

Human Services

Committee

Check here for Conference Committee.

Legislative Council Amendment Number

Action Taken *Do not Pass*

Motion Made By *Rep Devlin*

Seconded By *Rep Nelson*

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S. Price	✓		Rep.L. Kaldor	✓	
V Chm. G. Kreidt	✓		Rep.L. Potter	✓	
Rep. V. Pietsch	✓		Rep.S. Sandvig		✓
Rep.J.O. Nelson	✓				
Rep.W.R. Devlin	✓				
Rep.T. Porter	<i>AB</i>				
Rep.G. Uglem	✓				
Rep C. Damschen		✓			
Rep.R. Weisz	✓				

Total ( ) *9* No *2*

Absent *1*

Floor Assignment *Rep Kreidt*

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
February 14, 2005 11:56 a.m.

**Module No: HR-29-2755**  
**Carrier: Kreidt**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1227: Human Services Committee (Rep. Price, Chairman) recommends DO NOT PASS (9 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1227 was placed on the Eleventh order on the calendar.**

2005 TESTIMONY

HB 1227

#1

**House Bill 1227**  
**Human Services Committee**  
**Representative Dan J. Ruby**  
**February, 9th 2005**

Madam Chairman and members of the House Human Services Committee, for the record I am Representative Dan Ruby representing District 38.

House Bill 1227 seeks to correct an inconsistency in North Dakota law as it relates to the **intentional** termination of human life. Currently in North Dakota it is against the law to end the life of another human being punishable by life imprisonment without parole as a class AA felony. This includes a preborn child in the case of an action against a pregnant woman that causes the death of the baby. In the event the mother dies a person can be convicted of a double homicide for the mother and the baby. I have included the chapters of the North Dakota Century Code with my testimony and I would call your attention to the title under 12.1-17.1-02 which states "Murder of an unborn child."

The most unbelievable inconsistency to the law is on page two under exceptions where it says, "This chapter does not apply to acts or omissions that cause the death or injury of an unborn child if those acts or omissions are committed during an abortion performed by or under the supervision of a licensed physician to which the pregnant woman has consented." This is a great injustice to the helpless defenseless preborn child. If he or she is killed without consent it's murder but with consent it's abortion. The only thing consistent here is the baby is killed.

Actually, I believe the language under 12.1-17.1-02, the first line and subsection A is the language that should apply to all cases. It says, "A person is guilty of murder of an unborn child, a class AA felony, if the person: Intentionally or knowingly causes the death of an unborn child. This is the existing language currently in law unfortunately with the exception I mentioned on page two. Members of the committee the bill before you simply but so profoundly gives a human the same protection under the law before he or she is born as he or she would have after being born. I think this is the right thing for us to do. North Dakota has allowed the number of babies to be killed that would equal the entire population of my home town of Minot. This at a time when our population dropped and enrollment in our schools has declined.

I could bury you with statistics on this issue but since several others have traveled to be here and probably have more information for you I will yield to questions and then free up time for others to testify. With that I encourage you to give HB 1227 a do pass recommendation and end this tragedy.

1A

**CHAPTER 12.1-17.1  
OFFENSES AGAINST UNBORN CHILDREN**

**12.1-17.1-01. Definitions.** As used in this chapter:

1. "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead embryo or fetus.
2. "Person" does not include the pregnant woman.
3. "Unborn child" means the conceived but not yet born offspring of a human being, which, but for the action of the actor would beyond a reasonable doubt have subsequently been born alive.

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

1. A person is guilty of murder of an unborn child, a class AA felony, if the person:
  - a. Intentionally or knowingly causes the death of an unborn child;
  - b. Causes the death of an unborn child under circumstances manifesting extreme indifference to the value of the life of the unborn child or the pregnant woman;  
or
  - c. Acting either alone or with one or more other persons, commits or attempts to commit treason, robbery, burglary, kidnapping, felonious restraint, arson, gross sexual imposition, or escape and, in the course of and in furtherance of such crime or of immediate flight therefrom, the person, or another participant, if any, causes the death of an unborn child; except that in any prosecution under this subsection in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:
    - (1) Did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid the commission thereof;
    - (2) Was not armed with a firearm, destructive device, dangerous weapon, or other weapon that under the circumstances indicated a readiness to inflict serious bodily injury;
    - (3) Reasonably believed that no other participant was armed with such a weapon; and
    - (4) Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury.

