

HOUSE BILL NO. 1477

Introduced by

Representatives Hanson, Christy, Brandenburg, Grindberg

Senators Hogan, Roers

1 A BILL for an Act to create and enact a new chapter to title 14 of the North Dakota Century
2 Code, relating to fertility health care treatment rights; and to provide a penalty.

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

4 **SECTION 1.** A new chapter to title 14 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.**

7 As used in this chapter:

- 8 1. "Assisted reproduction" means a method of causing pregnancy other than by sexual
9 intercourse. The term includes:
 - 10 a. Intrauterine insemination;
 - 11 b. Donation of eggs;
 - 12 c. Donation of embryos;
 - 13 d. In vitro fertilization and transfer of embryos; and
 - 14 e. Intracytoplasmic sperm injection.
- 15 2. "Assisted reproductive technology" means in vitro fertilization and any other treatment
16 or procedure in which reproductive genetic material is handled when clinically
17 appropriate.
- 18 3. "Fertility treatment" means a health care service, procedure, testing, medication,
19 monitoring, treatment, or product, including genetic testing and assisted reproductive
20 technologies.
- 21 4. "Health care provider" means any person licensed to provide health care services in
22 this state.
- 23 5. "Health carrier" means any entity providing a plan of health insurance or health
24 benefits subject to state insurance regulation.

- 1 6. "Manufacturer" means the maker of a drug or device approved, cleared, or authorized
2 by the United States food and drug administration or otherwise legally marketed.
3 7. "Reproductive genetic material" includes oocytes, sperm, and embryos.
4 8. "Widely accepted and evidence-based medical standards of care" means any medical
5 service, procedure, or practice consistent with the guidelines of the American society
6 for reproductive medicine and the American college of obstetricians and gynecologists.

7 **Rights.**

- 8 1. The state or any political subdivision of the state may not implement, administer, or
9 enforce any law, rule, or policy that has the effect of prohibiting, limiting, delaying, or
10 impeding access to assisted reproduction services or fertility treatment, or otherwise
11 violate the rights provided for in this section.
12 2. In accordance with widely accepted and evidence-based medical standards of care:
13 a. An individual has the right to:
14 (1) Receive fertility treatment from a health care provider;
15 (2) Make decisions and arrangements regarding the donation, testing, use,
16 storage, or disposition of reproductive genetic material; and
17 (3) Enter a contract with a health care provider relating to the provider's
18 services in handling, testing, storing, shipping, and disposing of the
19 individual's reproductive genetic material.
20 b. A health care provider has the right to:
21 (1) Provide or assist with fertility treatment;
22 (2) Provide or assist with the testing, use, storage, or disposition of reproductive
23 genetic material; and
24 (3) Enter a contract with an individual or a manufacturer relating to the health
25 care provider's services in handling, testing, storing, shipping, and disposing
26 of an individual's reproductive genetic material.
27 c. A health carrier has the right to cover health care services related to fertility
28 treatment and assisted reproduction.
29 d. A manufacturer has the right to manufacture, import, sell, or distribute any drug or
30 device related to fertility treatment, assisted reproduction, or the handling of
31 reproductive genetic material.

1 **Penalties - Exception.**

- 2 1. If a state agency or political subdivision, or any individual, employee, official,
3 contractor, or organization on behalf of a state agency or political subdivision, enacts
4 or enforces a policy that restricts any right provided under this chapter, a civil action
5 may be commenced against that state agency, political subdivision, or agent of the
6 state agency or political subdivision by:
- 7 a. The attorney general; or
8 b. Any person adversely affected by the policy, including a health care provider.
- 9 2. If the court finds a violation of this section occurred, the court shall hold the policy
10 unlawful and set aside the requirement or limitation. The court may award appropriate
11 equitable relief, including injunctive relief. The court shall award court costs and
12 reasonable attorney's fees to a prevailing plaintiff. A plaintiff may not be held liable to a
13 defendant for any costs resulting from nonfrivolous litigation under this section.
- 14 3. The enforcement of state health and safety law regarding a medical facility or a health
15 care provider is not a violation of this section if:
- 16 a. The regulation is in accordance with widely accepted and evidence-based
17 standards of care for providing fertility treatment; and
18 b. The health or safety objective cannot be accomplished by a less restrictive
19 means consistent with this chapter.