A BILL TO BE ENTITLED
AN ACT TO PROTECT RIGHTS AND PRIVILEGES GRANTED UNDER THE UNITED STATES AND NORTH CAROLINA CONSTITUTIONS IN THE APPLICATION OF FOREIGN LAW, TO MODIFY CERTAIN LAWS PERTAINING TO ABORTION, TO LIMIT ABORTION COVERAGE UNDER HEALTH INSURANCE PLANS OFFERED UNDER A HEALTH BENEFIT EXCHANGE OPERATING IN NORTH CAROLINA OR OFFERED BY A COUNTY OR MUNICIPALITY, TO PROHIBIT A PERSON FROM PERFORMING OR ATTEMPTING TO PERFORM AN ABORTION WHEN THE SEX OF THE UNBORN CHILD IS A SIGNIFICANT FACTOR IN SEEKING THE ABORTION, TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO AMEND RULES PERTAINING TO CLINICS CERTIFIED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO BE SUITABLE FACILITIES FOR THE PERFORMANCE OF ABORTIONS, AND TO AMEND THE WOMEN'S RIGHT TO KNOW ACT.

The General Assembly of North Carolina enacts:

PART I. SHORT TITLE
SECTION 1. This act may be known and cited as the Family, Faith, and Freedom Protection Act of 2013.

PART II. APPLICATION OF FOREIGN LAW
SECTION 2.(a) Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 7A.
"Application of Foreign Law.

§ 1-87.2. Definitions.
The following definitions apply in this Article:

(1) Fundamental constitutional right. – A fundamental right of a natural person guaranteed by the United States Constitution or the North Carolina Constitution.

(2) Foreign law. – A law, rule, resolution, legal code, legal system, or any component of a legal system established and used or applied in a foreign venue or forum.
General Assembly Of North Carolina

§ 1-87.3. Public policy.

In recognition that the United States Constitution and the Constitution of North Carolina constitute the supreme law of this State, the General Assembly hereby declares it to be the public policy of this State to protect its citizens from the application of foreign law that would result in the violation of a fundamental constitutional right of a natural person. The public policies expressed in this section shall apply only to actual or foreseeable violations of a fundamental constitutional right resulting from the application of the foreign law.

§ 1-87.4. Nonapplication of foreign law that would violate fundamental constitutional rights.

A court, administrative agency, arbitrator, mediator, or other entity or person acting under the authority of State law shall not apply a foreign law in any legal proceeding involving, or recognize a foreign judgment involving, a claim for absolute divorce, divorce from bed and board, child custody, child support, alimony, or equitable distribution if doing so would violate a fundamental constitutional right of one or more natural persons who are parties to the proceeding.

§ 1-87.5. Interpretation of contracts providing for choice of foreign law.

(a) In the interpretation or enforcement by a court, administrative agency, arbitrator, mediator, or other entity or person acting under the authority of State law of any contract or other agreement that provides for the choice of a foreign law to govern its interpretation or the resolution of any claim or dispute, the court or administrative agency shall preserve the fundamental constitutional rights of natural persons who are parties to the contract or other agreement.

(b) If enforcement of any provision in a contract or other agreement for the choice of foreign law would result in a violation of a fundamental constitutional right of one or more of the natural persons who are parties to the contract or other agreement, the agreement or contract shall be modified or amended to the extent necessary to preserve the fundamental constitutional rights of the natural persons.

§ 1-87.6. Interpretation of contracts providing for choice of foreign venue or forum.

If the enforcement of any provision in a contract or other agreement providing for a choice of a foreign venue or forum would result in a violation of a fundamental constitutional right of one or more of the natural persons who are parties to the contract or other agreement, that provision shall be modified or amended to the extent necessary to preserve the fundamental constitutional rights of the natural persons.

§ 1-87.7. Motions to transfer proceedings to a foreign venue or forum.

If a natural person subject to personal jurisdiction in this State seeks to maintain a litigation proceeding, arbitration proceeding, or other similarly binding proceeding in this State, and if a court of this State finds that granting a motion by another party to the proceeding to transfer the proceeding to a foreign venue or forum would likely lead to the violation of a fundamental constitutional right of the natural person who is the nonmovant in the foreign forum with respect to the matter in dispute, the motion shall be denied.

