

OUR OPINION: 'Personhood' bill in N.D. goes much too far

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The most radical bill in the North Dakota Legislature has nothing to do with taxes or the state budget. The most radical bill is HB 1572, which recognizes the “personhood” of a fertilized human egg.

House Bill 1572 passed the House last week.

Why is it the most radical bill?

It's the most radical bill because it would upend North Dakota law. The Colorado Bar Association's executive council showed why last year. In November, Colorado voters had the chance to amend their constitution to bestow “personhood” status on zygotes and embryos. “The term ‘person’ or ‘persons’ shall include any human being from the moment of fertilization,” the amendment declared.

Here's the Colorado Bar executive council's response:

“The word ‘person’ appears more than 20,000 times in the Colorado Revised Statutes as well in Colorado regulations and municipal ordinances.

“Specifically, to redefine the term ‘person,’ as Amendment 48 proposes, would effectively amend all of the statutes in Colorado which contain that term. Almost every area of law would be impacted, including criminal law, family law, trusts and estates, elder law, tort law, juvenile law, health law and business law.”

Colorado voters rejected the amendment by almost 3-1.

Did North Dakota House members really understand what they were voting for?

It's no coincidence that the North Dakota and Colorado proposals resemble each other. The “personhood” movement is a nationwide effort by some — not all; more about that in a minute — anti-abortion activists to exploit a perceived loophole in *Roe v. Wade*. The 1973 decision by Justice Harry Blackmun includes a statement that if the “personhood” of a fetus could be established, then there could be no abortion rights, “for the fetus’ right to life would then be guaranteed specifically by the (14th) Amendment.”

So, if enough states declare personhood, the court will proclaim that Blackmun's condition has been fulfilled and overturn *Roe*, the thinking goes.

But the thinking is wrong. In making that statement, Blackmun simply was setting up a straw man, because he then dismantles it before he declares, “All this (evidence) ... persuades us that the word ‘person,’ as used in the Fourteenth Amendment, does not include the unborn.”

That is the controlling statement in *Roe*, and it trumps a contrary position by North Dakota or any state.

Don't take our word for it, though. The Colorado Catholic Conference — which speaks for the state's three Catholic bishops — refused to support the Colorado amendment on the grounds that its legal strategy likely would fail. Moreover, in declaring the amendment unconstitutional, the U.S. Supreme Court might very well reaffirm — not overturn — *Roe*, the bishops believed.

In other words, critics on all sides agree that a “personhood” law wouldn't affect *Roe*.

But it would have a huge effect on North Dakota.

“I train horses for a living, a high-risk occupation,” a commentator wrote about the Colorado amendment.

“If I were to take a header off one of my horses while carrying my 2-month-old infant, resulting in harm or death to my child, I would be charged with serious crimes. What, under the proposed law, is the difference if I — three months pregnant — get tossed, resulting in a miscarriage?”

“I have willfully endangered the pregnancy by my choice of occupation; and under the personhood definition, I’ve just killed a person.”

Some 15 to 20 percent of known pregnancies result in miscarriages. If HB 1572 passes, North Dakota police might have to investigate each to rule out negligence or wrongful death.

Some birth control pills and IUDs prevent implantation of a fertilized egg. Using them could be classified as felony crimes. Fertility clinics fertilize lots of eggs in order to get a successful pregnancy, as hopeful parents know. That could be criminalized, too.

The sponsors of HB1572 want North Dakota to pay for an expensive challenge to Roe. That challenge will fail, as noted above. Meanwhile, the law would put the state through the wringer and create problems that few, if any, of those who voted for the bill imagine.

The Senate should reject this poorly considered law.