Subdivisions a and b are inapplicable in the circumstances covered by subsection 2.

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

**12.1-17.1-03. Manslaughter of an unborn child.** A person is guilty of manslaughter of an unborn child, a class B felony, if the person recklessly causes the death of an unborn child.

**12.1-17.1-04. Negligent homicide of an unborn child.** A person is guilty of negligent homicide of an unborn child, a class C felony, if the person negligently causes the death of an unborn child.

**12.1-17.1-05. Aggravated assault of an unborn child.** A person is guilty of assault of an unborn child, a class C felony, if that person willfully assaults a pregnant woman and inflicts serious bodily injury on an unborn child.

**12.1-17.1-06. Assault of an unborn child.** A person is guilty of assault of an unborn child, a class A misdemeanor, if the person willfully assaults a pregnant woman and inflicts bodily injury on an unborn child.

**12.1-17.1-07. Exception.** This chapter does not apply to acts or omissions that cause the death or injury of an unborn child if those acts or omissions are committed during an abortion performed by or under the supervision of a licensed physician to which the pregnant woman has consented, nor does it apply to acts or omissions that are committed pursuant to usual and customary standards of medical practice during diagnostic or therapeutic treatment performed by or under the supervision of a licensed physician.

**12.1-17.1-08. Other convictions not prohibited.** A prosecution for or conviction under this chapter is not a bar to conviction of or punishment for any other offense committed by a person as part of the same conduct.

#2

## 1973 Session Laws

SECTION 19.) Chapter 12.1-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

### 12.1-19-01. PROCURING AN ABORTION - PUNISHMENT.)

Every person who administers to any pregnant woman, or who prescribes for any such woman, or who advises or procures any such woman to take, any medicine, drug, or substance, or uses or employs, or procures or advises the use, of any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, shall be guilty of a class C felony.

12.1-19-02. ABORTION - IF MOTHER OR CHILD DIES - PUNISHMENT.) Every person who administers to any woman pregnant with a quick child, or who prescribes for such woman, or who advises or procures any such woman to take, any medicine, drug, or substance whatever, or who uses or employs, or procures or advises the use, of any instrument or other means with intent thereby to destroy such child, unless the same shall have been necessary to preserve the life of such mother, in case the death of the child or of the mother is produced thereby, is guilty of a class B felony.

12.1-19-03. KILLING UNBORN QUICK CHILD IN PERFORMING ABORTION -PUNISHMENT.) The willful killing of an unborn quick child by an injury committed upon the person of the mother of such child, and not prohibited in the preceding section, is a class B felony.

12.1-19-04. SOLICITING OR SUBMITTING TO ATTEMPT AT ABORTION - PUNISHMENT.) Every woman who solicits of any person any medicine, drug, or substance whatever and takes the same, or who submits to any operation or to the use of any means whatever, with intent thereby to procure a miscarriage, unless the same is necessary to preserve her life, shall be guilty of a class A misdemeanor.

12.1-19-05. CONCEALING STILLBIRTH OR DEATH OF INFANT - PUNISHMENT.) Every woman who endeavors either by herself or by the aid of others to conceal the stillbirth of an issue of her body, or the death of any issue under the age of two years, shall be guilty of a class A misdemeanor.

12.1-19-06. CONCEALING STILLBIRTH OR DEATH OF CHILD - SECOND OFFENSE - PUNISHMENT.) Every woman who, having been convicted of endeavoring to conceal the birth of any issue of her body or the death of any such issue under the age of two years, subsequently to such conviction endeavors to conceal any such birth or death of issue of her body, shall be guilty of a class C felony. Every person convicted in any other state or country of this offense shall be punished for any subsequent conviction in this state to the same extent as if the first conviction had taken place in a court of this state.

12.1-19-07. ABORTION - TESTIMONY OF PERSON INJURED MUST BE CORROBORATED.) Upon a trial for procuring or attempting to procure an abortion, or aiding or assisting therein, the defendant cannot be convicted upon the testimony of the person upon whom the abortion was performed unless her testimony is corroborated by other evidence.

## World's smallest baby born in US

**The world's smallest known surviving baby has made her first public appearance at a US hospital, alongside her slightly larger twin sister.**

Rumaisa Rahman weighed just 244g (8.6 ounces) when she was born prematurely in Chicago on 19 September - less than a can of soft drink.

