

Article 1K.

Certain Abortions Prohibited.

§ 90-21.120. Definitions.

The following definitions apply in this Article:

- (1) Abortion. – As defined in G.S. 90-21.81.
- (2) Attempt to perform an abortion. – As defined in G.S. 90-21.81.
- (3) Woman. – As defined in G.S. 90-21.81. (2013-366, s. 3(a); 2023-14, s. 1.4(a).)

§ 90-21.121. Eugenic abortions prohibited.

(a) Notwithstanding any of the provisions of G.S. 90-21.81B, no person shall perform or attempt to perform an abortion upon a pregnant woman if the person has knowledge that the pregnant woman is seeking the abortion, in whole or in part, because of any of the following:

- (1) The actual or presumed race or racial makeup of the unborn child.
- (2) The sex of the unborn child.
- (3) The presence or presumed presence of Down syndrome.

(b) Nothing in this section shall be construed as placing an affirmative duty on a physician to inquire as to whether the sex of the unborn child is a significant factor in the pregnant woman seeking the abortion. (2013-366, s. 3(a); 2023-14, s. 1.4(b).)

§ 90-21.122. Civil remedies.

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

(b) A claim for damages against any person who has violated a provision of this Article may be sought by (i) the woman upon whom an abortion was performed or attempted in violation of this Article, (ii) any person who is the spouse or guardian of the woman upon whom an abortion was performed or attempted in violation of this Article, or (iii) a parent of the woman upon whom an abortion was performed or attempted in violation of this Article if the woman was a minor at the time the abortion was performed or attempted.

(c) A claim for injunctive relief against any person who has violated a provision of this Article may be sought by (i) the woman upon whom an abortion was performed or attempted in violation of this Article, (ii) any person who is the spouse, guardian, or current or former licensed health care provider of the woman upon whom an abortion was performed or attempted in violation of this Article, or (iii) a parent of the woman upon whom an abortion was performed or attempted in violation of this Article if the woman was a minor at the time the abortion was performed or attempted.

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

(e) The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (2013-366, s. 3(a).)

§ 90-21.123. Protection of privacy in court proceedings.

In every proceeding or action brought under this Article, the court shall rule whether the anonymity of any woman upon whom an abortion has been performed or attempted shall be preserved from public disclosure if the woman does not give her consent to the disclosure. The court, upon motion or sua sponte, shall make the ruling and, upon determining that the woman's anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. Each order issued pursuant to this section shall be accompanied by specific written findings explaining (i) why the anonymity of the woman should be preserved from public disclosure, (ii) why the order is essential to that end, (iii) how the order is narrowly tailored to serve that interest, and (iv) why no reasonable, less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted, anyone who brings an action under G.S. 90-21.122 shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant. (2013-366, s. 3(a).)

§ 90-21.124: Reserved for future codification purposes.

§ 90-21.125: Reserved for future codification purposes.

§ 90-21.126: Reserved for future codification purposes.

§ 90-21.127: Reserved for future codification purposes.

§ 90-21.128: Reserved for future codification purposes.

§ 90-21.129: Reserved for future codification purposes.