

**REFERENDUM PETITION  
TO THE SECRETARY OF STATE  
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request House Bill 1305 passed by the 63rd Legislative Assembly, be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Gary A Hangsleben (chairman)  
815 Duke Dr #417  
Grand Forks ND 58201

Suzanne Fink  
2615-5<sup>th</sup> Ave N  
Grand Forks ND 58203

Margaret Schnerder  
3420 42<sup>nd</sup> St S #112A  
Fargo ND 58104

Evelyn L Albrecht  
2817-17<sup>th</sup> St S #203  
Grand Forks ND 58201

Deserae Harstad  
15584-17<sup>th</sup> St NE  
Reynolds ND 58275

Morgan Stewart  
713 20<sup>th</sup> St N  
Grand Forks ND 58203

Tim Amundson  
3548-34<sup>th</sup> Ave NE  
Inkster ND 58244

Elizabeth Harris  
604 Cottonwood St  
Grand Forks ND 58201

Kelicia Samuelson  
1823 N Washington Lot 126  
Grand Forks ND 58203

Ariel Bialik  
228 Circle Hills Drive  
Grand Forks ND 58201

Rose Salines  
891 Homestead Ct  
West Fargo ND 58078

Dustin Seher  
215 South 4<sup>th</sup> St #2  
Grand Forks ND 58201

Matt Borgerson  
311- 8<sup>th</sup> St N #8  
Grand Forks ND 58201

Heather Jackson  
1413 University Ave #2  
Grand Forks ND 58203

Sharon Smith  
824 25<sup>th</sup> St S #39  
Grand Forks ND 58201

Megan Bosh  
422 Burdick Ct  
Grand Forks ND 58203

Scott O Loiland,  
2520 9<sup>th</sup> Ave S #33  
Grand Forks ND 58201

Daniel S Sturgill  
891 Homestead Court  
West Fargo ND 58078

Craig Christianson  
1823 N Washington Lot 121  
Grand Forks ND 58203

Andrea J Metcalf  
2538 Clover Drive  
Grand Forks ND 58201

Bridget Phaneuf  
8 ½ S 3<sup>rd</sup> St #308  
Grand Forks ND 58201

Brianna Bushee  
317 Demers #10  
Grand Forks ND 58201

Gregory Droske  
1173 Landeco Lane #101  
Grand Forks ND 58201

Jason Lawrence  
1110 Stanford Rd #105  
Grand Forks ND 58203

Rebecca Devine  
2517 Belmont Rd  
Grand Forks ND 58201

## PETITION TITLE

This referendum seeks to reject House Bill 1305 passed by the 2013 Legislative Assembly. This law prohibits a physician from performing an abortion if the pregnant woman is seeking the abortion solely because of the sex or genetic abnormality of the unborn child.

## FULL TEXT OF THE MEASURE

**IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.**

## HOUSE BILL NO. 1305

AN ACT to create and enact a new section to chapter 14-02.1 of the North Dakota Century Code, relating to the prohibition on abortions for sex selection or genetic abnormalities; to amend and reenact section 14-02.1-02 of the North Dakota Century Code, relating to definitions; and to provide a penalty.

### 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 act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable intrauterine pregnancy of a woman, including the elimination of one or more unborn children in a multifetal pregnancy, with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:
  - a. Save the life or preserve the health of the unborn child;
  - b. Remove a dead unborn child caused by spontaneous abortion; or
  - c. Treat a woman for an ectopic pregnancy.
2. "Abortion facility" means a clinic, ambulatory surgical center, physician's office, or any other place or facility in which abortions are performed or prescribed, other than a hospital.
3. "Abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of causing an abortion.
4. "Drug label" means the pamphlet accompanying an abortion-inducing drug which outlines the protocol tested and authorized by the federal food and drug administration and agreed upon by the drug company applying for the federal food and drug administration authorization of that drug. Also known as "final printing labeling instructions", drug label is the federal food and drug administration document that delineates how a drug is to be used according to the federal food and drug administration approval.
5. "Down syndrome" refers to a chromosome disorder associated with an extra chromosome twenty - one, in whole or in part, or an effective trisomy for chromosome twenty - one.
6. "Genetic abnormality" means any defect, disease, or disorder that is inherited genetically. The term includes any physical disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, or any other type of physical or mental disability, abnormality, or disease.

7. "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.

~~6-8.~~ "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.

~~7-9.~~ "Infant born alive" 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.

~~8-10.~~ "Informed consent" means voluntary consent to abortion by the woman upon whom the abortion is to be performed or induced 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;

(4) The probable gestational age of the unborn child at the time the abortion is to be performed; and

(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 and that more detailed information on the availability of that assistance is contained in the printed materials given to her as described in section 14-02.1-02.1;

(2) That the printed materials given to her and described in section 14-02.1-02.1 describe the unborn child and list agencies that offer alternatives to abortion;

(3) 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

(4) That she is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

c. The woman certifies in writing, prior to the abortion, that the information described in subdivisions a and b has been furnished to her.

d. Before 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.

e. The physician has not received or obtained payment for a service provided to a patient who has inquired about an abortion or has scheduled an abortion before the twenty-four-hour period required by this section.

~~9-11.~~ "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates an immediate abortion to avert her death or for which the twenty-four-hour delay will create serious risk of substantial and irreversible physical impairment of a major bodily function. A condition may not be deemed a medical emergency if based on a claim or diagnosis that the

woman will engage in conduct that would result in her death or in substantial and irreversible physical impairment of a major bodily function.

~~10.12.~~ "Physician" means an individual who is licensed to practice medicine or osteopathy under chapter 43-17 or a physician who practices in the armed services of the United States or in the employ of the United States.

~~11.13.~~ "Probable gestational age of the unborn child" means what, in reasonable medical judgment, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.

~~12.14.~~ "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

~~13.15.~~ "Unborn child" means the offspring of human beings from conception until birth.

~~14.16.~~ "Viable" means the ability of an unborn child to live outside the mother's womb, albeit with artificial aid.

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

**Prohibition - Sex-selective abortion - Abortion for genetic abnormality - Penalty.**

1. Notwithstanding any other provision of law, a physician may not intentionally perform or attempt to perform an abortion with knowledge that the pregnant woman is seeking the abortion solely:
  - a. On account of the sex of the unborn child; or
  - b. Because the unborn child has been diagnosed with either a genetic abnormality or a potential for a genetic abnormality.
2. Any physician who performs an abortion in violation of this section is guilty of a class A misdemeanor.

**INSTRUCTIONS TO PETITION SIGNERS**

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

**QUALIFIED ELECTORS**

Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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STATE OF NORTH DAKOTA )  
COUNTY OF \_\_\_\_\_ )ss  
(county where signed)

I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I reside at  
(circulator)

\_\_\_\_\_ ;that each signature contained on the attached petition was  
(address)

executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

\_\_\_\_\_  
(signature of circulator)

Subscribed and sworn to before me on \_\_\_\_\_, 2013, at \_\_\_\_\_, North Dakota.  
(city)

(NOTARY SEAL / STAMP) \_\_\_\_\_  
(signature of notary)  
Notary Public  
My commission expires \_\_\_\_\_