Fifty-sixth of North Dakota

Legislative Assembly SENATE BILL NO. 2254

Introduced by

Senators Wanzek, Christmann, D. Mathern, Watne

Representatives Kliniske, Sandvig

A BILL for an Act relating to the performance of partial-birth abortions; and to provide a penalty. 1

2 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

3	SEC	CTION 1. Definitions. As used in this Act:
4	1.	"Abortion" means abortion as defined in section 12.1-17.1-01.
5	2.	"Fetus" means the biological offspring of human parents.
6	3.	"Partial-birth abortion" means an abortion in which a person partially vaginally
7		delivers a living fetus before killing the fetus and completing the delivery.
8	4.	"Vaginally delivers a living fetus before killing the fetus" means deliberately and
9		intentionally delivering into the vagina a living fetus or a substantial portion of a
10		living fetus for the purpose of performing a procedure the person knows will kill the
11		fetus, and then killing the fetus.
12	SECTION 2. Partial-birth abortions prohibited - Exception. No person may	
13	knowingly perform or attempt to perform a partial-birth abortion. This section does not apply to	
14	a partial-birth abortion that is necessary to save the life of a woman whose life is endangered by	
15	a physical disorder, physical illness, or physical injury, including a life-endangering condition	
16	caused by or arising from the pregnancy itself; provided, that no other medical procedure would	
17	suffice for that purpose.	
18	SEC	CTION 3. Civil remedies - Attorney's fees.
19	1.	The woman upon whom a partial-birth abortion has been performed, the father of
20		the fetus, or if the woman is less than eighteen years of age at the time of the
21		partial-birth abortion, a maternal grandparent of the fetus, may bring a claim for
22		relief against a person for violating section 2 of this Act, unless the pregnancy
23		resulted from the plaintiff's criminal conduct or the plaintiff consented to the
24		partial-birth abortion.

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1	2.	In a claim for relief brought under this section, appropriate relief may include any of
2		the following:
3		a. Compensatory damages for all injuries, psychological and physical, resulting
4		from the violation of section 2 of this Act.
5		b. Statutory damages equal to three times the cost of the partial-birth abortion.
6	3.	If the judgment under this section is rendered in favor of the plaintiff, the court shall
7		award reasonable attorney's fees to the plaintiff. If the judgment is rendered in
8		favor of the defendant and the court finds the plaintiff's suit to be frivolous and
9		brought in bad faith, the court shall award reasonable attorney's fees to the
10		defendant.
11	SEC	CTION 4. Penalty - Exception. Any person who knowingly or recklessly performs a
12	partial-birth	abortion in violation of section 2 of this Act is guilty of a class B felony. A woman
13	upon whom	a partial-birth abortion is performed may not be prosecuted for a violation of

14 section 2 of this Act or for conspiracy to violate section 2 of this Act.