

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Ruby

1 A BILL for an Act to provide for equality and rights to all human beings at every stage of
2 biological development; to create and enact two new sections to chapter 12.1-17, relating to
3 crimes of dismemberment and torture; to amend and reenact subsection 3 of section
4 12.1-20-03, section 12.1-20-11, subsection 2 of section 12.1-20-07, and section 12.1-27.2-04.1
5 of the North Dakota Century Code, relating to penalties for crimes against born alive children; to
6 provide legislative intent; and to provide a penalty.

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

8 **SECTION 1.**

9 **Equality and rights guaranteed to all human beings.**

10 1. For purposes of this Act:

- 11 a. "Born", "birth", "partially born," "born alive", and any derivation thereof, apply
12 to any child located inside the uterus, which is pulled out the mother; or who
13 has ever had any part of its body, including the head, pulled out of the uterus,
14 such as during natural birth, artificial birth, or abortion.
- 15 b. "Human being" means any organism, including the single-cell human embryo,
16 irrespective of the method of reduction, who possesses and genome specific
17 for and consistent with an individual member of the human species.
- 18 b. "Human embryo" means all beings from the beginning of the embryonic
19 period of their biological development through eight weeks, irrespective of
20 age, health, function, physical dependency, or method of reproduction,
21 whether in vivo or in vitro.
- 22 c. "Human fetus" means all human beings from the beginning of the fetal period
23 of their biological development, which begins at nine weeks gestation through

1 birth; irrespective of age, health, function, physical dependency or method of
2 reproduction or whether in vivo or in vitro.

3 d. "Human genome" means the total amount of nuclear and extra-nuclear DNA
4 genetic material that constitutes an organism as an individual member of the
5 human species, including the single-cell human embryo.

6 e. "Person" or "individual" means the legal recognition of a human being's full
7 status as a human person that applies to all human beings; irrespective of
8 age, health, function, physical dependency or method of reproduction;
9 including their preborn offspring at every stage of their biological
10 development.

11 2. The state shall naturalize all preborn person and shall afford to them all the
12 privileges and immunities of state citizenship guaranteed in section 21 of article I,
13 of the Constitution of North Dakota, except that the state is not required to include
14 preborn children in state and local censuses.

15 3. The state shall afford the equality and inherent rights guaranteed to individuals in
16 section 1 of article I of the Constitution of North Dakota and the right to due
17 process guaranteed to person in section 12 of article I of the Constitution of North
18 Dakota to all human beings, including the unborn, partially-born, born alive, and
19 born alive who re-enter the womb, at every stage of biological development,
20 irrespective of age, health, function, condition of dependency, or method of
21 reproduction.

22 4. Personhood may not be denied

23 a. If all the body parts are pulled out of the uterus except or legs or arms or
24 portions of legs or arms are still inside the uterus.

25 b. When the child is about to be born;

26 c. When the child's head is taken out and placed back inside the uterus;

27 d. If a child's head is pushed back inside the uterus;

28 e. To partially born or born alive babies;

29 f. Once a uterus is placed back inside this mother; or

30 g. When the uterus with a child inside is placed back inside the mother.

31 **SECTION 2.**

- 1 **Legislative findings regarding certain effects of establishing personhood.**
- 2 1. With respect to preborn personhood, it is the intent of the legislative assembly to:
- 3 a. Immunize a woman from criminal prosecution for abortion.
- 4 b. Increase and decrease the penalties for crimes against persons.
- 5 2. It is the intent of the legislative assembly that every available to assert preborn
- 6 personhood be used, which has been denied to even late term preborn and
- 7 partially born children.
- 8 3. It is the finding of the legislative assembly that:
- 9 a. The right to life is the paramount right of a person. The right to life is more
- 10 fundamental right of a preborn child than the mother's right to liberty or pursuit
- 11 of happiness, which does not include the right to kill other people. In no way
- 12 does a child's right to life interfere with a mother's right to life.
- 13 b. The state does not need to prove that it has a prerogative or a compelling
- 14 interest before the courts allow this state to recognize that all children are
- 15 natural person and natural human beings which they are. The legislative
- 16 assembly shall not attempt to immediately solve all the effects of preborn
- 17 personhood until after thorough study and more importantly until after actually
- 18 establishing preborn personhood and waiting for the courts to recognize it.
- 19 c. Because scientist have discovered a way of creating pluripotent cells using
- 20 umbilical stem cells, there is not need to kill children to obtain their embryonic
- 21 stem cells.
- 22 d. It is not yet possible to conclusively determine whether chemical
- 23 contraception is abortifacient or not.
- 24 e. All abortions, whether surgically or chemically induced, terminate the life of a
- 25 whole, separate, unique, living human being. There is an existing relationship
- 26 between a pregnant woman and her preborn child during the entire period of
- 27 gestation.
- 28 f. Because all preborn children are person, no abortion performed with specific
- 29 intent is legal. A direct abortion is always performed with the specific intent to
- 30 bring death to a preborn child; it is a deprivation of the right to life and the right

1 to the equal protection of the law and is the ultimate manifestation of the
2 involuntary servitude of one human being to another;

3 g. A mother is not going to die be recognizing her child's right to life. When the
4 mother needs a life-saving medical operation, then a indirect abortion is not
5 legally or morally considered abortion because it is not performed with specific
6 intent to bring death to a preborn child. The death of the child may be
7 permitted as an indirect and unavoidable result of steps necessary to save the
8 mother's life. Physicians shall make, in all cases, every effort to preserve
9 both the life of the mother and the life of the preborn child. Physicians shall
10 provide equal care and equal consideration to the mother and child.

