

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 716
Committee Substitute Favorable 5/1/13

Short Title: Clarify Law/Prohibit Sex-Selective Abortion.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT A PERSON FROM PERFORMING OR ATTEMPTING TO
3 PERFORM AN ABORTION WHEN THE SEX OF THE UNBORN CHILD IS A
4 SIGNIFICANT FACTOR IN SEEKING THE ABORTION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 90 of the General Statutes is amended by adding the
7 following new Article to read:

8 "Article 1K.

9 "Certain Abortions Prohibited.

10 **"§ 90-21.120. Definitions.**

11 The following definitions apply in this Article:

12 (1) Abortion. – As defined in G.S. 90-21.81(1).

13 (2) Attempt to perform an abortion. – As defined in G.S. 90-21.81(2).

14 (3) Woman. – As defined in G.S. 90-21.81(11).

15 **"§ 90-21.121. Sex-selective abortion prohibited.**

16 Notwithstanding any of the provisions of G.S. 14-45.1, no person shall knowingly or
17 recklessly perform or attempt to perform an abortion upon a woman in this State with
18 knowledge, or an objective reason to know, that a significant factor in the pregnant woman
19 seeking the abortion is related to the sex of the unborn child.

20 **"§ 90-21.122. Civil remedies.**

21 (a) Any person who knowingly or recklessly violates any provision of this Article shall
22 be liable for damages, including punitive damages pursuant to Chapter 1D of the General
23 Statutes, and may be enjoined from future acts.

24 (b) A claim for injunctive relief against any person who has knowingly or recklessly
25 violated a provision of this Article may be sought by (i) the woman upon whom an abortion
26 was performed or attempted in violation of this Article or (ii) any person who is the spouse,
27 parent, guardian, or current or former licensed health care provider of the woman upon whom
28 an abortion has been performed or attempted in violation of this Article.

29 (c) Any person who knowingly or recklessly violates the terms of an injunction issued
30 in accordance with this section shall be subject to civil contempt and shall be fined ten
31 thousand dollars (\$10,000) for the first violation, fifty thousand dollars (\$50,000) for the
32 second violation, and one hundred thousand dollars (\$100,000) for the third violation and each
33 subsequent violation. Each performance or attempted performance of an abortion in violation
34 of the terms of an injunction is a separate violation. The fine shall be the exclusive penalty for
35 civil contempt under this subsection. The fine under this subsection shall be cumulative. No
36 fine shall be assessed against the woman upon whom an abortion is performed or attempted.



1 (d) The clear proceeds of any civil penalty assessed under this section shall be remitted
2 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

3 **"§ 90-21.123. Protection of privacy in court proceedings.**

4 In every proceeding or action brought under this Article, the court shall rule whether the
5 anonymity of any woman upon whom an abortion has been performed or attempted shall be
6 preserved from public disclosure if the woman does not give her consent to the disclosure. The
7 court, upon motion or sua sponte, shall make the ruling and, upon determining that the woman's
8 anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and
9 shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing
10 rooms to the extent necessary to safeguard the woman's identity from public disclosure. Each
11 order issued pursuant to this section shall be accompanied by specific written findings
12 explaining (i) why the anonymity of the woman should be preserved from public disclosure, (ii)
13 why the order is essential to that end, (iii) how the order is narrowly tailored to serve that
14 interest, and (iv) why no reasonable, less restrictive alternative exists. In the absence of written
15 consent of the woman upon whom an abortion has been performed or attempted, anyone who
16 brings an action under G.S. 90-21.122 shall do so under a pseudonym. This section may not be
17 construed to conceal the identity of the plaintiff or of witnesses from the defendant.

18 **"§ 90-21.124. Severability.**

19 If any one or more provisions, sections, subsections, sentences, clauses, phrases, or words
20 of this Article or the application thereof to any person or circumstance are found to be
21 unconstitutional, the same is hereby declared to be severable, and the balance of this Article
22 shall remain effective, notwithstanding such unconstitutionality. The General Assembly hereby
23 declares that it would have passed this Article, and each provision, section, subsection,
24 sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more
25 provisions, sections, subsections, sentences, clauses, phrases, or words may be declared
26 unconstitutional."

27 **SECTION 2.** This act becomes effective October 1, 2013, and applies to violations
28 occurring on or after that date.