



2022 South Dakota Legislature

House Bill 1326

Introduced by: **Representative Haugaard**

1 **An Act to- reinstate the prohibition against certain acts causing the termination of**
 2 **an unborn human life, and to prescribe a penalty therefor.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That chapter 22-17 be amended with a NEW SECTION:**

5 Terms used in this Act mean:

6 (1) "Pregnant," the human female reproductive condition of having a living
 7 unborn human being within her body throughout the entire embryonic and fetal ages of
 8 the unborn child, from fertilization to full gestation and child birth;

9 (2) "Unborn human being," an individual living member of the species homo
 10 sapiens throughout the entire embryonic and fetal ages of the unborn child, from
 11 fertilization to full gestation and childbirth;

12 (3) "Fertilization," that point in time when a male human sperm penetrates the
 13 zona pellucida of a female human ovum.

14 **Section 2. That chapter 22-17 be amended with a NEW SECTION:**

15 No person may knowingly administer to, prescribe for, procure for, or sell to any
 16 pregnant woman any medicine, drug, or other substance with the specific intent of causing
 17 or abetting the termination of the life of an unborn human being. No person may knowingly
 18 use or employ any instrument or procedure upon a pregnant woman with the specific
 19 intent of causing or abetting the termination of the life of an unborn human being. Any
 20 licensed physician who provides health care to a pregnant woman shall, in all cases, make
 21 every effort to preserve both the life of the mother and the life of her unborn child.

22 Any violation of this section is a Class 5 felony.

23 **Section 3. That chapter 22-17 be amended with a NEW SECTION:**

1 Nothing in this Act may be construed to prohibit the sale, use, prescription, or
2 administration of a contraceptive measure, drug or chemical, if it is administered prior to
3 the time when a pregnancy could be determined through conventional medical testing and
4 if the contraceptive measure is sold, used, prescribed, or administered in accordance with
5 manufacturer instructions.

6 **Section 4. That chapter 22-17 be amended with a NEW SECTION:**

7 No licensed physician who performs a medical procedure designed or intended to
8 prevent the death of a pregnant mother is guilty of violating section 2 of this Act. Medical
9 treatment provided to the mother by a licensed physician that results in the accidental or
10 unintentional injury or death of the unborn child is not a violation of section 2 of this Act.
11 Nothing in this Act may be construed to subject the pregnant mother upon whom any
12 abortion is performed or attempted to any criminal conviction and penalty.

13 **Section 5. That § 34-23A-2 be REPEALED:**

14 ~~An abortion may be performed in this state only if it is performed in compliance~~
15 ~~with § 34-23A-3, 34-23A-4, or 34-23A-5. (This section is repealed pursuant to SL 2005,~~
16 ~~ch 187, § 1. Section 7 of SL 2005, ch 187, as amended by SL 2005, ch 188, § 1, provides:~~
17 ~~"Section 7. This Act is effective on the date that the states are recognized by the United~~
18 ~~States Supreme Court to have the authority to prohibit abortion at all stages of~~
19 ~~pregnancy.")~~

20 **Section 6. That § 34-23A-3 be REPEALED:**

21 ~~An abortion may be performed by a physician during the first twelve weeks of~~
22 ~~pregnancy. The abortion decision and its effectuation must be left to the medical judgment~~
23 ~~of the pregnant woman's attending physician during the first twelve weeks of pregnancy.~~
24 ~~(This section is repealed pursuant to SL 2005, ch 187, § 2. Section 7 of SL 2005, ch 187,~~
25 ~~as amended by SL 2005, ch 188, § 1, provides: "Section 7. This Act is effective on the~~
26 ~~date that the states are recognized by the United States Supreme Court to have the~~
27 ~~authority to prohibit abortion at all stages of pregnancy.")~~

28 **Section 7. That § 34-23A-4 be REPEALED:**

29 ~~An abortion may be performed following the twelfth week of pregnancy and~~
30 ~~through the twenty-second week of pregnancy by a physician only in a hospital licensed~~

1 ~~under the provisions of chapter 34-12 or in a hospital operated by the United States, this~~
2 ~~state, or any department, agency, or political subdivision of either or in the case of hospital~~
3 ~~facilities not being available, in the licensed physician's medical clinic or office of practice~~
4 ~~subject to the requirements of § 34-23A-6. (This section is repealed pursuant to SL 2005,~~
5 ~~ch 187, § 3. Section 7 of SL 2005, ch 187, as amended by SL 2005, ch 188, § 1, provides:~~
6 ~~"Section 7. This Act is effective on the date that the states are recognized by the United~~
7 ~~States Supreme Court to have the authority to prohibit abortion at all stages of~~
8 ~~pregnancy.")~~

9 **Section 8. That § 34-23A-5 be REPEALED:**

10 ~~An abortion may be performed following the twenty-second week of pregnancy by~~
11 ~~a physician only in a hospital authorized under § 34-23A-4 and only in the case of a~~
12 ~~medical emergency. (This section is repealed pursuant to SL 2005, ch 187, § 4. Section 7~~
13 ~~of SL 2005, ch 187, as amended by SL 2005, ch 188, § 1, provides: "Section 7. This Act~~
14 ~~is effective on the date that the states are recognized by the United States Supreme Court~~
15 ~~to have the authority to prohibit abortion at all stages of pregnancy.")~~