
A BILL FOR AN ACT

RELATING TO CRIMES AGAINST UNBORN CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to title 37 be appropriately designated and
3 to read as follows:

4 "CHAPTER

5 UNBORN VICTIMS OF VIOLENCE ACT

6 § -A Definitions. As used in this Act:

7 "Unborn child" means the unborn offspring of a human being
8 from conception until birth, but not yet completely born.

9 "Without lawful justification" means acting under
10 circumstances in which the use of lethal force is not legally
11 justified.

12 § -B Murder of an unborn child. (1) A person who
13 causes the death of an unborn child is guilty of murder of an
14 unborn child if the person, without lawful justification:

15 (a) Intends to cause the death of or do great bodily harm
16 to the unborn child, or knows that the acts will cause
17 the death, or do great bodily harm to the unborn
18 child;



1 (b) Knows that the acts create a strong probability of
2 death or great bodily harm to another;

3 (c) Attempts or commits a felonious act that involves a
4 high risk of violence; or

5 (d) Perpetrates an act eminently dangerous to another and
6 evinces a depraved mind, without regard for human or
7 fetal life.

8 (2) This section shall not apply to the perpetrator if the
9 perpetrator is the pregnant woman.

10 (3) Murder of an unborn child is murder in the second
11 degree.

12 § -C Voluntary manslaughter of an unborn child. (1)

13 A person who causes the death of an unborn child is guilty of
14 voluntary manslaughter of an unborn child if the person, without
15 lawful justification:

16 (a) Intends to cause the death of another in an immediate
17 response provoked by such words or acts of another as
18 would provoke a person of ordinary self-control under
19 like circumstances;

20 (b) Commits or attempts to commit, a misdemeanor or gross
21 misdemeanor offense with such force or violence, that



1 the death of or great bodily harm to another was
2 reasonably foreseeable; or

3 (c) Intends to cause the death of an unborn child because
4 the actor is coerced by threats made by someone other
5 than a coconspirator and which causes the actor to
6 reasonably believe that the act is the only means of
7 preventing imminent death to the actor or another.

8 (2) This section shall not apply to the perpetrator if the
9 perpetrator is the pregnant woman.

10 (3) Voluntary manslaughter of an unborn child is a class B
11 felony.

12 **§ -D Involuntary manslaughter of an unborn child. (1)**

13 A person who causes the death of an unborn child is guilty of
14 involuntary manslaughter of an unborn child if the person,
15 without lawful justification:

16 (a) Creates an unreasonable risk by culpable negligence
17 and consciously takes a chance of causing death or
18 great bodily harm to another;

19 (b) Shoots the mother of the unborn child with a firearm
20 or other dangerous weapon as a result of negligently
21 believing her to be an animal;

1 (c) Sets a spring gun, pit fall, deadfall, snare, or
2 other-like dangerous weapon or device; or

3 (d) Negligently permits any animal known by the actor to
4 have vicious propensities, or to have caused great or
5 substantial bodily harm in the past, to run
6 uncontrolled off the owner's premises, or negligently
7 fails to keep that animal properly confined.

8 (2) This section shall not apply to the perpetrator if the
9 perpetrator is the pregnant woman.

10 (3) Involuntary manslaughter of an unborn child is a
11 class C felony.

12 **§ -E Battery of an unborn child.** (1) A person who
13 inflicts great or substantial bodily harm upon an unborn child,
14 who is subsequently born alive, by intentionally or knowingly
15 touching a pregnant woman without her consent and without lawful
16 justification:, is guilty of battery of an unborn child.

17 (2) This section shall not apply to the perpetrator if the
18 perpetrator is the pregnant woman.

19 (3) As used in this section:

20 "Great bodily harm" includes, but is not limited to,
21 permanent disability or disfigurement.



1 "Substantial bodily harm" includes, but is not limited to,
 2 the birth of the unborn child prior to thirty-seven weeks
 3 gestation if the child weighs 2,500 grams or less at the time of
 4 birth. The term does not include the inducement of the unborn
 5 child's birth when done for bona fide medical purposes.

6 (4) Battery of an unborn child is a misdemeanor

7 § -F Assault of an unborn child. (1) A person who
 8 does any of the following without lawful justification commits
 9 assault of an unborn child:

10 (a) Commits any act with the intent to cause fear in a
 11 pregnant woman of immediate bodily harm to herself or
 12 with the intent to cause fear in a pregnant woman of
 13 the death of her unborn child; or

14 (b) Intentionally inflicts or attempts to inflict bodily
 15 harm on an unborn child who is subsequently born
 16 alive.

17 (2) This section shall not apply to the perpetrator if the
 18 perpetrator is the pregnant woman.

19 (3) Assault of an unborn child is a petty misdemeanor.

20 § -G Exceptions. This chapter does not apply to:

1 (a) Acts which cause the death of an unborn child if those
2 acts were committed during a legal abortion to which
3 the pregnant woman consented.

4 (b) Acts which are committed pursuant to usual and
5 customary standards of medical practice during
6 diagnostic testing or therapeutic treatment.

7 § -H Other convictions not barred. A prosecution for
8 or conviction under this chapter is not a bar to conviction of
9 or punishment for any other crime committed by the defendant as
10 part of the same conduct."

11 SECTION 2. If any provision of this Act, or the
12 application thereof to any person or circumstance is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act, which can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun, before its effective date.



1 SECTION 4. In codifying the new sections added by section
 2 1 of this Act, the revisor of statutes shall substitute
 3 appropriate section numbers for the letters used in designating
 4 the new sections in this Act.

5 SECTION 5. This Act shall take effect upon its approval.
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HB 2231

Report Title:

Penal Code; Crimes Against Unborn Child

Description:

Creates new criminal offenses of murder, voluntary manslaughter, involuntary manslaughter, and battery of an unborn child; defines unborn child.

