GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2021

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HOUSE BILL 453 PROPOSED COMMITTEE SUBSTITUTE H453-PCS40528-BC-28

Short Title: Human Life Nondiscrimination Act/No Eugenics. (Public) Sponsors: Referred to: March 31, 2021 A BILL TO BE ENTITLED 1 2 AN ACT TO PROTECT AGAINST DISCRIMINATION OF HUMAN LIFE. 3 Whereas, it is well-established that human life begins at conception and continues in 4 an unbroken progression through birth until death. Every individual on this continuum is a 5 "human being," meaning a member of the species Homo sapiens; and 6 Whereas, all human beings, from conception through death, have intrinsic dignity and 7 worth. Human dignity includes the inherent right not to suffer discrimination on the basis of 8 innate characteristics, such as a human being's race, sex, or genetic characteristics, including any 9 genetic abnormalities; and 10 Whereas, the U.S. Supreme Court has been zealous in vindicating the rights of people 11 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 12 all aspects"); United States v. Virginia, 518 U.S. 515, 532 (1996) (denouncing any "law or official 13 14 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"); 15 16 Tennessee v. Lane, 541 U.S. 509, 522 (2004) (condemning "irrational disability discrimination"); 17 and 18 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 19 20 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 21 22 Amendments Act of 2010 (42 U.S.C. § 12101, et seq.), and numerous state laws prohibit 23 discrimination against individuals on the basis of a real or perceived physical or mental 24 impairment that substantially limits one or more major life activities; and 25 Whereas, notwithstanding these protections, unborn human beings are often discriminated against and deprived of life; and 26 27 Whereas, "Each of the immutable characteristics protected by this Session Law can 28 be known relatively early in a pregnancy, and this Session Law prevents them from becoming 29 the sole criterion for deciding whether the child will live or die."; and 30 Whereas, "Abortion is an act rife with the potential for eugenic manipulation."; and 31 Whereas, the State of North Carolina maintains a "compelling interest in preventing 32 abortion from becoming a tool of modern-day eugenics."; and 33 Whereas, sex-selection abortions are used to prevent the birth of a child of the

34 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.
20 21	The following definitions apply in this Article:
21	
	(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	$\frac{(2a)}{(2b)} \qquad \frac{\text{Conception.} - \text{The fusion of human spermatozoon with a human ovum.}}{(2b)}$
25	$(2b) \qquad Physician As defined in G.S. 90-21.81(6).$
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
45 46	
	the qualified physician to determine the probable gestational age of the unborn child at the time the proceedure is to be performed, the results of the methodology including the processory of the performance of
47	the procedure is to be performed; the results of the methodology, including the measurements of the unberge shild, whether the measurements of Deum sum drame in the
48	the unborn child; whether the race, sex, or presence or presumption of Down syndrome in the
49 50	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

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because of the unborn child's actual or presumed race or sex or the presence or presumed presence 1 2 of Down syndrome; probable health consequences of the abortion; and an ultrasound image of the unborn child that depicts the measurements. The qualified physician shall provide this 3 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 that the information 6 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.

The information provided under this subsection shall be for statistical purposes only, and the confidentiality of the patient and the physician shall be protected. It is the duty of the qualified physician to submit information to the Department of Health and Human Services that omits identifying information of the patient and complies with Health Insurance Portability and 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.