

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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HOUSE BILL 453

Short Title: Human Life Non-Discrimination Act/No Eugenics. (Public)

Sponsors: Representatives McElraft, Bradford, K. Baker, and Arp (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

March 31, 2021

A BILL TO BE ENTITLED

AN ACT TO PROTECT AGAINST DISCRIMINATION OF HUMAN LIFE.

Whereas, it is well-established that human life begins at conception and continues in an unbroken progression through birth until death. Every individual on this continuum is a "human being," meaning a member of the species *Homo sapiens*; and

Whereas, all human beings, from conception through death, have intrinsic dignity and worth. Human dignity includes the inherent right not to suffer discrimination on the basis of innate characteristics, such as a human being's race, sex, or genetic characteristics, including any genetic abnormalities; and

Whereas, the U.S. Supreme Court has been zealous in vindicating the rights of people even potentially subjected to race, sex, and disability discrimination. See *Pena-Rodriguez v. Colorado*, 137 S. Ct. 855 (2017) (condemning "discrimination on the basis of race" as "odious in all aspects"); *United States v. Virginia*, 518 U.S. 515, 532 (1996) (denouncing any "law or official policy [that] denies to women, simply because they are women,...equal opportunity to aspire, achieve, participate in and contribute to society based on their individual talents and capacities"); *Tennessee v. Lane*, 541 U.S. 509, 522 (2004) (condemning "irrational disability discrimination"); and

Whereas, the inherent right against discrimination on the basis of race, sex, or genetic abnormality is protected in federal and state laws. For example, the 1964 Civil Rights Act (42 U.S.C. § 2000e, et seq.) and the laws of every state protect against discrimination on the basis of race or sex. The Rehabilitation Act of 1973 (29 U.S.C. § 701), the Americans With Disabilities Amendments Act of 2010 (42 U.S.C. § 12101, et seq.), and numerous state laws prohibit discrimination against individuals on the basis of a real or perceived physical or mental impairment that substantially limits one or more major life activities; and

Whereas, notwithstanding these protections, unborn human beings are often discriminated against and deprived of life; and

Whereas, "Each of the immutable characteristics protected by this Session Law can be known relatively early in a pregnancy, and this Session Law prevents them from becoming the sole criterion for deciding whether the child will live or die."; and

Whereas, "Abortion is an act rife with the potential for eugenic manipulation."; and

Whereas, the State of North Carolina maintains a "compelling interest in preventing abortion from becoming a tool of modern-day eugenics."; and

Whereas, sex-selection abortions are used to prevent the birth of a child of the undesired sex. Its victims are overwhelmingly female; and



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1 Whereas, despite equality under the law being guaranteed to all women in the United
2 States and most of the developed world, sex-selection abortions continue to occur in the United
3 States; and

4 Whereas, unborn children perceived as "handicapped" or "disabled," such as those
5 with Down syndrome, are routinely aborted in the United States; and

6 Whereas, abortions predicated on the presence or presumed presence of genetic
7 abnormalities continue to occur despite the increasingly favorable post-natal outcomes for human
8 beings perceived as "handicapped" or "disabled." Pharmaceutical treatments, gene therapies, and
9 prosthetic advances have given formerly "handicapped" and "disabled" human beings much
10 greater opportunities for survival and success than ever before. Importantly, surgical intervention
11 now includes the availability of intrauterine surgery; and

12 Whereas, it is the intent of the General Assembly through this Act and any regulations
13 and policies promulgated hereunder, to prohibit the practice of abortion for the purpose of
14 terminating the life of an unborn child because of that child's race, sex, or the presence or
15 presumed presence of a genetic abnormality like Down syndrome; Now, therefore,
16 The General Assembly of North Carolina enacts:

17 **SECTION 1.(a)** Article 1K of Chapter 90 of the General Statutes reads as rewritten:

18 "Article 1K.

19 "Certain Abortions Prohibited.

20 **"§ 90-21.120. Definitions.**

21 The following definitions apply in this Article:

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

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

24 (2a) Conception. – The fusion of human spermatozoon with a human ovum.

25 (2b) Physician. – As defined in G.S. 90-21.81(6).

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

27 **"§ 90-21.121. ~~Sex-selective abortion~~ Eugenic abortions prohibited.**

28 (a) Notwithstanding any of the provisions of G.S. 14-45.1, no person shall perform or
29 attempt to perform an abortion upon a woman in this State ~~with knowledge, or an objective reason~~
30 ~~to know, that a significant factor in the woman seeking State, unless the physician who is~~
31 scheduled to perform or attempt to perform the abortion is related to has confirmed before the
32 abortion that the woman is not seeking an abortion because of any of the following:

33 (1) The actual or presumed race or racial makeup of the unborn child.

34 (2) The sex of the unborn child.

35 (3) The presence or presumed presence of Down syndrome.

36 (b) ~~Nothing in this section shall be construed as placing an affirmative duty on a physician~~
37 ~~to inquire as to whether the sex of the unborn child is a significant factor in the pregnant woman~~
38 ~~seeking the abortion.~~

39 (c) A person shall not intentionally or knowingly perform, induce, or attempt to perform
40 or induce an abortion of an unborn child if the abortion is being sought because of the actual or
41 presumed race or sex of the unborn child or because of the presence or presumed presence of
42 Down syndrome."

43 **SECTION 1.(b)** G.S. 14-45.1(b1) reads as rewritten:

44 "(b1) A qualified physician who advises, procures, or causes a miscarriage or abortion after
45 the sixteenth week of a woman's pregnancy shall record all of the following: the method used by
46 the qualified physician to determine the probable gestational age of the unborn child at the time
47 the procedure is to be performed; the results of the methodology, including the measurements of
48 the unborn child; whether the race, sex, or presence or presumption of Down syndrome in the
49 unborn child had been detected prior to the abortion by any type of genetic testing or ultrasound,
50 or by any other form of testing; a statement by the physician confirming that the woman did not
51 tell the physician and the physician has reason to believe that the woman did not seek the abortion

1 because of the unborn child's actual or presumed race or sex or the presence or presumed presence
2 of Down syndrome; probable health consequences of the abortion; and an ultrasound image of
3 the unborn child that depicts the measurements. The qualified physician shall provide this
4 information, including the ultrasound image, to the Department of Health and Human Services
5 pursuant to G.S. 14-45.1(c). The physician must provide a signature attesting under oath that the
6 information contained in the report is true and correct to the best of the physician's knowledge.

7 A qualified physician who procures or causes a miscarriage or abortion after the twentieth
8 week of a woman's pregnancy shall record the findings and analysis on which the qualified
9 physician based the determination that there existed a medical emergency as defined by
10 G.S. 90-21.81(5) and shall provide that information to the Department of Health and Human
11 Services pursuant to G.S. 14-45.1(c). Materials generated by the physician or provided by the
12 physician to the Department of Health and Human Services pursuant to this section shall not be
13 public records under G.S. 132-1.

14 The information provided under this subsection shall be for statistical purposes only, and the
15 confidentiality of the patient and the physician shall be protected. It is the duty of the qualified
16 physician to submit information to the Department of Health and Human Services that omits
17 identifying information of the patient and complies with Health Insurance Portability and
18 Accountability Act of 1996 (HIPAA)."

19 **SECTION 2.** This act becomes effective September 1, 2021, and applies to all
20 abortions performed on or after that date.