Rumaisa's Indian-born parents hope to take her and sister Hiba to their home in the city by early next month.

"It's a blessing, it's a great blessing," said the girls' mother.

Doctors had waited to announce the girls' birth until after it was clear they were healthy and were nearly ready to leave the hospital.

"They're maintaining their temperature, they don't need an incubator.... They're normal babies," said Dr William MacMillan at Loyola University Medical Center.

Rumaisa was about the size of a mobile phone when she was born, 15 weeks before her due date. She still only weighs 1.18kg (2 pounds 10 ounces).

### Blood pressure

Hiba weighed 563g (1 pound 4 ounces) at birth, and has now reached 2.25kg (5 pounds). She may leave the hospital by the end of the month, but Rumaisa will probably have to stay until early January.

Their mother, Mahajabeen Shaik, 23, developed severe pre-eclampsia, a disorder characterised by high blood pressure and other problems, during pregnancy. She and her husband, Mohammed Abdul Rahman, 32, are originally from Hyderabad, India.

The twins were delivered by Caesarean section at 25 weeks and six days.

Both girls have undergone laser surgery to correct vision problems that are common in premature babies.

Story from BBC NEWS:  
<http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/americas/4116665.stm>

Published: 2004/12/21 22:58:16 GMT

© BBC MMV

Rec'd  
2/11/05

Testimony before the HOUSE HUMAN SERVICES COMMITTEE  
House Bill 1227  
Stacey Pflieger, Executive Director  
ND Right to Life

\*Oppose HB 1227

\*HB 1227 is essentially the same bill introduced during the last legislative session.

\*HB 1227 states that a person is guilty of a class AA felony if the person intentionally destroys or terminates the life of a preborn child. What the bill does not do is define who that person is. I conclude that it encompasses both the abortionist and the mother.

\*NDRL opposes legislation that criminalizes a woman who has an abortion. We believe that the woman is the second victim of the abortion holocaust, not a suspect.

\*Women facing a crisis pregnancy often face coercion into having an abortion. If a woman who is coerced into having an abortion is criminalized, when do we begin charging the boyfriends or husbands, the family members and friends, the counselors, or even the clergy who played might have played a part in the coercion.

I urge the committee to give HB 1227 a **DO NOT PASS** recommendation.

#3

50238.0203  
Title.

Prepared by the Legislative Council staff for  
Representative Sitte  
February 8, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1227

Page 1, line 7, replace "A" with "Except for the pregnant woman, a"

Page 1, line 8, after the period insert "A woman who intentionally destroys or terminates the life of her preborn child is guilty of a class A misdemeanor."

Renumber accordingly

# 4 - against



AMERICAN  
ASSOCIATION OF  
UNIVERSITY  
WOMEN

TESTIMONY ON HB 1227  
ND HUMAN SERVICES COMMITTEE  
February 9, 2005

Madam Chairman and members of the House of Representatives Human Services Committee:

My name is Muriel Peterson, Bismarck resident, who appears before you as President of the Bismarck-Mandan Branch of the American Association of University Women (AAUW). AAUW has 100,000 members nationally, nearly 300 members in North Dakota's 9 local branches.

The U.S. Supreme Court's 1973 ruling in *Roe v. Wade* determined that the right to privacy extends to a woman's decision to terminate her pregnancy. *Roe* also held that states could ban abortion in the third trimester except in cases of life and health endangerment of the woman.

AAUW supports the right of every woman to safe, accessible and comprehensive reproductive health care and believes that **decisions concerning reproductive health are personal and should be made without governmental interference.** AAUW trusts that every woman has the ability to make her own choices concerning her reproductive life within the dictates of her own moral and religious beliefs. AAUW members have made this position an action priority since 1977.

AAUW believes that improved pregnancy prevention programs, new technologies, and access to complete reproductive health services enhance women's reproductive choices. AAUW's advocacy of a woman's right to safe, accessible, and comprehensive reproductive health care without governmental interference is an integral part of its efforts to gain equity and justice for all women.

Thank you Chairman Price for the opportunity to testify in opposition to HB 1227 on behalf of North Dakota's members of the American Association of University Women.

