

AN ACT

ENTITLED, An Act to establish certain legislative findings, to reinstate the prohibition against certain acts causing the termination of an unborn human life, to prescribe a penalty therefor, and to provide for the implementation of such provisions under certain circumstances.

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

Section 1. The Legislature accepts and concurs with the conclusion of the South Dakota Task Force to Study Abortion, based upon written materials, scientific studies, and testimony of witnesses presented to the task force, that life begins at the time of conception, a conclusion confirmed by scientific advances since the 1973 decision of *Roe v. Wade*, including the fact that each human being is totally unique immediately at fertilization. Moreover, the Legislature finds, based upon the conclusions of the South Dakota Task Force to Study Abortion, and in recognition of the technological advances and medical experience and body of knowledge about abortions produced and made available since the 1973 decision of *Roe v. Wade*, that to fully protect the rights, interests, and health of the pregnant mother, the rights, interest, and life of her unborn child, and the mother's fundamental natural intrinsic right to a relationship with her child, abortions in South Dakota should be prohibited. Moreover, the Legislature finds that the guarantee of due process of law under the Constitution of South Dakota applies equally to born and unborn human beings, and that under the Constitution of South Dakota, a pregnant mother and her unborn child, each possess a natural and inalienable right to life.

Section 2. That chapter 22-17 be amended by adding thereto a NEW SECTION to read as follows:

No person may knowingly administer to, prescribe for, or procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being. No person may knowingly use or employ any

instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.

Any violation of this section is a Class 5 felony.

Section 3. That chapter 22-17 be amended by adding thereto a NEW SECTION to read as follows:

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

Section 4. That chapter 22-17 be amended by adding thereto a NEW SECTION to read as follows:

No licensed physician who performs a medical procedure designed or intended to prevent the death of a pregnant mother is guilty of violating section 2 of this Act. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner consistent with conventional medical practice.

Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn child is not a violation of this statute.

Nothing in this Act may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.

Section 5. That chapter 22-17 be amended by adding thereto a NEW SECTION to read as follows:

Terms used in this Act mean:

- (1) "Pregnant," the human female reproductive condition, of having a living unborn human being within her body throughout the entire embryonic and fetal ages of the unborn child

from fertilization to full gestation and child birth;

- (2) "Unborn human being," an individual living member of the species, homo sapiens, throughout the entire embryonic and fetal ages of the unborn child from fertilization to full gestation and childbirth;
- (3) "Fertilization," that point in time when a male human sperm penetrates the zona pellucida of a female human ovum.

Section 6. That § 34-23A-2 be repealed.

Section 7. That § 34-23A-3 be repealed.

Section 8. That § 34-23A-4 be repealed.

Section 9. That § 34-23A-5 be repealed.

Section 10. If any court of law enjoins, suspends, or delays the implementation of a provision of this Act, the provisions of sections 6 to 9, inclusive, of this Act are similarly enjoined, suspended, or delayed during such injunction, suspension, or delayed implementation.

Section 11. If any court of law finds any provision of this Act to be unconstitutional, the other provisions of this Act are severable. If any court of law finds the provisions of this Act to be entirely or substantially unconstitutional, the provisions of §§ 34-23A-2, 34-23A-3, 34-23A-4, and 34-23A-5, as of June 30, 2006, are immediately reeffective.

Section 12. This Act shall be known, and may be cited, as the Women's Health and Human Life Protection Act.

An Act to establish certain legislative findings, to reinstate the prohibition against certain acts causing the termination of an unborn human life, to prescribe a penalty therefor, and to provide for the implementation of such provisions under certain circumstances.

=====

I certify that the attached Act originated in the

HOUSE as Bill No. 1215

Chief Clerk

=====

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1215
File No. _____
Chapter No. _____

=====

Received at this Executive Office this ____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

=====

The attached Act is hereby approved this _____ day of _____ , A.D., 20__

Governor

=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State