



## 2021 South Dakota Legislature

# House Bill 1110

*Introduced by: The Committee on State Affairs at the request of the Office of the Governor*

1 **An Act to prohibit the performance of abortions due to Down syndrome and to**  
 2 **provide a penalty therefor.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **34-23A-89. Definition--Down syndrome.**

6 For purposes of this Act, the term, Down syndrome, is a chromosome disorder  
 7 associated with an extra chromosome twenty-one, in whole or in part, or an effective  
 8 trisomy for chromosome twenty-one.

9 **Section 2.** That a NEW SECTION be added:

10 **34-23A-90. Down syndrome--Abortion prohibited--Penalty.**

11 No person may perform or attempt to perform an abortion with knowledge that the  
 12 pregnant woman is seeking the abortion because the unborn child either has been  
 13 diagnosed with Down syndrome or has had a genetic screening indicating that the unborn  
 14 child may have Down syndrome. Any person who violates this section is guilty of a Class  
 15 6 felony. No penalty may be assessed against the woman upon whom the abortion is  
 16 performed or attempted to be performed.

17 **Section 3.** That a NEW SECTION be added:

18 **34-23A-91. Intentional, knowing, or negligent failure to comply--Civil**  
 19 **action.**

20 Where there has been an intentional, knowing, or negligent failure to comply with  
 21 the provisions of this Act, a pregnant woman who undergoes an abortion, or her survivors,  
 22 may bring a civil action, and obtain liquidated damages in the amount of ten thousand  
 23 dollars, plus reasonable attorney's fees and costs jointly and severally from the physician  
 24 who performed the abortion and the abortion facility where the abortion was performed.

1           This amount shall be in addition to any damages that the woman or survivors may  
2           be entitled to receive under any common law or statutory provisions, to the extent that  
3           she sustains any injury. This amount shall also be in addition to the amounts that the  
4           woman or other survivors of the deceased unborn child may be entitled to receive under  
5           any common law or statutory provisions, including the wrongful death statutes of this  
6           state.

7           **Section 4.** That a NEW SECTION be added:

8                   **34-23A-92. Exemptions to save life of the mother.**

9                   The provisions of this Act do not apply to any abortion that is necessary to save  
10                  the life of the pregnant woman because her life is endangered by a physical disorder,  
11                  illness, or injury, including a life-endangering condition caused by or arising from the  
12                  pregnancy itself, if no other medical procedure would suffice for that purpose.

13           **Section 5.** That a NEW SECTION be added:

14                   **34-23A-93. Nonrepealer clause.**

15                   Nothing in this Act repeals, by implication or otherwise, any provision not explicitly  
16                  repealed.