

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1445
(Representatives Damschen, Heller, Hunskor, L. Meier)
(Senators Christmann, Klein)

AN ACT to amend and reenact section 14-02.1-02 of the North Dakota Century Code, relating to the requirements of informed consent to abortion.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-02. Definitions. As used in this chapter:

1. "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead embryo or fetus.
2. "Abortion facility" means a clinic, ambulatory surgical center, physician's office, or any other place or facility in which abortions are performed, other than a hospital.
3. "Hospital" means an institution licensed by the state department of health under chapter 23-16 and any hospital operated by the United States or this state.
4. "Human being" means an individual living member of the species of homo sapiens, including the unborn human being during the entire embryonic and fetal ages from fertilization to full gestation.
5. "Infant born alive" or "live born child" means a born child which exhibits either heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles or pulsation of the umbilical cord if still attached to the child.
6. "Informed consent" means voluntary consent to abortion by the woman upon whom the abortion is to be performed provided that:
 - a. The woman is told the following by the physician who is to perform the abortion, by the referring physician, or by the physician's agent, at least twenty-four hours before the abortion:
 - (1) The name of the physician who will perform the abortion;
 - (2) The abortion will terminate the life of a whole, separate, unique, living human being;
 - (3) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies, and infertility;
 - ~~(3)~~ (4) The probable gestational age of the unborn child at the time the abortion is to be performed; and
 - ~~(4)~~ (5) The medical risks associated with carrying her child to term.
 - b. The woman is informed, by the physician or the physician's agent, at least twenty-four hours before the abortion:

- (1) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;
 - (2) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion; and
 - (3) That she has the right to review the printed materials described in section 14-02.1-02.1. The physician or the physician's agent shall orally inform the woman the materials have been provided by the state of North Dakota and that they describe the unborn child and list agencies that offer alternatives to abortion. If the woman chooses to view the materials, copies of them must be furnished to her. The physician and the physician's agent may disassociate themselves from the materials and may comment or refrain from comment on them, as they choose.
- c. The woman certifies in writing, prior to the abortion, that the information described in subdivisions a and b has been furnished to her and that she has been informed of her opportunity to review the information referred to in paragraph 3 of subdivision b.
 - d. Prior to the performance of the abortion, the physician who is to perform or induce the abortion or the physician's agent receives a copy of the written certification prescribed by subdivision c.
- ~~6.~~ 7. "Licensed physician" means a person who is licensed to practice medicine or osteopathy under chapter 43-17 or a physician practicing in the armed services of the United States or in the employ of the United States.
 - ~~7.~~ 8. "Medical emergency" means that condition which, on the basis of the physician's best clinical judgment, so complicates a pregnancy as to necessitate an immediate abortion to avert the death of the mother or for which a twenty-four-hour delay will create grave peril of immediate and irreversible loss of major bodily function.
 - ~~8.~~ 9. "Probable gestational age of the unborn child" means what, in the judgment of the attending physician, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.
 - ~~9.~~ 10. "Viable" means the ability of a fetus to live outside the mother's womb, albeit with artificial aid.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1445.

House Vote: Yeas 61 Nays 31 Absent 2

Senate Vote: Yeas 34 Nays 11 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State