*Promotes equity for all women and girls,  
lifelong education and positive societal change*

5

**Testimony of Tim Lindgren  
State Director  
North Dakota Life League  
On House Bill 1227**

**Chairman Clara Sue Price and members of the Human Services Committee**

Thank you for the opportunity to testify in favor of HB 1227, a bill to outlaw abortion.

My name is Tim Lindgren. I am State Director of North Dakota Life League (NDLL). NDLL is a statewide organization with over 1500 supporting families with representation in every county in the state of North Dakota.

NDLL supports this bill as it is written. The reason for supporting this bill is that it will directly challenge Roe v Wade at its core. To paraphrase Justice Blackmun, he wrote in his opinion that if the unborn child were ever determined by the courts to be a legal person the Roe v Wade ruling would become null and void.

Since 1973, there has never been a state or a bill that has been passed by a legislative body that treated the unborn children as persons consistently and without exception or discrimination. To pass laws that allow abortions for certain reasons i.e., for rape, or incest or life of mother, only reaffirms Justice Blackmun's decision. Footnote 54 of the Roe v Wade decision described for us what Blackmun considered examples of treating unborn children as non-persons in law. They were laws that allowed mothers to abort their children with impunity (exemption from punishment) and laws that allowed unborn babies conceived through rape, incest or when the life of the mother was endangered due to the pregnancy.

I am citing Justice Blackmun to ask this Committee and in so doing to ask the 59<sup>th</sup> legislative body of the state of North Dakota to answer Justice Blackmun's challenge to America. This challenge was set forth in 1973 and to date it has not been answered.

Pass a law, this law, HB 1227 that treats the unborn children, each and everyone without discrimination or exception, as a person. Let the trumpets of this legislative body declare to the US Supreme Court that all members of the human family, from the moment of fertilization to the moment of natural death are legal persons deserving of our government's protection.

Now I would like to address our fellow pro-life friends who would suggest that the mother who intentionally procures an abortion should be immune from any and all civil punishment. As I have explained, this could jeopardize the status of unborn children as legal persons before the court. However, because we too empathize with the difficulties women sometimes face in today's society, NDLL would support an amendment that would set a penalty of a class A misdemeanor for the mother who aborts her baby. Thus, should a mother be charged with the crime of intentionally terminating her unborn child's life, the maximum sentence she could receive would be one year in jail and \$2000?

On behalf of NDLL, I want to ask Chairman Price and members of the Human Services Committee to vote in favor of HB 1227. I would also ask for your vote to amend this bill and set a maximum sentence for women who terminate the life of their unborn child of a class A Misdemeanor. Thank you for this opportunity to testify before this Committee. If you have any questions, I would be happy to respond now or you can reach me at my email address: [ndlife@linkup.net](mailto:ndlife@linkup.net). Thank you!

(b)  
 This is a WorldNetDaily printer-friendly version of the article which follows.  
 To view this item online, visit [http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=30586](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=30586)

**WorldNetDaily**

Tuesday, January 21, 2003



**DAVID KUPELIAN**

## Ending the 30-year war over abortion

Posted: January 21, 2003  
 1:00 a.m. Eastern

By David Kupelian

© 2003 WorldNetDaily.com

It was a Friday evening, and Chad Traywick and his wife, Darda, had just returned to their Houston, Texas, home only to find themselves surrounded by swarms of police – including the SWAT team and a van from the coroner's office.

After police pulled the shocked couple from their truck and patted them down, Det. John Hill informed Traywick that the police wanted to search his house.

As the detective explained, a local photo-finishing store had called police to report that Traywick had apparently beheaded and mutilated a newborn baby and had taken pictures of the infant. The SWAT team had come out in force, prepared to arrest satanic cult members – baby killers who had carried out a ritualistic mutilation connected with some Satan-worship ceremony, and who had the further audacity to photograph their victims.

But when officers entered the house, instead of finding occult paraphernalia associated with child sacrifices, they discovered pro-life and religious posters and books.

Traywick explained to police what had really happened. Newly active in the pro-life movement, Traywick had gone to a local abortion clinic – the Women's Pavilion – at 3 o'clock Saturday afternoon to scope out the best location for conducting a picket of the facility. Finding the building oddly deserted and the door open, he took a quick tour. After wandering through stylish, relaxing waiting areas and immaculate operating rooms, he entered a small back room filled with 15 plastic buckets with lids on. Realizing what they must contain, he snatched one of the buckets and made a fast retreat.

