

Overturing Roe via Bismarck

With little fanfare and even less national scrutiny, the health and safety of women is under assault, this time in the form of HB 1572, legislation in North Dakota that would give a fertilized egg full legal status, or “personhood.” This legislation, which passed out of the North Dakota house by a wide margin, awaits consideration by the Senate.

The intent of “personhood” legislation is clear: it was crafted specifically to reach a divided Supreme Court in an attempt to overturn the 1973 *Roe v Wade* decision.

A similar attempt at defining personhood at the moment of conception appeared on the ballot in Colorado only to be defeated by a 3 to 1 margin last November. Four other states, Alabama, South Carolina, Montana and Maryland, have comparable legislation pending. Activists in Mississippi and Oregon have begun gathering signatures to place personhood on the ballot.

North Dakota has a strong and proud culture of conservatism. Republicans hold firm majorities in both the House and Senate and the state hasn't given a win to a democrat in a presidential election since Lyndon B. Johnson.

A state with just three electoral votes and a population of less than 650,000 has been targeted by national activists and is now poised to have a disproportionate effect on national public policy and the health and safety of women across the country.

But the North Dakota personhood legislation won't just affect abortion. As with all extreme laws, the unintended consequences are many and profound. This poorly crafted legislation, nearly identical in every state which it appears, would have ramifications that range from absurd to life threatening.

Under this bill, all abortion regardless of the circumstances would be banned. So could in vitro fertilization, as fertilized eggs would have full legal rights. The same is true of some stem cell research and some methods of birth control.

Should this bill become law in North Dakota, women who suffer miscarriages or pregnancy complications could be investigated for homicide, manslaughter or reckless endangerment. (N.D. Cent. Code §12.1.-16.01(1)(a); -16.02; -17.03).

This extreme bill could allow criminal investigation and prosecution of doctors who treat pregnant women, if the treatment resulted in any harm to the fertilized egg. For example, a doctor who gave a pregnant woman life-saving cancer treatment or treated a woman with an ectopic pregnancy could be prosecuted if any harm came to the fertilized egg.

In North Dakota, passage would affect nearly ten thousand other laws and could force lawyers and the courts to reinterpret all North Dakota laws and regulations that contain the word “person,” ranging from when property rights are granted, to inheritance rights, to access to the courts.

Beyond its blatant unconstitutionality, HB 1572 could criminalize normal behavior of pregnant women (everything from riding a bike to working out could be criminalized) and result in huge administrative burdens for the state of North Dakota. Proponents of the measure estimate a cost to the state to defend the law at anywhere from five to eight million dollars. From a legal, fiscal and health care perspective the so-called “personhood” bill would bring chaos to order.

But PersonhoodUSA, the architects of this strategy, have little concern for practicalities or the disastrous effect this law could have on the health and lives of North Dakotans. Instead of working toward common sense public policy solutions that focus on preventing unintended pregnancy and reducing the need for abortion, the same fringe groups opt to carry on the same divisive debate.

As the majority in our country works toward an end to the politicization of abortion, fringe groups continue to seek out fertile ground, from North Dakota to Mississippi, working to cultivate a landscape where abortion could be outlawed, quietly launching yet another misguided effort to challenge *Roe v. Wade*, state by state.

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