

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1324

Short Title: Unborn Victims of Violence. (Public)

Sponsors: Representatives Walend, Folwell (Primary Sponsors); Allred, Almond, Barnhart, Blackwood, Blust, Brown, Capps, Clary, Cleveland, Culp, Current, Daughtry, Dockham, Dollar, Eddins, Frye, Gillespie, Grady, Gulley, Hilton, Hollo, Holloway, Holmes, Howard, Johnson, Ed Jones, Justus, Langdon, LaRoque, Lewis, McGee, McMahan, Moore, Pate, Preston, Rayfield, Rhodes, Sauls, Setzer, Sherrill, Stam, Starnes, Steen, Vinson, Walker, West, Wiley, and Wilson.

Referred to: Judiciary II.

April 20, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A PERSON WHO COMMITS THE CRIME OF
2 MURDER OR MANSLAUGHTER OF A PREGNANT WOMAN IS GUILTY OF
3 A SEPARATE OFFENSE FOR THE RESULTING DEATH OF THE UNBORN
4 CHILD AND TO PROVIDE THAT A PERSON WHO COMMITS A FELONY OR
5 A MISDEMEANOR THAT IS AN ACT OF DOMESTIC VIOLENCE AND
6 INJURES A PREGNANT WOMAN THAT RESULTS IN A MISCARRIAGE OR
7 STILLBIRTH BY THE WOMAN IS GUILTY OF A SEPARATE OFFENSE
8 THAT IS PUNISHABLE AT THE SAME CLASS AND LEVEL AS THE
9 UNDERLYING OFFENSE.
10

11 The General Assembly of North Carolina enacts:

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

13 **"§ 14-17. Murder in the first and second degree defined; punishment.**

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

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

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

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

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

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

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

28 "**§ 14-18. Punishment for manslaughter.**

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

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

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

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

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

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

4 **"§ 14-18.2. Injury to pregnant woman.**

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

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

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

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

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

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

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

32 **SECTION 4.** This act becomes effective December 1, 2005, and applies to
33 offenses committed on or after that date.