Enlisting the aid of his wife and a friend to videotape and photograph his opening of the container, Traywick slowly lifted out the contents from the bucket. What he found shocked him to the core. Rather than a tiny fetus as he had expected, what he pulled out appeared to be a full-grown baby, whose head and right arm had been ripped from his body and his brain removed. In his agony, the baby had bitten through his own tongue, no doubt while his head, grasped by forceps, was being literally ripped off his body. The little boy had an incision where other organs had apparently been removed – evidence that someone had sought more profit from the baby's death than the \$1,800 the abortion had cost.

Traywick drove the film to the nearest one-hour photo developer. "I explained to them that the pictures were of an aborted baby and asked if they would have any problem or felt uncomfortable developing them," recalls Traywick.

Over the glare of the Christmas rush, the clerk hastily took the negatives and assured Traywick there would be no problem. When he returned for the developed photos, however, the clerk was obviously uncomfortable and nervous. The 35 mm

[http://wnd.com/news/printer-friendly.asp?ARTICLE\\_ID=30586](http://wnd.com/news/printer-friendly.asp?ARTICLE_ID=30586)

3/1/2003

photographs were so horrific that they strained the credibility of Traywick's story, and the store's staffer had called the police to investigate a grisly crime for which he held the evidence. Indeed, when the police saw the photos, they too were convinced a horrific crime had been committed.

After convincing police he was not a baby-killer on that 15th day of December, 1989, Traywick agreed to make a statement at police headquarters the following morning. On Jan. 20, 1990, Chad Traywick buried the aborted baby, whom he named David, after a memorial service attended by over 100 people.

That was 13 years ago yesterday. As we approach tomorrow's 30th anniversary of the Supreme Court's wretched and flagrantly unconstitutional Roe v. Wade abortion decision, I have a suggestion for how to end the war that has raged in this nation for three decades.

All of you "pro-choice" people out there: I'm going to give you the chance, in just a minute, to meet Baby David, to see one of the photos Chad Traywick took.

You don't have to look, of course; you can click out now. You can continue to believe in and cling desperately to your "fundamental constitutional right," "a private decision between a woman and her doctor," "a woman's right to choose" and other tortured euphemisms. But are you willing, just one time, to honestly and calmly confront what that "choice" really means? Baby David's fate, you see, is the result of "choice."

What about it? Are you willing to revisit your precious beliefs, to gaze upon the handiwork of your great and exalted right to "choose"?

**WARNING: THE PHOTO LINKED IN THIS PARAGRAPH IS EXTREMELY DISTURBING AND NOT SUITABLE FOR VIEWING BY CHILDREN or overly sensitive adults.** It depicts Baby David, the 28-week-old "fetus" that was aborted at the Women's Pavilion, a Houston, Texas, abortion clinic. The 16-inch pre-born underwent a D&E abortion, where limbs are ripped off one by one. The head and arm of this baby were literally ripped off the body. Click here to see Baby David.

Look at the photo and weep. Weep for that baby, and for all the other babies that have been tortured and butchered and vacuumed and ripped apart and chemically burned and whose skulls have been crushed and their brains sucked out over the last 30 years. Weep also for the 25 million American women who have been deceived, seduced, intimidated and corrupted into having abortions since 1973. Weep for the profound physical and psychological traumas many of these aborting women carry with them. Yes, weep for the living, as well as for the dead.

I'm sorry if this column is a little disturbing. But you see, I find it more than disturbing that over 40 million American babies have been conveniently, selfishly and heartlessly flushed out of our lives in the name of the Constitution, choice and freedom.

When will the 30-Year War over abortion end? It'll end when we are all able to look at the countless Baby Davids and say, "That's a choice we cannot and shall not make - ever again."

By the way, according to the latest statistics from Planned Parenthood's research wing, the Alan Guttmacher Institute, late-term abortions are up - way up - in America.