§ 1-87.8. Contracts not capable of modification to preserve fundamental constitutional rights void.
Any provision in a contract or other agreement incapable of being modified or amended pursuant to this Article in order to preserve the fundamental constitutional rights of the natural persons who are parties to the contract or agreement shall be null and void.

"§ 1-87.9. Strict construction of waivers of constitutional rights.

Nothing in this Article shall be interpreted to limit the right of natural persons voluntarily to restrict or limit their own constitutional rights by contract or specific waiver consistent with constitutional principles; however, any ambiguity in the language of any such contract or other waiver shall be strictly construed in favor of preserving the constitutional rights of natural persons in this State.

"§ 1-87.10. Application.

The provisions in this act shall apply only to proceedings or matters under Chapter 50 and Chapter 50A of the General Statutes.

SECTION 2. This section becomes effective September 1, 2013, and applies to agreements and contracts entered into on or after that date.

PART III. HEALTH CARE CONSCIENCE PROTECTION

SECTION 3. (a) G.S. 14-45.1(e) reads as rewritten:

"(e) Nothing in this section shall require a physician licensed to practice medicine in North Carolina or Carolina, any nurse, nurse, or any other health care provider who shall state an objection to abortion on moral, ethical, or religious grounds, to perform or participate in medical procedures which result in an abortion. The refusal of such physician, nurse, or health care provider to perform or participate in these medical procedures shall not be a basis for damages for such refusal, or for any disciplinary or any other recriminatory action against such physician, 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)."

SECTION 3. (b) G.S. 14-45.1(f) reads as rewritten:

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

SECTION 3. (c) This section becomes effective 30 days after it becomes law.

PART IV. LIMITS ON ABORTION FUNDING UNDER HEALTH INSURANCE PLANS OFFERED THROUGH A HEALTH INSURANCE EXCHANGE OR BY LOCAL GOVERNMENTS

SECTION 4. (a) Article 51 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-51-63. Coverage for abortions not allowed in plans offered through Exchange.

(a) Pursuant to the authority granted to states under 42 U.S.C. § 18023(a), no qualified health plan offered through an Exchange created under Subchapter III of Chapter 157 of Title 42 of the U.S. Code and operating within this State shall include coverage for abortion services.

(b) The coverage limitation in subsection (a) of this section shall not apply to an abortion performed when the pregnancy is the result of an act of rape or incest or the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself."

SECTION 4. (b) G.S. 153A-92(d) reads as rewritten:

"(d) A county may purchase life insurance or health insurance or both for the benefit of all or any class of county officers and employees as a part of their compensation. A county may provide other fringe benefits for county officers and employees. In providing health insurance to county officers and employees, a county shall not provide abortion coverage greater than that
provided by the State Health Plan for Teachers and State Employees under Article 3B of Chapter 135 of the General Statutes."

SECTION 4.(c) G.S. 160A-162(b) reads as rewritten:

"(b) The council may purchase life, health, and any other forms of insurance for the benefit of all or any class of city employees and their dependents, and may provide other fringe benefits for city employees. In providing health insurance to city employees, the council shall not provide abortion coverage greater than that provided by the State Health Plan for Teachers and State Employees under Article 3B of Chapter 135 of the General Statutes."

SECTION 4.(d) Subsections (a) and (d) of this section are effective when they become law. Subsections (b) and (c) of this section apply to insurance contracts or policies issued, renewed, or amended on or after October 1, 2013.

PART V. CLARIFY LAW/PROHIBIT SEX-SELECTIVE ABORTION

SECTION 5.(a) Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 1K. Certain Abortions Prohibited.

The following definitions apply in this Article:

(1) Abortion. – As defined in G.S. 90-21.81(1).
(2) Attempt to perform an abortion. – As defined in G.S. 90-21.81(2).
(3) Woman. – As defined in G.S. 90-21.81(11).

§ 90-21.121. Sex-selective abortion prohibited.

(a) Notwithstanding any of the provisions of G.S. 14-45.1, no person shall perform or attempt to perform an abortion upon a woman in this State with knowledge, or an objective reason to know, that a significant factor in the woman seeking the abortion is related to the sex of the unborn child.

(b) Nothing in this section shall be construed as placing an affirmative duty on a physician to inquire as to whether the sex of the unborn child is a significant factor in the pregnant woman seeking the abortion.


