

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1456
(Representatives Grande, Brabandt, Heller, Hunkor, Rohr, Toman)
(Senators Berry, Burckhard, Kilzer, Laffen, Luick, Unruh)

AN ACT to create and enact two new sections to chapter 14-02.1 and a new subsection to section 43-17-31 of the North Dakota Century Code, relating to limitations on abortion after determination of detectable heartbeat in an unborn child and to grounds for disciplinary action for physicians; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-02.1 of the North Dakota Century Code is created and enacted as follows:

Determination of detectable heartbeat in unborn child before abortion - Exception.

1. Except when a medical emergency exists that prevents compliance with this subsection, an individual may not perform an abortion on a pregnant woman before determining, in accordance with standard medical practice, if the unborn child the pregnant woman is carrying has a detectable heartbeat. Any individual who performs an abortion on a pregnant woman based on the exception in this subsection shall note in the pregnant woman's medical records that a medical emergency necessitating the abortion existed.
2. If a physician performs an abortion on a pregnant woman before determining if the unborn child the pregnant woman is carrying has a detectable heartbeat, that physician is subject to disciplinary action under section 43-17-31.

SECTION 2. A new section to chapter 14-02.1 of the North Dakota Century Code is created and enacted as follows:

Abortion after detectable heartbeat in unborn child prohibited - Exception - Penalty.

1. Notwithstanding any other provision of law, an individual may not knowingly perform an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the unborn child the pregnant woman is carrying and whose heartbeat has been detected according to the requirements of section 1 of this Act.
2.
 - a. An individual is not in violation of subsection 1 if that individual performs a medical procedure designed to or intended, in that individual's reasonable medical judgment, to prevent the death of a pregnant woman, to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman, or to save the life of an unborn child.
 - b. Any individual who performs a medical procedure as described in subsection 1 shall declare in writing, under penalty of perjury, that the medical procedure is necessary, to the best of that individual's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. That individual also shall provide in that written document, under penalty of perjury, the medical condition of that pregnant woman that the medical procedure performed as described in subdivision a assertedly will address, and the medical rationale for the conclusion that the medical procedure is necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

- c. The individual who performs a medical procedure as described in subdivision a shall place the written documentation required under subdivision b in the pregnant woman's medical records and shall maintain a copy of the written documentation in the individual's own records for at least seven years.
- 3. An individual is not in violation of subsection 1 if that individual has performed an examination for the presence of a heartbeat in the unborn child utilizing standard medical practice and that examination does not reveal a heartbeat in the unborn child or the individual has been informed by a physician who has performed the examination for the unborn child's heartbeat that the examination did not reveal a heartbeat in the unborn child.
- 4. It is a class C felony for an individual to willingly perform an abortion in violation of subsection 1. The pregnant woman upon whom the abortion is performed in violation of subsection 1 may not be prosecuted for a violation of subsection 1 or for conspiracy to violate subsection 1.
- 5. This section does not prohibit the sale, use, prescription, or administration of a measure, drug, or chemical designed for contraceptive purposes.

SECTION 3. A new subsection to section 43-17-31 of the North Dakota Century Code is created and enacted as follows:

The performance of an abortion on a pregnant woman prior to determining if the unborn child the pregnant woman is carrying has a detectable heartbeat, as provided in subsection 1 of section 1 of this Act.

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-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1456.

House Vote: Yeas 63 Nays 28 Absent 3

Senate Vote: Yeas 26 Nays 17 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,
at _____ o'clock _____ M.

Secretary of State