

Article 11.

Abortion and Kindred Offenses.

**§ 14-44. Using drugs or instruments to destroy unborn child.**

If any person shall willfully administer to any woman, either pregnant or quick with child, or prescribe for any such woman, or advise or procure any such woman to take any medicine, drug or other substance whatever, or shall use or employ any instrument or other means with intent thereby to destroy such child, he shall be punished as a Class H felon. (1881, c. 351, s. 1; Code, s. 975; Rev., s. 3618; C.S., s. 4226; 1967, c. 367, s. 1; 1979, c. 760, s. 5; 1979, 2<sup>nd</sup> Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c 179, s. 14.)

**§ 14-45. Using drugs or instruments to produce miscarriage or injure pregnant woman.**

If any person shall administer to any pregnant woman, or prescribe for any such woman, or advise and procure such woman to take any medicine, drug or anything whatsoever, with intent thereby to procure the miscarriage of such woman, or to injure or destroy such woman, or shall use any instrument or application for any of the above purposes, he shall be punished as a Class I felon. (1881, c. 351, s. 2; Code, s. 976; Rev., s. 3619; C.S., s. 4227; 1979, c. 760, s. 5; 1979, 2<sup>nd</sup> Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

**§ 14-45.1. When abortion not unlawful.**

(a) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be unlawful, during the first 20 weeks of a woman's pregnancy, to advise, procure, or cause a miscarriage or abortion when the procedure is performed by a qualified physician licensed to practice medicine in North Carolina in a hospital or clinic certified by the Department of Health and Human Services to be a suitable facility for the performance of abortions.

(a1) The Department of Health and Human Services shall annually inspect any clinic, including ambulatory surgical facilities, where abortions are performed. The Department of Health and Human Services shall publish on the Department's Web site and on the State Web site established under G.S. 90-21.84 the results and findings of all inspections conducted on or after January 1, 2013, of clinics, including ambulatory surgical facilities, where abortions are performed, including any statement of deficiencies and any notice of administrative action resulting from the inspection. No person who is less than 18 years of age shall be employed at any clinic, including ambulatory surgical facilities, where abortions are performed. The requirements of this subsection shall not apply to a hospital required to be licensed under Chapter 131E of the General Statutes.

(b) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be unlawful, after the twentieth week of a woman's pregnancy, to advise, procure or cause a miscarriage or abortion when the procedure is performed by a qualified physician licensed to practice medicine in North Carolina in a hospital licensed by the Department of Health and Human Services, if there is a medical emergency as defined by G.S. 90-21.81(5).

(b1) A qualified physician who advises, procures, or causes a miscarriage or abortion after the sixteenth week of a woman's pregnancy shall record all of the following: the method used by the qualified physician to determine the probable gestational age of the

unborn child at the time the procedure is to be performed; the results of the methodology, including the measurements of the unborn child; and an ultrasound image of the unborn child that depicts the measurements. The qualified physician shall provide this information, including the ultrasound image, to the Department of Health and Human Services pursuant to G.S. 14-45.1(c).

A qualified physician who procures or causes a miscarriage or abortion after the twentieth week of a woman's pregnancy shall record the findings and analysis on which the qualified physician based the determination that there existed a medical emergency as defined by G.S. 90-21.81(5) and shall provide that information to the Department of Health and Human Services pursuant to G.S. 14-45.1(c). Materials generated by the physician or provided by the physician to the Department of Health and Human Services pursuant to this section shall not be public records under G.S. 132-1.

The information provided under this subsection shall be for statistical purposes only, and the confidentiality of the patient and the physician shall be protected. It is the duty of the qualified physician to submit information to the Department of Health and Human Services that omits identifying information of the patient and complies with Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(c) The Department of Health and Human Services shall prescribe and collect on an annual basis, from hospitals or clinics, including ambulatory surgical facilities, where abortions are performed, statistical summary reports concerning the medical and demographic characteristics of the abortions provided for in this section, including the information described in subsection (b1) of this section as it shall deem to be in the public interest. Hospitals or clinics where abortions are performed shall be responsible for providing these statistical summary reports to the Department of Health and Human Services. The reports shall be for statistical purposes only and the confidentiality of the patient relationship shall be protected. Materials generated by the physician or provided by the physician to the Department of Health and Human Services pursuant to this section shall not be public records under G.S. 132-1.

(d) The requirements of G.S. 130A-114 are not applicable to abortions performed pursuant to this section.

(e) No physician, nurse, or any other health care provider who shall state an objection to abortion on moral, ethical, or religious grounds shall be required to perform or participate in medical procedures which result in an abortion. The refusal of a physician, nurse, or health care provider to perform or participate in these medical procedures shall not be a basis for damages for the refusal, or for any disciplinary or any other recriminatory action against the physician, nurse, or health care provider. For purposes of this section, the phrase "health care provider" shall have the same meaning as defined under G.S. 90-410(1).

(f) Nothing in this section shall require a hospital, other health care institution, or other health care provider to perform an abortion or to provide abortion services.

(g) For purposes of this section, "qualified physician" means (i) a physician who possesses, or is eligible to possess, board certification in obstetrics or gynecology, (ii) a physician who possesses sufficient training based on established medical standards in safe

abortion care, abortion complications, and miscarriage management, or (iii) a physician who performs an abortion in a medical emergency as defined by G.S. 90-21.81(5). (1967, c. 367, s. 2; 1971, c. 383, ss. 1, 11/2; 1973, c. 139; c. 476, s. 128; c. 711; 1997-443, s. 11A.118(a); 2013-366, ss. 1(a), (b); 2015-62, s. 7(a).)

**§ 14-46. Concealing birth of child.**

If any person shall, by secretly burying or otherwise disposing of the dead body of a newborn child, endeavor to conceal the birth of such child, such person shall be punished as a Class I felon. Any person aiding, counseling or abetting any other person in concealing the birth of a child in violation of this statute shall be guilty of a Class 1 misdemeanor. (21 Jac. I, c. 27; 43 Geo. III, c. 58, s. 3; 9 Geo. IV, c. 31, s. 14; 1818, c. 985, P.R.; R.C., c. 34, s. 28; 1883, c. 390; Code, s. 1004; Rev., s. 3623; C.S., s. 4228; 1977, c. 577; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, ss. 24, 1148; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-46.1. Prohibit sale of the remains of an unborn child resulting from an abortion or miscarriage.**

(a) No person shall sell the remains of an unborn child resulting from an abortion or a miscarriage or any aborted or miscarried material.

(b) For purposes of this section, the term "sell" shall mean the transfer from one person to another in exchange for any consideration whatsoever. The term shall not include payment for incineration, burial, cremation, or any services performed pursuant to G.S. 130A-131.10(f).

(c) A person convicted of a violation of this section is guilty of a Class I felony. (2015-265, s. 2.)