11 h. Medical treatment that has as its primary purpose to cure a disease of the
12 pregnant woman or of a twin unborn human being shall not be considered
13 abortion. The pregnant woman shall be given the choice of which treatment
14 to receive so long as it is treatment intended to act upon or cure or disease.
15 This excludes the possibility of ever performing an abortion under the
16 pretense of a medical necessity since a preborn human being is not a
17 disease.

18 i. In the case of twins, all medical procedures designed to address specific
19 medical conditions that affect both twins shall be lawful so long as the
20 physician's actions are performed with the specific intent to save the life of the
21 preborn human being with highest chance of survival.

22 j. In the case where a pregnant woman's health is in danger during a
23 pregnancy, the physician shall not be held criminally responsible for
24 unintentionally causing the death of the preborn human being from legitimate
25 treatment administered to the pregnant woman. Chemotherapy, radiation
26 treatment, and other medical procedures that are not intended to cause the
27 death of the preborn human being but that are likely to do so, shall not be
28 prohibited if prescribed to cure the pregnant woman. Under no circumstance
29 may abortion be considered legitimate treatment.

30 **SECTION 3.** Two new sections to chapter 12.1-17 of the North Dakota Century Code
31 are created and enacted as follows:

1 **Dismemberment - Penalty**

2 1. A person is guilty of an offense if that person intentionally dismembers the body of
3 another human being, as defined in section 1 of this Act, without causing the death
4 of the other human being.

5 2. The offense is a person is guilty of a class C felony, except if the victim is under the
6 born alive child, as defined in section 1 of this Act, the offense is a class B felony.

7 **Torture - Penalty**

8 2. A person is guilty of an offense if the person intentionally inflict excruciating pain on
9 another human being, as defined in section 1 of this Act, without causing the death
10 of the other human being.

11 2. The offense is a person is guilty of a class C felony, except if the victim is under the
12 born alive child, as defined in section 1 of this Act, the offense is a class B felony.

13 **SECTION 2. AMENDMENT.** Subsection 3 of section 12.1-20-03 of the North Dakota
14 Century Code is amended and reenacted as follows:

15 3. a. An offense under this section is a class AA felony if in the course of the
16 offense the actor inflicts serious bodily injury upon the victim, if the victim is a
17 born alive child, as defined in section 1 of this Act, if the actor's conduct
18 violates subdivision a of subsection 1, or if the actor's conduct violates
19 subdivision d of subsection 1 and the actor was at least twenty-two years of
20 age at the time of the offense. For any conviction of a class AA felony under
21 subdivision a of subsection 1, the court shall impose a minimum sentence of
22 twenty years' imprisonment, with probation supervision to follow the
23 incarceration. The court may deviate from the mandatory sentence if the
24 court finds that the sentence would impose a manifest injustice as defined in
25 section 39-01-01 and the defendant has accepted responsibility for the crime
26 or cooperated with law enforcement. However, a defendant convicted of a
27 class AA felony under this section may not be sentenced to serve less than
28 five years of incarceration.

29 b. Otherwise the offense is a class A felony.

30 **SECTION 3. AMENDMENT.** Section 12.1-20-11 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **12.1-20-11. Incest.** A person who intermarries, cohabits, or engages in a sexual act
2 with another person related to him within a degree of consanguinity within which marriages are
3 declared incestuous and void by section 14-03-03, knowing such other person to be within said
4 degree of relationship, is guilty of a class C felony. If the victim is a born alive child, as defined
5 in section 1 of this Act, the person is guilty of a class B felony.

6 **SECTION 4. AMENDMENT.** Subsection 2 of section 12.1-20-17 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 2. A person who, knowing that that person is or has been afflicted with acquired
9 immune deficiency syndrome, afflicted with acquired immune deficiency syndrome
10 related complexes, or infected with the human immunodeficiency virus, willfully
11 transfers any of that person's body fluid to another person is guilty of a class A
12 felony. The person is guilty of a class AA felony if the victim is under the age of
13 fifteen or the victim is a born alive child as defined section 1 of this Act.

14 **SECTION 5. AMENDMENT.** Section 12.1-27.2-04.1 of the North Dakota Century Code
15 is amended and reenacted as follows:

16 **12.1-27.2-04.1. Possession of certain materials prohibited.** A person is guilty of a
17 class C felony if, knowing of its character and content, that person knowingly possesses any
18 motion picture, photograph, or other visual representation that includes sexual conduct by a
19 minor. A person is guilty of a class B felony if the minor is a born alive child, as defined in
20 section 1 of this Act.

21 **SECTION 6.** If this Act is enjoined in court, the attorney general shall defend this Act
22 without consideration of costs. The legislative assembly, by joint resolution, may appoint one or
23 more of its members who sponsored or co-sponsored this Act, as a matter of right and in the
24 legislative member's official capacity, to intervene to defend this law in any case in which its
25 constitutionally is challenged.