

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. "Living child" means any member of the human species, born or unborn, who has
5 a heartbeat or discernible spontaneous movement.
- 6 2. "Partially born" means the child's intact body, with the entire head attached, is
7 delivered so that any of the following has occurred:
- 8 a. The child's entire head, in the case of a cephalic presentation, or any portion
9 of the child's torso above the navel, in the case of a breech presentation, is
10 delivered past the mother's vaginal opening; or
- 11 b. The child's entire head, in the case of a cephalic presentation, or any portion
12 of the child's torso above the navel, in the case of a breech presentation, is
13 delivered outside the mother's abdominal wall.
- 14 3. "Sharp curettage or suction curettage abortion" means an abortion in which the
15 developing child and products of conception are evacuated from the uterus with a
16 sharp curettage or through a suction cannula with an attached vacuum apparatus.

17 **SECTION 2. Prohibition - Penalty - Exception.**

- 18 1. Any person who intentionally or knowingly causes the death of a child while that
19 child is partially born is guilty of a class AA felony. A mother whose living child
20 dies while partially born may not be prosecuted for a violation of this Act or for
21 conspiracy to violate this Act.
- 22 2. This Act does not apply to a sharp curettage or suction curettage abortion or to any
23 offense committed under chapter 12.1-17.1 or chapter 14-02.1.

1 **SECTION 3. Hearing.** Section 2 does not prohibit a physician from taking measures to
2 save the life of a mother whose life is endangered by a physical disorder, illness, or injury, if
3 every reasonable precaution is also taken, in this case, to save the child's life. A physician
4 charged with an offense under section 2 may seek a hearing before the state board of medical
5 examiners on whether the physician's conduct was necessary to save the life of a mother
6 whose life was endangered by a physical disorder, illness, or injury, and whether the physician
7 took every reasonable precaution to save the child's life. The findings of the board are
8 admissible at the trial of the defendant. Upon the motion of the defendant, the court shall delay
9 the beginning of the trial for not more than thirty days to permit the hearing to be conducted.