

SENATE BILL NO. 2254

Introduced by

Senators Wanzek, Christmann, D. Mathern, Watne

Representatives Kliniske, Sandvig

1 A BILL for an Act relating to the performance of partial-birth abortions; and to provide a penalty.

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

3 **SECTION 1. Definitions.** As used in this Act:

- 4 1. "Abortion" means abortion as defined in section 12.1-17.1-01.
- 5 2. "Fetus" means the biological offspring of human parents.
- 6 3. "Partial-birth abortion" means an abortion in which a person partially vaginally
- 7 delivers a living fetus before killing the fetus and completing the delivery.
- 8 4. "Vaginally delivers a living fetus before killing the fetus" means deliberately and
- 9 intentionally delivering into the vagina a living fetus or a substantial portion of a
- 10 living fetus for the purpose of performing a procedure the person knows will kill the
- 11 fetus, and then killing the fetus.

12 **SECTION 2. Partial-birth abortions prohibited - Exception.** No person may

13 knowingly perform or attempt to perform a partial-birth abortion. This section does not apply to

14 a partial-birth abortion that is necessary to save the life of a woman whose life is endangered by

15 a physical disorder, physical illness, or physical injury, including a life-endangering condition

16 caused by or arising from the pregnancy itself; provided, that no other medical procedure would

17 suffice for that purpose.

18 **SECTION 3. Civil remedies - Attorney's fees.**

- 19 1. The woman upon whom a partial-birth abortion has been performed, the father of
- 20 the fetus, or if the woman is less than eighteen years of age at the time of the
- 21 partial-birth abortion, a maternal grandparent of the fetus, may bring a claim for
- 22 relief against a person for violating section 2 of this Act, unless the pregnancy
- 23 resulted from the plaintiff's criminal conduct or the plaintiff consented to the
- 24 partial-birth abortion.

- 1 2. In a claim for relief brought under this section, appropriate relief may include any of
2 the following:
- 3 a. Compensatory damages for all injuries, psychological and physical, resulting
4 from the violation of section 2 of this Act.
- 5 b. Statutory damages equal to three times the cost of the partial-birth abortion.
- 6 3. If the judgment under this section is rendered in favor of the plaintiff, the court shall
7 award reasonable attorney's fees to the plaintiff. If the judgment is rendered in
8 favor of the defendant and the court finds the plaintiff's suit to be frivolous and
9 brought in bad faith, the court shall award reasonable attorney's fees to the
10 defendant.

11 **SECTION 4. Penalty - Exception.** Any person who knowingly or recklessly performs a
12 partial-birth abortion in violation of section 2 of this Act is guilty of a class B felony. A woman
13 upon whom a partial-birth abortion is performed may not be prosecuted for a violation of
14 section 2 of this Act or for conspiracy to violate section 2 of this Act.