---

*author's note: To mark this month's 30th anniversary of the Supreme Court's most controversial decision in history - Roe vs. Wade (Jan. 22, 1973) - WND has dedicated the entire January 2003 edition of our monthly Whistleblower magazine to the subject of abortion in America. This is undoubtedly the most powerful and insightful issue of Whistleblower we have ever produced. Please read it and share it with others.*

*Subscribe to Whistleblower, beginning with January's edition, "ABORTION: The 30-Year War," and for a limited time, also receive a FREE copy of Mark Crutcher's blockbuster 318-page expose of the abortion industry, "Lime S: Exploited by Choice."*

---

*Daniel Kupelian is vice president and managing editor of WorldNetDaily.com and Whistleblower magazine.*

[http://wnd.com/news/printer-friendly.asp?ARTICLE\\_ID=30586](http://wnd.com/news/printer-friendly.asp?ARTICLE_ID=30586)

3/1/2003

8

1227

My name is Teresa Armstrong.  
I am 8 years old.

How would you feel if your  
mother aborted you? ~~I think~~  
~~it should be a crime.~~ From  
the time a woman gets  
pregnant to the time the child  
dies it's alive.

Abortion is just the same as killing  
any other human being. I would  
not be here if my mom chose  
abortion. I think it should be  
a crime.



9

1227

Patti Armstrong  
Bismarck

There's really only one reason to pass this bill; it's the morally right thing to do. But I will give you four reasons.

1. *Abortion kills babies.* Babies begin life at conception. Abortion ends their life.

2. *Abortion is a sin.* The Commandment "Thou Shalt Not Kill" has not been updated. Killing for convenience is not a part of a civilized society. If a woman with a crises pregnancy came to Jesus while He walked the earth, would He had given her an abortion? Of course not, because abortion is wrong.

3. *Abortion abuses women.* Ironically, the pro-abortion industry purports to be compassionate to woman, but abortion is not in a woman's best interest.

Twenty-five peer reviewed studies now link abortion to breast cancer. According to a 1994 study by the National Cancer Institute (*Journal of the National Cancer Institute*, Nov. 2, 1994), women under the age of 18 who abort at eight weeks gestation or beyond are 150% more likely to contract breast cancer by age 43 than those who do not abort.

A 1989 laparoscope study published in the *American Journal of Obstetrics and Gynecology* (8/89) found that uterine perforations from first trimester suction abortions happen seven times more often than previously thought. 1

Aside from the physical after-effects are the emotional. Listen to the grief of a mother who regrets her abortion and you will come to understand that the abortion industry deeply hurts women. An example of heart wrenching testimony from post-abortive woman can be found on the website: [testimony@priestsforlife.org](mailto:testimony@priestsforlife.org).

4. *Abortion is a civil rights issue*

It's wrong to define out of existence a group of people to benefit our own desires. Hitler did it to the Jews. We did it with African Americans because we wanted their labor. We did it with Native Americans because we wanted their land. Now we do it with unborn babies because we don't want to make the difficult sacrifices that allowing them to live would demand.

I know you have a long list of reasons not to pass this bill but in the end it's your choice how you vote. Your vote is ultimately between you and God. Life or death is God's choice. Please vote to make it criminal for people to end the lives of babies.

I would like to propose an amendment however. In the interest of compassion, I suggest that mothers, often acting out of desperation, not be charged criminally. Even before abortion was legal in this state, it was a misdemeanor for a woman to have an abortion. We need to show compassion to women but we must also show compassion to the babies that have the right to be born.

My name is Mary Armstrong.

I am 11 yrs. old and pro life.

I wish abortion had never become lawful. How can people ignore the fact that it's killing an innocent child? They say it is only a cluster of cells. Well that cluster of cells is a beating heart. Those cells are a human being from the moment it is conceived. There is no way to get around that fact. Please vote against abortion. Thank you.

Mary Armstrong

10

1227

Hello, my name is Jacob Armstrong, I am 14 years old and in 8<sup>th</sup> grade. I've come to talk to you today about one of the saddest crimes in the history of America. That crime is abortion.

We can protect our endangered species, but we cannot even protect a human life?

That blob of cells is a human life, something that should be cherished and love.

But now there is a chance to change that in North Dakota. The mother should not be given the right to destroy that baby's life. When we killed babies we are interfering with God's plan. When mothers get an abortion they are told of the emotional consequences that come from getting an abortion. Women are ten times more likely to get breast cancer when they get an abortion. Also women are more likely to suffer depression when they have an abortion.

The point I would like to make today is that you have the power to stop this crime today. If you choose not to, you won't have to answer to me, but you will have to answer to God.

