

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 26

Short Title: Injury to Pregnant Women/Additional Offense. (Public)

Sponsors: Senators Brunstetter; Allran, Apodaca, Berger of Rockingham, Bingham, Blake, Brock, Brown, Davis, Forrester, Goodall, Jacumin, Preston, and Stevens.

Referred to: Judiciary I.

February 3, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATE LAW THAT MAKES INJURY TO A PREGNANT WOMAN A ONE CLASSIFICATION HIGHER OFFENSE TO A SEPARATE OFFENSE, AND TO INCLUDE AS AN AGGRAVATING FACTOR IN FELONY CASES THAT THE VICTIM WAS PREGNANT.

Whereas, there are 36 states that make it a separate offense to cause the death of a "fetus," "quick," or "unborn child," including: Alabama, Alaska, Arizona, Arkansas, California, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin; and

Whereas, the General Assembly enacted an "Injury to Pregnant Woman" statute in 1998 that defined "miscarriage" and "stillbirth" and provided a sanction for the criminal conduct against a pregnant woman that caused a miscarriage or stillbirth; and

Whereas, the 1998 statute fully excepted from its provisions any lawful right to an abortion permitted by State law; and

Whereas, an unlawful act that results in the death of a fetus or unborn child should be recognized as a separate criminal offense in this State, as it has been recognized in a majority of state jurisdictions in the United States; Now, therefore, The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-18.2 reads as rewritten:

"§ 14-18.2. Injury to pregnant ~~woman-woman~~; separate offense; punishment.

(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) Except as otherwise provided in this section, A a person who in the commission of a felony causes injury to a pregnant woman, knowing the woman to be pregnant, which injury results in a miscarriage or stillbirth by the ~~woman-woman~~, is guilty of a separate felony offense that is one class higher than the felony committed. For the purposes of this section only, a felony causing injury to a pregnant woman shall include felony offenses that result in the death of the pregnant woman.



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

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

9 (e) If the underlying offense is a Class A or Class B1 felony, then the separate offense
10 under subsection (b) of this section shall be a Class A felony.

11 (f) A felony under this section shall not be used as the underlying felony for a charge of
12 felony murder."

13 **SECTION 2.** G.S. 15A-1340.16(d) reads as rewritten:

14 "(d) Aggravating Factors. – The following are aggravating factors:

15 ...

16 (11) The victim was very young, ~~or~~ very old, ~~or~~ mentally or physically infirm,
17 pregnant, or handicapped.

18"

19 **SECTION 3.** This act becomes effective December 1, 2009, and applies to
20 offenses committed on or after that date.