

HOUSE BILL NO. 1572

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 the
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 12.1-20-17, 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. Equality and rights guaranteed to all human beings.**

9 1. For purposes of this Act:

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

- 1 e. "Human genome" means the total amount of nuclear and extra-nuclear DNA
2 genetic material that constitutes an organism as an individual member of the
3 human species, including the single-cell human embryo.
- 4 f. "Person" or "individual" means the legal recognition of a human being's full
5 status as a human person that applies to all human beings, irrespective of
6 age, health, function, physical dependency, or method of reproduction,
7 including their preborn offspring at every stage of their biological
8 development.
- 9 2. The state shall naturalize all preborn persons and shall afford to them all the
10 privileges and immunities of state citizenship guaranteed in section 21 of article I of
11 the Constitution of North Dakota, except that the state is not required to include
12 preborn children in state and local censuses.
- 13 3. The state shall afford the equality and inherent rights guaranteed to individuals in
14 section 1 of article I of the Constitution of North Dakota and the right to due
15 process guaranteed to persons in section 12 of article I of the Constitution of North
16 Dakota to all human beings, including the preborn, partially born, born alive, and
17 born alive who reenter the womb.
- 18 4. Personhood may not be denied:
- 19 a. If all the body parts are pulled out of the uterus except the legs or arms or
20 portions of legs or arms are still inside the uterus;
- 21 b. When the child is about to be born;
- 22 c. When the child's head is taken out and placed back inside the uterus;
- 23 d. If a child's head is pushed back inside the uterus;
- 24 e. To partially born or born alive babies; or
- 25 f. Once a uterus is placed back inside the mother.

26 **SECTION 2. Legislative findings regarding certain effects of establishing**
27 **personhood.**

- 28 1. With respect to preborn personhood, it is the intent of the legislative assembly to:
- 29 a. Immunize a woman from criminal prosecution for abortion.
- 30 b. Increase and decrease the penalties for crimes against persons.

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

- 1 h. A mother is not going to die by recognizing her child's right to life. When the
2 mother needs a life-saving medical operation, then an indirect abortion is not
3 legally or morally considered abortion because it is not performed with specific
4 intent to bring death to a preborn child. The death of the child may be
5 permitted as an indirect and unavoidable result of steps necessary to save the
6 mother's life. Physicians shall make, in all cases, every effort to preserve
7 both the life of the mother and the life of the preborn child. Physicians shall
8 provide equal care and equal consideration to the mother and child.
- 9 i. Medical treatment that has as its primary purpose to cure a disease of the
10 pregnant woman or of a twin preborn human being may not be considered
11 abortion. The pregnant woman must be given the choice of which treatment
12 to receive provided it is treatment intended to act upon or cure a disease.
13 This excludes the possibility of ever performing an abortion under the
14 pretense of a medical necessity since a preborn human being is not a
15 disease.
- 16 j. In the case of twins, all medical procedures designed to address specific
17 medical conditions that affect both twins are lawful provided as the physician's
18 actions are performed with the specific intent to save the life of the preborn
19 human being with highest chance of survival.
- 20 k. If a pregnant woman's health is in danger during a pregnancy, the physician
21 may not be held criminally responsible for unintentionally causing the death of
22 the preborn human being from legitimate treatment administered to the
23 pregnant woman. Chemotherapy, radiation treatment, and other medical
24 procedures that are not intended to cause the death of the preborn human
25 being but that are likely to do so, may not be prohibited if prescribed to cure
26 the pregnant woman. Under no circumstance may abortion be considered
27 legitimate treatment.

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

30 **Dismemberment - Penalty.**

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

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

6 **Torture - Penalty.**

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

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

12 **SECTION 4. AMENDMENT.** Subsection 3 of section 12.1-20-03 of the North Dakota
13 Century Code is amended and reenacted as follows:

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

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

29 **SECTION 5. AMENDMENT.** Section 12.1-20-11 of the North Dakota Century Code is
30 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 6. 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 in section 1 of this Act.

14 **SECTION 7. 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 8. STATE TO DEFEND CHALLENGE.** The legislative assembly, by joint
22 resolution, may appoint one or more of its members, as a matter of right and in the legislative
23 member's official capacity, to intervene to defend this law in any case in which its
24 constitutionality is challenged.