

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 890

Short Title: Unborn Victims of Violence Act. (Public)

Sponsors: Representatives Hilton, Burris-Floyd, Blust, McElraft (Primary Sponsors); Avila, Barnhart, Blackwell, Blackwood, Boles, Brown, Burr, Cleveland, Current, Daughtry, Dockham, Dollar, E. Floyd, Folwell, Frye, Gillespie, Grady, Guice, Gulley, Hill, Holloway, Hughes, Hurley, Johnson, Justus, Killian, Langdon, Lewis, McCormick, McGee, Mills, Mobley, Moore, Neumann, Parmon, Randleman, Rhyne, Sager, Samuelson, Setzer, Spear, Stam, Starnes, Steen, Stevens, Tarleton, Tillis, West, Wiley, and Wray.

Referred to: Judiciary I, if favorable, Health, if favorable, Appropriations.

March 31, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE CRIMINAL OFFENSES FOR ACTS THAT CAUSE THE DEATH
3 OR INJURY OF AN UNBORN CHILD OR ARE COMMITTED AGAINST A
4 PREGNANT WOMAN.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** This act shall be known and may be cited as the "Unborn Victims of
7 Violence Act."

8 **SECTION 2.** Chapter 14 of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 6A.

11 "Unborn Victims.

12 "**§ 14-23.1. Definition.**

13 As used in this Article, unless the context requires otherwise, "unborn child" means a
14 member of the species homo sapiens, at any stage of development, who is carried in the womb.

15 "**§ 14-23.2. Murder of an unborn child; penalty.**

16 (a) Any person who unlawfully causes the death of an unborn child is guilty of murder
17 of an unborn child if the person does any one of the following:

18 (1) Willfully and maliciously commits an act with the intent to cause the death
19 of the unborn child.

20 (2) Commits an act causing the death of the unborn child that is inherently
21 dangerous to human or fetal life and is done so recklessly and wantonly that
22 it reflects disregard of life.

23 (3) Causes the death of the unborn child in perpetration or attempted
24 perpetration of any of the criminal offenses set forth under G.S. 14-17 that
25 would constitute a Class A felony if a person was killed during the
26 perpetration or attempted perpetration.

27 (b) Penalty. – An offense under this section shall be a Class A felony, and any person
28 who commits such offense shall be punished with imprisonment in the State's prison for life
29 without parole.

30 "**§ 14-23.3. Voluntary manslaughter of an unborn child; penalty.**



1 (a) A person is guilty of the offense of voluntary manslaughter as defined in the
2 common law if the person unlawfully causes the death of an unborn child by an act that would
3 be voluntary manslaughter if it resulted in the death of the mother.

4 (b) Penalty. – Any person who commits an offense under this section shall be guilty of
5 a Class D felony.

6 **"§ 14-23.4. Involuntary manslaughter of an unborn child; penalty.**

7 (a) A person is guilty of the offense of involuntary manslaughter as defined in the
8 common law if the person unlawfully causes the death of an unborn child by an act that would
9 be involuntary manslaughter if it resulted in the death of the mother.

10 (b) Penalty. – Any person who commits an offense under this section shall be guilty of
11 a Class E felony.

12 **"§ 14-23.5. Assault inflicting serious bodily injury of an unborn child; penalty.**

13 (a) Any person who unlawfully inflicts serious bodily harm upon an unborn child, who
14 is subsequently born alive, by a battery of the mother of the child, is guilty of assault inflicting
15 serious bodily injury of an unborn child.

16 (b) For purposes of this section, "serious bodily harm" is defined as bodily injury that
17 creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a
18 permanent or protracted condition that causes extreme pain, or permanent or protracted loss or
19 impairment of the function of any bodily member or organ, or that results in prolonged
20 hospitalization, or causing the birth of the unborn child prior to 37 weeks gestation, if the child
21 weighs 2,500 grams or less at the time of birth.

22 (c) Penalty. – Any person who commits an offense under this section shall be guilty of
23 a Class F felony.

24 **"§ 14-23.6. Assault of an unborn child.**

25 (a) Any person who unlawfully commits any assault, assault and battery, or affray is
26 guilty of assault on an unborn child if, in the course of the assault, assault and battery, or affray,
27 the person assaults a pregnant woman.

28 (b) Penalty. – Any person who commits an offense under this section is guilty of a
29 Class H felony.

30 **"§ 14-23.7. Exceptions.**

31 This act does not apply to:

32 (a) Acts which cause the death of an unborn child if those acts were lawful, pursuant to
33 the provisions of G.S. 14-45.1.

34 (b) Acts which are committed pursuant to usual and customary standards of medical
35 practice during diagnostic testing or therapeutic treatment.

36 (c) Acts committed by a pregnant woman which result in miscarriage or stillbirth by the
37 woman."

38 **SECTION 3.** Prosecutions for offenses committed before the effective date of this
39 act are not abated or affected by this act, and the statutes that would be applicable but for this
40 act remain applicable to those prosecutions.

41 **SECTION 4.** If any provision of this act or its application is held invalid, the
42 invalidity does not affect other provisions or applications of this act that can be given effect
43 without the invalid provisions or application, and to this end the provisions of this act are
44 severable.

45 **SECTION 5.** A prosecution for or conviction under this act is not a bar to
46 conviction of or punishment for any other crime committed by the defendant as part of the
47 same conduct.

48 **SECTION 6.** This act becomes effective December 1, 2009, and applies to
49 offenses committed on or after that date.