

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1106

Short Title: Fetal Homicide.

(Public)

Sponsors: Representatives Starnes; Gillespie and Moore.

Referred to: Judiciary I.

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE CRIMINAL OFFENSE OF FETAL HOMICIDE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-18.3. Fetal homicide.

(a) Definition. – For purposes of this section, the term unborn child means an individual member of the species Homo sapiens, at any stage of development in utero, who was alive at the time of the homicidal act and died as a result thereof whether before, during, or after birth.

(b) Murder of an Unborn Child in the First Degree. – A person commits murder of an unborn child in the first degree if the person in committing an act or engaging in conduct that causes the death of an unborn child, intends, with deliberate and premeditated malice, to kill the unborn child or the mother of the unborn child with knowledge of the pregnancy. Unless the conduct is covered under some other provision of law providing greater punishment, a person convicted of an offense under this subsection is guilty of a Class B1 felony.

(c) Murder of an Unborn Child in the Second Degree. – A person commits murder of an unborn child in the second degree if the person in committing an act or engaging in conduct that causes the death of an unborn child, intends, but without premeditation, to kill the unborn child or another. Unless the conduct is covered under some other provision of law providing greater punishment, a person convicted of an offense under this subsection is guilty of a Class C felony.

(d) Manslaughter of an Unborn Child. – A person commits manslaughter of an unborn child if the person kills an unborn child without malice upon a sudden quarrel with any person. Unless the conduct is covered under some other provision of law providing greater punishment, a person convicted of an offense under this subsection is guilty of a Class F felony.

1 (e) This section shall not apply to acts or conduct committed by a pregnant
2 woman that results in a miscarriage or stillbirth by the woman or to acts or conduct
3 committed in compliance with G.S. 14-45.1."

4 **SECTION 2.** G.S. 20-141.4 reads as rewritten:

5 **"§ 20-141.4. Felony and misdemeanor death by vehicle.**

6 (a) Repealed by Session Laws 1983, c. 435, s. 27.

7 (a1) **Felony Death by Vehicle.** – A person commits the offense of felony death by
8 vehicle if he unintentionally causes the death of another person while engaged in the
9 offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2 and commission of
10 that offense is the proximate cause of the death.

11 (a2) **Misdemeanor Death by Vehicle.** – A person commits the offense of
12 misdemeanor death by vehicle if he unintentionally causes the death of another person
13 while engaged in the violation of any State law or local ordinance applying to the
14 operation or use of a vehicle or to the regulation of traffic, other than impaired driving
15 under G.S. 20-138.1, and commission of that violation is the proximate cause of the
16 death.

17 (a3) **Felony Death by Vehicle of an Unborn Child.** – A person commits the
18 offense of felony death by vehicle of unborn child if the person commits an offense
19 under subsection (a) of this section and commission of that violation is the proximate
20 cause of the death of an unborn child.

21 (a4) **Misdemeanor Death by Vehicle of an Unborn Child.** – A person commits the
22 offense of misdemeanor death by vehicle of unborn child if the person commits an
23 offense under subsection (b) of this section and commission of that violation is the
24 proximate cause of the death of an unborn child.

25 (b) **Punishments.** – Felony death by vehicle is a Class G felony. Misdemeanor
26 death by vehicle is a Class 1 misdemeanor. Felony death by vehicle of an unborn child
27 is a Class H felony. Misdemeanor death by vehicle of an unborn child is a Class 2
28 misdemeanor.

29 (c) **No Double Prosecutions.** – No person who has been placed in jeopardy upon
30 a charge of death by vehicle may be prosecuted for the offense of manslaughter arising
31 out of the same death; and no person who has been placed in jeopardy upon a charge of
32 manslaughter may be prosecuted for death by vehicle arising out of the same death.

33 (d) **Definition.** – For purposes of this section the term unborn child means an
34 individual member of the species Homo sapiens, at any stage of development in utero,
35 who was alive at the time of the homicidal act and died as a result thereof whether
36 before, during, or after birth."

37 **SECTION 3.** This act becomes effective December 1, 2003, and applies to
38 offenses committed on or after that date.