

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H**D**

HOUSE DRH10012-LH-13A (11/15)

Short Title: Unborn Victims of Violence.

(Public)

Sponsors: Representatives Walend and Folwell (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON WHO commits the crime of murder or manslaughter OF A PREGNANT WOMAN is GUILTY OF A SEPARATE OFFENSE for THE RESULTING DEATH OF THE unborn child and to provide that a person who commits a felony or a misdemeanor that is an act of domestic violence and injures a pregnant woman that results in a miscarriage or stillbirth by the woman is guilty of a separate offense that is punishable at the same class and level as the underlying offense.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-17 reads as rewritten:

"§ 14-17. Murder in the first and second degree defined; punishment.

(a) A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 17 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life without parole. Provided, however, any person under

the age of 17 who commits murder in the first degree while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or methamphetamine, when the ingestion of such substance causes the death of the user, shall be deemed murder in the second degree, and any person who commits such murder shall be punished as a Class B2 felon.

(b) Any person who murders a pregnant woman and thereby causes the death of an unborn child is guilty of a separate offense under this subsection. Except as otherwise provided in subsection (c) of this section, the punishment for that separate offense is the same as the punishment provided under subsection (a) of this section. An offense under this subsection does not require proof that the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant, or that the defendant intended to cause the death of the unborn child.

(c) Nothing in subsection (b) of this section shall be construed to permit the prosecution:

(1) Of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law.

(2) Of any person for any medical treatment of the pregnant woman or her unborn child."

SECTION 2. G.S. 14-18 reads as rewritten:

"§ 14-18. Punishment for manslaughter.

(a) Voluntary manslaughter shall be punishable as a Class D felony, and involuntary manslaughter shall be punishable as a Class F felony.

(b) Any person who commits voluntary or involuntary manslaughter of a pregnant woman and thereby causes the death of an unborn child is guilty of a separate offense under this subsection. Except as otherwise provided in subsection (c) of this section, the punishment for that separate offense is the same as the punishment provided under subsection (a) of this section. An offense under this subsection does not require proof that the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant, or that the defendant intended to cause the death of the unborn child.

(c) Nothing in subsection (b) of this section shall be construed to permit the prosecution:

(1) Of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law.

(2) Of any person for any medical treatment of the pregnant woman or her unborn child."

SECTION 3. G.S. 14-18.2 reads as rewritten:

"§ 14-18.2. Injury to pregnant woman.

(a) Definitions. – The following definitions shall apply in this section:

(1) Miscarriage. – The interruption of the normal development of the fetus, other than by a live birth, and which is not an induced abortion permitted under G. S. 14-45.1, resulting in the complete expulsion or extraction from a pregnant woman of the fetus.

(2) Stillbirth. – The death of a fetus prior to the complete expulsion or extraction from a woman irrespective of the duration of pregnancy and which is not an induced abortion permitted under G.S. 14-45.1.

(b) A person who in the commission of a felony causes injury to a woman, ~~knowing the woman to be pregnant,~~ which injury results in a miscarriage or stillbirth by the woman is guilty of a felony ~~that is one class higher than the felony committed.~~separate felony. The punishment for the separate felony committed under this subsection shall be the same as the punishment for the underlying felony.

(c) A person who in the commission of a misdemeanor that is an act of domestic violence as defined in Chapter 50B of the General Statutes causes injury to a woman, ~~knowing the woman to be pregnant,~~ which results in miscarriage or stillbirth by the woman is guilty of a misdemeanor ~~that is one class higher than the misdemeanor committed. If the offense was a Class A1 misdemeanor, the defendant is guilty of a Class I felony.~~separate misdemeanor. The punishment for the separate misdemeanor committed under this subsection shall be the same as the punishment for the underlying misdemeanor.

(c1) An offense under this section does not require proof that the person committing the felony or misdemeanor had knowledge or should have had knowledge that the victim of the underlying offense was pregnant, or that the defendant intended to cause the death of the unborn child.

(d) This section shall not apply to acts committed by a pregnant woman which result in a miscarriage or stillbirth by the woman."

SECTION 4. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.