

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 263**

Short Title: Unborn Victims of Violence. (Public)

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Sponsors: Representatives Walend, Folwell, Steen, Samuelson (Primary Sponsors); Almond, Avila, Barnhart, Blust, Boylan, Brown, Brubaker, Clary, Cleveland, Coates, Current, Daughtry, Dockham, Dollar, Frye, Gillespie, Grady, Gulley, Hilton, Holloway, Holmes, Howard, Hurley, Johnson, Justice, Justus, Killian, Kiser, Langdon, Lewis, McComas, McElraft, McGee, Moore, Neumann, Pate, Ray, Setzer, Stam, Starnes, Thomas, Tillis, Walker, R. Warren, West, and Wiley.

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Referred to: Judiciary I.

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February 20, 2007

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~~  
16          ~~committed.~~separate felony. The punishment for the separate felony committed under  
17          this subsection 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 subsection 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, 2007, and applies to  
33          offenses committed on or after that date.