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SENATE BILL DRS55003-MG-21D*

Short Title: Unborn Child Protection From Dismemberment. (Public)

Sponsors: Senators Krawiec, Ballard, and Sawyer (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT PROHIBITING DISMEMBERMENT ABORTIONS.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 1L.

7 "The Unborn Child Protection From Dismemberment Act.

8 **"§ 90-21.130. Definitions.**

9 (a) As used in this Article, the following definitions apply:

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

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

12 (3) Dismemberment abortion. – With the intent to cause the death of an unborn
13 child, to dismember a living unborn child and extract that child in pieces from
14 the uterus through use of clamps, grasping forceps, tongs, scissors, or similar
15 instruments that, through the convergence of two rigid levers, slice, crush, or
16 grasp, or a combination of these, a portion of the unborn child's body to cut or
17 rip it off. The term does not include an abortion that uses suction to dismember
18 the body of the unborn child by sucking fetal parts into a collection container.
19 The term includes an abortion in which a dismemberment abortion is used to
20 cause the death of an unborn child but suction is subsequently used to extract
21 fetal parts after the death of the unborn child.

22 (4) Physician. – A person qualified to perform an abortion as described in
23 G.S. 14-45.1.

24 (5) Serious health risk to the unborn child's mother. – In reasonable medical
25 judgment, the mother has a condition that so complicates her medical
26 condition that it necessitates the abortion of her pregnancy to avert her death
27 or to avert serious risk of substantial and irreversible physical impairment of
28 a major bodily function, not including psychological or emotional conditions.
29 No such condition may be determined to exist if it is based on a claim or
30 diagnosis that the woman will engage in conduct which she intends to result
31 in her death or in substantial and irreversible physical impairment of a major
32 bodily function.

33 (6) Woman. – A female human being whether or not she has reached the age of
34 majority.

35 **"§ 90-21.131. Dismemberment abortion unlawful.**



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1 It shall be unlawful for any person to willfully perform a dismemberment abortion and
2 thereby kill an unborn child, or attempt to perform a dismemberment abortion, unless it is
3 necessary to prevent serious health risk to the unborn child's mother.

4 **"§ 90-21.132. Role of North Carolina Medical Board.**

5 A physician accused in any proceeding of unlawful conduct under this Article may seek a
6 hearing before the North Carolina Medical Board on whether the dismemberment abortion was
7 necessary to prevent serious health risk to the unborn child's mother. The Board's findings are
8 admissible on that issue at any trial in which such unlawful conduct is alleged.

9 **"§ 90-21.133. Immunity.**

10 The following individuals are immune from civil liability under this Article for actions related
11 to performing or attempting to perform a dismemberment abortion:

- 12 (1) The woman upon whom a dismemberment abortion is performed or attempted
13 to be performed.
- 14 (2) Any nurse, technician, secretary, receptionist, or other employee or agent who
15 is not a physician but who acts at the direction of a physician.
- 16 (3) Any pharmacist or other individual who is not a physician but who fills a
17 prescription or provides instruments or materials used in a dismemberment
18 abortion at the direction of a physician.

19 **"§ 90-21.134. Civil remedies.**

20 (a) The civil remedies specified in G.S. 90-21.88 apply to violations of this Article.

21 (b) A court shall not allow a plaintiff to maintain a claim for relief for a violation of this
22 Article if the pregnancy resulted from the plaintiff's criminal conduct.

23 **"§ 90-21.135. Protection of privacy in court proceedings.**

24 The privacy protections specified in G.S. 90-21.89 apply to actions brought under this
25 Article.

26 **"§ 90-21.136. Construction of Article.**

27 (a) Nothing in this Article shall be construed to create or recognize a right to abortion,
28 nor a right to a particular method of abortion.

29 (b) This Article does not prohibit abortion for any reason, including rape and incest, by
30 any other method.

31 **"§ 90-21.137. Severability.**

32 If any one or more provisions, sections, subsections, sentences, clauses, phrases, or words of
33 this Article or the application thereof to any person or circumstance is found to be
34 unconstitutional, the same is hereby declared to be severable and the balance of this Article shall
35 remain effective notwithstanding such unconstitutionality. The General Assembly hereby
36 declares that it would have passed the remaining parts of each provision, section, subsection,
37 sentence, clause, phrase, or word of this Article if it had known that such part or parts of this
38 Article would be declared unconstitutional."

39 **SECTION 2.** This act becomes effective October 1, 2019, and applies to claims for
40 relief arising on or after that date.