Jacob Armstrong

[E-mail Author](#)  
[Send to a Friend](#)  
<% printurl =  
Request.ServerVariables("URL")%>  
[Print Version](#)

December 16, 2004, 8:51 a.m.

## A Pro-Life Mistake

Strategize wisely. It's a life or death decision.

By Clarke D. Forsythe

**S**omeone's overdosing on President George W. Bush's reelection. There are, reportedly, plans afoot in some states to introduce bills prohibiting abortion in 2005. The old proverb "Zeal without knowledge is folly" counsels some rethinking here.

Such plans, however sincerely intentioned, are premature. They are the product of wishful thinking that disregards the reality in the Supreme Court today. Such bills will divide friendly forces, waste precious resources, and undermine the credibility and political survival of pro-life legislators in the states that consider them. And there are alternative policies, better calculated to make a positive difference in 2005.

The hostility of the current justices to strong pro-life legislation is plainly expressed in the Supreme Court's most recent statement on abortion — the *Carhart* case in June, 2000. There, five justices — O'Connor, Souter, Ginsberg, Breyer, and Stevens — made clear that they strongly supported *Roe v. Wade*, and fiercely rejected the Nebraska prohibition on partial-birth abortion, in the belief that even restrictions on partial-birth abortion threatened *Roe*. Those same five are still on the Court today. And a sixth, Justice Anthony Kennedy, made clear that he supported *Roe*, even though he would have upheld Nebraska's prohibition on partial-birth abortion.

But the rest of the story has not been widely told. When the Supreme Court struck down Nebraska's law, it also struck down partial-birth-abortion bans in 29 other states. Those 30 states were forced to pay the fees of the abortion attorneys — reportedly totaling \$6,000,000. Federal law requires that attorney's fees be paid by the states to the attorneys for abortion clinics when they "prevail" in abortion cases.

So, *Roe* is still strongly supported by six justices and still controls lower federal courts. Just look at the current status of the federal partial-birth-abortion law. In October 2003 — immediately after President Bush signed the bill — the American Civil Liberties Union, Planned Parenthood, and an army of pro-abortion attorneys filed legal challenges to the bill in federal courts in three states. Hostile federal judges immediately slapped an injunction on the president's bill, preventing its enforcement. It has *never* gone into effect, and, if the Court applies its decision in *Carhart*, it *never* will (unless, per chance, the makeup of the Court changes before the cases get to the Court).

The *Carhart* case also emboldened federal judges to adopt a cynical attitude toward partial-birth-abortion bills and the government attorneys who defend them. Instead of viewing the bills as expressions of popular will, reflected in numerous public-opinion polls since 1995, federal judges dismiss them as political ploys.

When a Justice Department attorney sought to defend the federal partial-birth law in the U.S. Court of Appeals in Chicago, one judge snidely asked, "and on this the fate of the Republic hinges?" Hostile federal judges will dismiss abortion bans with a laugh — and an attorney's fees bill of, say, a half a million dollars per case.

Given the Supreme Court and the experience with the federal partial-birth-abortion law, the outcome of abortion-prohibition bills in 2005 is certain: Federal courts will immediately apply injunctions against the enforcement of such laws, federal appeals courts will agree, the Supreme Court will deny review, the laws will never go into effect, and the state legislature will get an expensive bill from the ACLU. Prohibitions on abortion are not carefully calculated, in light of current obstacles, but clearly dead on arrival in 2005.

And, contrary to myth, there's no way to "force" the Supreme Court to hear any case. It has often refused to hear appeals in abortion cases, and this Court will never hear a case involving an abortion ban. Unless, of course, the six pro-abortion justices just want to reaffirm *Roe* again.

That's the "law of unintended consequences," which hovers over abortion litigation. And it could impact abortion-prohibition legislation in at least two ways.

First, bad precedent may be created by courts striking down abortion prohibitions that will make future efforts to change the law — perhaps at a future time with a different Court — more difficult if not impossible. Look, for example, at the recent case involving the original Jane Roe where the attempt was made to lift the injunction against the Texas abortion law originally imposed by the Supreme Court in *Roe v. Wade*. The federal district court quickly dismissed Jane Roe's new case, and the federal appeals court — rejecting the need to even hear arguments — agreed. In the process, the federal appeals court issued the unfortunate opinion that abortion regulations enacted by Texas since *Roe* have *implicitly repealed* the pre-*Roe* abortion law still on the books. That decision is clearly wrong, and may not bind future state courts, but it sets forth a theory that could be used to overturn the pre-*Roe* laws still on the books in Texas and other states.

