



2021 South Dakota Legislature
House Bill 1110
ENROLLED

AN ACT

ENTITLED An Act to prohibit the performance of abortions due to Down syndrome and to provide a penalty therefor.

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

Section 1. That a NEW SECTION be added:

34-23A-89. Definition--Down syndrome.

For purposes of this Act, the term, Down syndrome, is a chromosome disorder associated with an extra chromosome twenty-one, in whole or in part, or an effective trisomy for chromosome twenty-one.

Section 2. That a NEW SECTION be added:

34-23A-90. Down syndrome--Abortion prohibited--Penalty.

No person may perform or attempt to perform an abortion with knowledge that the pregnant woman is seeking the abortion because the unborn child either has been diagnosed with Down syndrome or has had a screening indicating that the unborn child may have Down syndrome. Any person who violates this section is guilty of a Class 6 felony. No penalty may be assessed against the woman upon whom the abortion is performed or attempted to be performed.

Section 3. That a NEW SECTION be added:

34-23A-91. Intentional, knowing, or negligent failure to comply--Civil action.

Where there has been an intentional, knowing, or negligent failure to comply with the provisions of this Act, a pregnant woman who undergoes an abortion, or her survivors, may bring a civil action, and obtain liquidated damages in the amount of ten thousand dollars, plus reasonable attorney's fees and costs jointly and severally from the physician who performed the abortion and the abortion facility where the abortion was performed.

This amount shall be in addition to any damages that the woman or survivors may be entitled to receive under any common law or statutory provisions, to the extent that she sustains any injury. This amount shall also be in addition to the amounts that the woman or other survivors of the deceased unborn child may be entitled to receive under any common law or statutory provisions, including the wrongful death statutes of this state.

Section 4. That a NEW SECTION be added:

34-23A-92. Exemptions to save life of the mother.

The provisions of this Act do not apply to any abortion that is necessary to save the life of the pregnant woman because her life is endangered by a physical disorder, illness, or injury, including a life-endangering condition caused by or arising from the pregnancy itself, if no other medical procedure would suffice for that purpose.

Section 5. That a NEW SECTION be added:

34-23A-93. Nonrepealer clause.

Nothing in this Act repeals, by implication or otherwise, any provision not explicitly repealed.

An Act to prohibit the performance of abortions due to Down syndrome and to provide a penalty therefor.

I certify that the attached Act originated in
the:
House as Bill No. 1110

Received at this Executive Office
this ____ day of _____,
2021 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this ____ day of
_____, A.D., 2021

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2021
at _____ o'clock __ M.

Secretary of the Senate

Secretary of State

House Bill No. 1110
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State