

Introduced by

Representatives Kerzman, Metcalf

Senators Christmann, Erbele

1 A BILL for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota
2 Century Code, relating to the prohibition of the performance of abortions; to provide a penalty;
3 and to provide an effective date.

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

5 **SECTION 1.** A new section to chapter 12.1-31 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Abortion - Affirmative defenses.**

8 1. As used in this section:

9 a. "Abortion" means the use or prescription of any substance, device,
10 instrument, medicine, or drug to intentionally terminate the pregnancy of an
11 individual known to be pregnant. The term does not include an act made with
12 the intent to increase the probability of a live birth; preserve the life or health
13 of a child after live birth; or remove a dead, unborn child who died as a result
14 of a spontaneous miscarriage, an accidental trauma, or a criminal assault
15 upon the pregnant female or her unborn child.

16 b. "Physician" means an individual licensed to practice medicine under chapter
17 43-17.

18 c. "Professional judgment" means a medical judgment that would be made by a
19 reasonably prudent physician who is knowledgeable about the case and the
20 treatment possibilities with respect to the medical conditions involved.

21 2. It is a class C felony for a person, other than the pregnant female upon whom the
22 abortion was performed, to perform an abortion.

23 3. The following are affirmative defenses under this section:

- 1 a. That the abortion was necessary in professional judgment and was intended
2 to prevent the death of the pregnant female.
- 3 b. That the abortion was to terminate a pregnancy that resulted from gross
4 sexual imposition, sexual imposition, sexual abuse of a ward, or incest, as
5 those offenses are defined in chapter 12.1-20.
- 6 c. That the individual was acting within the scope of that individual's regulated
7 profession and under the direction of or at the direction of a physician.

8 **SECTION 2. EFFECTIVE DATE.** This Act becomes effective on the date the
9 legislative council approves by motion the recommendation of the attorney general to the
10 legislative council that it is reasonably probable that this Act would be upheld as constitutional.