Second, more abortions might be committed in a state because the time spent on ill-conceived legislation will prevent good legislation from being passed. Bills prohibiting abortion in 2005 will waste limited resources, with no realistic hope of success, which could be applied to more promising bills that can clearly go into effect and have a positive impact. Legislators will miss opportunities to pass good legislation that will reduce abortion.

This is demonstrated by the analysis of Harvard-MIT researcher Michael New, published by the Heritage Foundation earlier this year. New observed that abortions declined by 17 percent during the 1990s, and New attributed that reduction to laws prohibiting public funding of abortion and laws requiring informed consent and parental notice or consent. In 2005, there will be a compelling need for abortion clinic regulations and laws to protect the rights of conscience of medical professionals.

Ill-conceived state bills also threaten the credibility and influence of pro-life legislators. The attorneys fees paid to the abortion attorneys will be paid by the state legislature, which will be used as a political issue against pro-life legislators and future legislation. Attorney's fees are a risk to take when well-crafted legislation has a chance of being upheld, but not when the legislation is DOA.

These proposed prohibition bills may be driven by the persistent myth — contrary to mountains of evidence in numerous court cases over the past 30 years — that if Justices O'Connor, Souter, Stevens, Ginsburg, Breyer, and Kennedy are "just presented with the facts," they'll be struck by a revelation, admit their mistake, and overturn *Roe*. But the six suffer not from a defect of the *intellect*, but a defect of the *will*. Just read the thorough, detailed, clinical way in which five of those justices described the partial-birth procedure in their 2000 opinion in *Carhart* — before tossing it out. They know *exactly* what happens to the unborn child in abortion.

Under the right circumstances — with the right Court, at the right time, with carefully drafted bill — a novel test case might be prudent. It might even be said that the *Carhart* case in 2000 was a worthy educational effort, to bring the brutal facts of the reality of partial-birth abortion to the attention of the justices. But that obviously had little effect on the majority, since they described the procedure in coldly clinical terms and then casually dismissed the sentiment of overwhelming majorities of legislative representatives in 30 states.

At a time when Justice Department attorneys are desperately battling against hostile federal judges to find a necessary fifth vote on the Supreme Court to uphold the federal restriction on partial-birth abortion, a ban on abortion is clearly doomed. A ban in 2005 also makes the strategic mistake of claiming that something has been accomplished when nothing has been accomplished.

Bills prohibiting abortion in 2005 will do nothing more than fund the ACLU and Planned Parenthood, keeping them fully employed, paid by tax dollars, for years. The states might as well skip the litigation and just mail them a check.

— *Clarke D. Forsythe is attorney and director of the Project in Law & Bioethics at Americans United for Life, Chicago.*

> Dr. MUA

<http://www.nationalreview.com/comment/forsythe200412160851.asp>

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES  
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

Chairperson Price and Members of the House Human Services Committee

Date: February 9, 2005

Re: testimony in opposition to HB 1227

For the record I am Jessica McSparron-Bien, Sexual Assault Policy and Program Coordinator for the Council on Abused Women's Services/Coalition Against Sexual Assault in North Dakota. I am here to provide testimony in opposition to HB 1227, relating to the protection of a preborn child and duty of a physician. Although NDCAWS/CASAND does not have a policy position on abortion, we are united in our concern for victims of sexual assault, and are therefore limiting our testimony to the possible criminalization of emergency contraception for rape victims.

A female sexual assault victim's number one concern is pregnancy, followed closely by sexually transmitted diseases. The risk of pregnancy from a sexual assault is 2 to 5%. In the U. S., an estimated 25,000 women become pregnant from sexual assault every year (Stewart, & Trussell, 2000). National recommendations from the American Medical Association, Sexual Assault Nurse Examiners, American College of Emergency Physicians, International Association of Forensic Nurses, and American College of Obstetricians and Gynecologists all state that providing FDA approved emergency contraception in cases of sexual assault is the standard of care.

This bill is so broadly written that it effectively eliminates the option for physicians to provide this invaluable treatment option for sexual assault victims.

Please oppose this bill.

Thank you.