

JAN 25 2006

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 be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 § -1 Definitions. As used in this Act, the terms:

6 "Unborn child" means the unborn offspring of a human being
7 from viability until birth, but not yet completely born unless
8 the results of the prenatal conduct in this section are unknown
9 until after a live birth.

10 "Engaging in illegal conduct" means acting under
11 circumstances in which the conduct of the mother would be
12 considered illegal under the laws of the State of Hawaii or
13 under the laws of the United States.

14 "Viability" means the stage of fetal development when the
15 unborn child has the capability of meaningful life independent
16 of the mother's womb by natural or artificial life support
17 systems.



1 "Unborn child's mother", for the purposes of this chapter,
2 means the female within whose womb the unborn child is
3 maintained.

4 § -2 **Voluntary manslaughter of an unborn child.** (1) A
5 person who causes the death of an unborn child commits the
6 offense of voluntary manslaughter if the person is the unborn
7 child's mother and without lawful justification:

8 (a) She intends to cause the death of or do great bodily
9 harm to the unborn child, or knows that the acts will
10 cause the death, or do great bodily harm to the unborn
11 child;

12 (b) She attempts or commits a felonious act; or

13 (c) She perpetrates an act eminently dangerous to another
14 and evinces a depraved mind, without regard for human
15 or fetal life.

16 (2) Voluntary manslaughter of an unborn child is a class A
17 felony.

18 § -3 **Involuntary manslaughter of an unborn child.** (1) A
19 person who causes the death of an unborn child commits the
20 offense of involuntary manslaughter if the person is the unborn
21 child's mother and without lawful justification:



1 (a) She intends to cause the death or great bodily harm of
2 another in an immediate response provoked by such
3 words or acts of another whether or not a person of
4 ordinary self-control under like circumstances would
5 respond in the same manner; or

6 (b) She commits or attempts to commit a misdemeanor or
7 gross misdemeanor offense with such force or violence,
8 that the death of or great bodily harm to another was
9 reasonably foreseeable.

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

12 § -4 **Negligent homicide of an unborn child.** (1) A person
13 who causes the death of an unborn child commits the offense of
14 negligent homicide if the person is the unborn child's mother
15 and without lawful justification:

16 (a) She creates an unreasonable risk by culpable
17 negligence and consciously takes a chance of causing
18 death or great bodily harm to the unborn child; or

19 (b) She creates an unreasonable risk by negligently or
20 recklessly engaging in illegal conduct.

21 (3) Negligent homicide of an unborn child is a class C
22 felony.



1 § **-5 Exceptions.** This chapter does not apply to:

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

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

8 § **-6 Other convictions not barred.** A prosecution for or
9 conviction under this chapter is not a bar to conviction of or
10 punishment for any other crime committed by the defendant as
11 part of the same conduct."

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

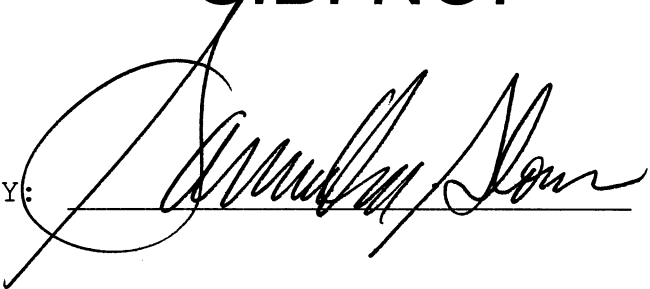
18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun, before its effective date.

21 SECTION 4. This Act shall take effect on July 1, 2006.

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INTRODUCED BY:

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read "Assemblyman".



SB. NO. 2520

Report Title:

Penal Code; Crimes Against Unborn Child

Description:

Creates new criminal offenses perpetrated by the mother against an unborn child.

