



**HOUSE BILL 297:  
End Marketing/Sale Unborn Children Body  
Parts**

2015-2016 General Assembly

**Committee:**

**Introduced by:**

**Analysis of:** S.L. 2015-265

**Date:**

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Staff Attorney

**SUMMARY:** *S.L. 2015-265 prohibits the sale of the remains of an unborn child resulting from an abortion, or of any aborted material. The act also prohibits the Department of Health and Human Services from allocating funds to support contracts with any abortion providers that provide family planning services, pregnancy prevention activities, or adolescent parenting programs under the Teen Pregnancy Prevention Initiatives.*

*This act became effective October 1, 2015, and the provisions prohibiting the sale of the remains of an unborn child apply to offenses committed on or after that date.*

**CURRENT LAW:**

State law does not prohibit the sale of the remains of an unborn child resulting from an abortion or of any aborted material. G.S. 130A-131.10 governs the manner of disposition of the remains of terminated pregnancies. It requires the Commission for Public Health to adopt rules to ensure that all facilities authorized to terminate pregnancies and all medical or research labs to which the remains of terminated pregnancies are transferred dispose of the remains by burial or cremation, or by an "approved hospital type of incineration," except for remains of a recognizable fetus, which may be disposed of only by burial or cremation.<sup>1</sup> The disposal requirements do not apply to remains sent by a hospital or other medical facility to a medical or research laboratory or facility.

Federal law prohibits the transfer of any human fetal tissue for "valuable consideration" if the transfer affects interstate commerce. 42 U.S.C. § 289g-2(a). A violation is punishable by imprisonment for up to 10 years and/or a fine in an amount not less than twice the amount of the valuable consideration received. By exceptions to its definition of "valuable consideration," federal law permits transfers involving only "reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue." 42 U.S.C. § 289g-2(e)(3).

**BILL ANALYSIS:**

**Section 1** of the act amends G.S. 130A-131.10 to replace the words "a recognizable fetus" with "the recognizable torso, head, organs or limbs of a human unborn child" in subsection (b), which requires cremation or burial of such remains, and to repeal subsection (c), which exempts hospitals or other medical facilities that send the remains to a medical or research lab from the disposal requirements of this section. Section 1 also provides that nothing in G.S. 130A-131.10 prevents: (i) the mother from

<sup>1</sup> **15A NCAC 13B .1301.** All hospitals, other medical facilities or medical or research laboratories shall dispose of fetal remains by burial, cremation or incineration in accordance with 15A NCAC 13B .1200, except that burial or cremation shall be the only methods of disposal of recognizable fetuses. For purposes of this Rule, a recognizable fetus means a fetus that has developed beyond completion of the second trimester of gestation, consistent with G.S. 90-210.20(c1).

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donating the remains of her unborn child to a research facility for research purposes or from acquiring the remains of her unborn child after a spontaneous abortion or miscarriage if the mother gives a specific, separate, informed written consent prior to the donation; or (ii) the performance of a lawful autopsy or any other examination deemed necessary by attending pathologists or treating physicians for diagnostic purposes.

**Section 2** of S.L. 2015-265 makes it a Class I felony for any person to sell the remains of an unborn child resulting from an abortion or a miscarriage, or any aborted or miscarried material. For purposes of this offense, the term "sell" is defined as "the transfer from one person to another in exchange for any consideration whatsoever," but does not include payment for incineration, burial, cremation, or autopsies or other examinations authorized by G.S. 130A-131.10(f) (as amended by Section 1 of the act).

**Section 3.** Part 6 of Article 5 ("Child & Women's Health") of Chapter 130A ("Public Health") of the General Statutes authorizes the Department of Health and Human Services (DHHS) to administer Teen Pregnancy Prevention Initiatives (TPPI programs). Section 3 of the act amends existing G.S. 130A-131.15A to prohibit DHHS from allocating any State funds *for TPPI programs* to renew or extend existing contracts or enter into new contracts for family planning services, pregnancy prevention activities, or adolescent parenting programs with providers that perform abortions

**EFFECTIVE DATE:** This act became effective when the Governor signed it into law on October 1, 2015. Sections 1 and 2 of the act apply to offenses committed on or after that date.