(a) Any person who violates any provision of this Article shall be liable for damages, including punitive damages pursuant to Chapter 1D of the General Statutes, and may be enjoined from future acts.

(b) A claim for damages against any person who has violated a provision of this Article may be sought by (i) the woman upon whom an abortion was performed or attempted in violation of this Article, (ii) any person who is the spouse or guardian of the woman upon whom an abortion was performed or attempted in violation of this Article, or (iii) a parent of the woman upon whom an abortion was performed or attempted in violation of this Article if the woman was a minor at the time the abortion was performed or attempted.

(c) A claim for injunctive relief against any person who has violated a provision of this Article may be sought by (i) the woman upon whom an abortion was performed or attempted in violation of this Article, (ii) any person who is the spouse, guardian, or current or former licensed health care provider of the woman upon whom an abortion was performed or attempted in violation of this Article, or (iii) a parent of the woman upon whom an abortion was performed or attempted in violation of this Article if the woman was a minor at the time the abortion was performed or attempted.

(d) Any person who violates the terms of an injunction issued in accordance with this section shall be subject to civil contempt and shall be fined ten thousand dollars ($10,000) for the first violation, fifty thousand dollars ($50,000) for the second violation, and one hundred thousand dollars ($100,000) for the third violation and each subsequent violation. Each
performance or attempted performance of an abortion in violation of the terms of an injunction is a separate violation. The fine shall be the exclusive penalty for civil contempt under this subsection. The fine under this subsection shall be cumulative. No fine shall be assessed against the woman upon whom an abortion is performed or attempted.

(e) The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

In every proceeding or action brought under this Article, the court shall rule whether the anonymity of any woman upon whom an abortion has been performed or attempted shall be preserved from public disclosure if the woman does not give her consent to the disclosure. The court, upon motion or sua sponte, shall make the ruling and, upon determining that the woman's anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. Each order issued pursuant to this section shall be accompanied by specific written findings explaining (i) why the anonymity of the woman should be preserved from public disclosure, (ii) why the order is essential to that end, (iii) how the order is narrowly tailored to serve that interest, and (iv) why no reasonable, less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted, anyone who brings an action under G.S. 90-21.122 shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

SECTION 5.(b) G.S. 90-21.81(2) reads as rewritten:

The following definitions apply in this Article:

(2) Attempt to perform an abortion. – An act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in violation of this Article of Article 1K of this Chapter.

..."
same room as the patient when the drug or chemical is administered
to the patient.

SECTION 6.(b) G.S. 90-21.83 is amended by adding a new subsection to read:
"(d) The Department shall cause to be available on the State Web site a list of resources
the woman may contact for assistance upon receiving information from the physician
performing the ultrasound that the unborn child may have a disability or serious abnormality
and shall do so in a manner prescribed by subsection (b) of this section."

SECTION 6.(c) The Department of Health and Human Services (Department)
shall amend its rules pertaining to clinics certified by the Department to be suitable facilities for
the performance of abortions under G.S. 14-45.1. The rules shall ensure that standards for the
clinics certified by the Department to be suitable facilities for the performance of abortions are
similar to those for the licensure of ambulatory surgical centers. These rules shall address the
on-site recovery phase of patient care at the clinic as well as the requirement for a transfer
agreement between a clinic and a hospital. No later than January 1, 2014, the Department shall
report to the Joint Legislative Oversight Committee on Health and Human Services on its
progress in amending the rules.

SECTION 6.(d) This section becomes effective October 1, 2013.

PART VII. SEVERABILITY AND EFFECTIVE DATE

SECTION 7.(a) If any provision of this act or its application is held invalid, the
invalidity does not affect other provisions or applications of this act that can be given effect
without the invalid provisions or application, and to this end the provisions of this act are
severable. If any provision of this act is temporarily or permanently restrained or enjoined by
judicial order, this act shall be enforced as though such restrained or enjoined provisions had
not been adopted, provided that whenever such temporary or permanent restraining order or
injunction is stayed, dissolved, or otherwise ceases to have effect, such provisions shall have
full force and effect.

SECTION 7.(b) This act is effective as provided herein. Section 1 and this section
are effective when they become law.