



HOUSE BILL 453: Human Life Nondiscrimination Act/No Eugenics.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	May 5, 2021
Introduced by:	Reps. McElraft, Bradford, K. Baker, Arp	Prepared by:	Jason Moran-Bates Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: *House Bill 453 would prohibit individuals from performing an abortion unless a physician has confirmed the abortion is not being sought because of the actual or presumed race or sex of the unborn child or the presence or presumed presence of Down syndrome. Physicians would be required to report whether the race or sex of the unborn child or the presence of Down syndrome had been detected and to affirm, under oath, that the report was accurate.*

CURRENT LAW: Article 1K of Chapter 90 (Certain Abortions Prohibited) prohibits individuals from performing or attempting to perform an abortion if they know or have an objective reason to know a significant factor for the woman seeking the abortion is the sex of the unborn child. Physicians are not required to inquire whether the sex of the unborn child is a significant factor for the woman seeking the abortion. Individuals who violate the provisions of Article 1K may be liable for civil damages and may be enjoined from future acts.

G.S. 14-45.1 makes it not unlawful, during the first 20 weeks of pregnancy, to advise, procure, or cause an abortion. *Bryant v. Woodall*, 363 F. Supp. 3d 611 (M.D.N.C. 2019), struck down G.S. 14-45.1 to the extent that it prohibited to pre-viability abortions. G.S. 14-45.1 also requires physicians performing abortions to record the probable gestational age of the child at the time of abortion and the methodology used to determine that age.

BILL ANALYSIS:

Section 1.(a) of the bill would make the following changes to Article 1K of Chapter 90:

- **G.S. 90-21.120. Definitions** would be amended to add definitions for "conception" and "physician."
- **G.S. 90-21.121. Sex-selective abortion prohibited** would be retitled as "Eugenic abortions prohibited." It would also be modified to prohibit an individual from performing an abortion unless the physician scheduled to perform the abortion has confirmed the abortion is not being sought because of (1) the actual or presumed race or racial makeup of the child (2) the sex of the unborn child, or (3) the presence or presumed presence of Down syndrome. Individuals would be prohibited from intentionally or knowingly performing abortions if the abortion is being sought because of (1) the actual or presumed race or sex of the unborn child or (2) the presence or presumed presence of Down syndrome. The subsection of G.S. 90-21.121 stating it will not be construed to require a physician to inquire whether the sex of the unborn child was a significant factor in the woman's seeking the abortion would be repealed.

Section 1.(b) of the bill would amend G.S. 14-45.1 to require physicians to report the following, in addition to the gestational age and methodology used to determine the gestational age:

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- Whether the race, sex, or presence of Down syndrome in the child had been detected.
- A statement the woman seeking the abortion did not tell the physician and that the physician has reason to believe the woman was not seeking the abortion because of the unborn child's actual or presumed race or sex or the actual or presumed presence of Down syndrome.

Physicians must also provide a signature attesting that the information contained in the report is true and accurate.

EFFECTIVE DATE: This bill would be effective September 1, 2021, and apply to all abortions performed on or after that date.