
By: **Delegates M. Burns, Schade, O'Donnell, Jacobs, Morgan, DeCarlo,
Klima, Stocksdales, Rzepkowski, and D. Murphy**

Introduced and read first time: February 13, 1998

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Offenses Against Unborn Child**

3 FOR the purpose of making it a felony to commit first degree murder, second degree
4 murder, voluntary manslaughter, involuntary manslaughter, or first degree
5 assault against an unborn child; making this Act inapplicable to certain
6 activities; specifying the elements of certain offenses against an unborn child;
7 providing certain penalties; specifying a defense against charges brought under
8 this Act; defining a term; and generally relating to offenses against an unborn
9 child.

10 BY adding to

11 Article 27 - Crimes and Punishments

12 Section 411B

13 Annotated Code of Maryland

14 (1996 Replacement Volume and 1997 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article 27 - Crimes and Punishments**

18 411B.

19 (A) IN THIS SECTION, "UNBORN CHILD" MEANS AN INDIVIDUAL ORGANISM OF
20 THE SPECIES HOMO SAPIENS FROM FERTILIZATION UNTIL LIVE BIRTH.

21 (B) THIS SECTION DOES NOT APPLY TO AN ABORTION OR ATTEMPTED
22 ABORTION IN WHICH THE PREGNANT WOMAN COOPERATED AND CONSENTED.

23 (C) (1) A PERSON MAY NOT WILLFULLY, DELIBERATELY, AND WITH
24 PREMEDITATION CAUSE THE DEATH OF AN UNBORN CHILD.

25 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF MURDER
26 IN THE FIRST DEGREE AND ON CONVICTION IS SUBJECT TO DEATH, IMPRISONMENT
27 FOR LIFE, OR IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE.

1 (D) (1) A PERSON MAY NOT CAUSE THE DEATH OF AN UNBORN CHILD WITH
2 MALICE BUT WITHOUT WILLFULNESS, DELIBERATION, OR PREMEDITATION.

3 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF MURDER
4 IN THE SECOND DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
5 EXCEEDING 30 YEARS.

6 (E) (1) A PERSON MAY NOT CAUSE THE DEATH OF AN UNBORN CHILD
7 WHILE ACTING UNDER A SUDDEN AND INTENSE PASSION RESULTING FROM
8 LEGALLY ADEQUATE PROVOCATION BY:

9 (I) THE MOTHER OF THE UNBORN CHILD WHOM THE PERSON
10 ATTEMPTS TO KILL; OR

11 (II) A THIRD PARTY WHOM THE PERSON ATTEMPTS TO KILL.

12 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF THE
13 FELONY OF VOLUNTARY MANSLAUGHTER AND ON CONVICTION IS SUBJECT TO A
14 FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS OR
15 BOTH.

16 (F) (1) A PERSON MAY NOT WITHOUT MALICE CAUSE THE DEATH OF THE
17 UNBORN CHILD BY:

18 (I) COMMITTING AN UNLAWFUL ACT THAT ENDANGERS LIFE;

19 (II) ACTING WITH GROSS NEGLIGENCE; OR

20 (III) NEGLIGENTLY OMITTING TO PERFORM A LEGAL DUTY.

21 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF THE
22 FELONY OF INVOLUNTARY MANSLAUGHTER AND ON CONVICTION IS SUBJECT TO A
23 FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

24 (G) (1) A PERSON MAY NOT INTENTIONALLY CAUSE AN UNBORN CHILD TO
25 SUFFER A SERIOUS PHYSICAL INJURY THAT:

26 (I) CREATES A SUBSTANTIAL RISK OF DEATH;

27 (II) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED
28 DISFIGUREMENT;

29 (III) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED LOSS
30 OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN; OR

31 (IV) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED
32 IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN.

33 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF THE
34 FELONY OF ASSAULT IN THE FIRST DEGREE AND ON CONVICTION IS SUBJECT TO
35 IMPRISONMENT NOT EXCEEDING 25 YEARS.

1 (H) IT IS A DEFENSE TO A CHARGE BROUGHT UNDER THIS SECTION THAT THE
2 USE OF FORCE THAT CAUSED THE DEATH OR INJURY TO AN UNBORN CHILD WOULD
3 HAVE BEEN JUSTIFIED IF THE SAME LEVEL OF FORCE HAD BEEN USED AGAINST THE
4 MOTHER.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 1998.