

1 the death, or do great bodily harm to the unborn
2 child;

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

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

7 (d) Perpetrates an act imminently dangerous to another and
8 evinces a depraved mind, without regard for human or
9 fetal life; and

10 (e) Is not the unborn child's mother.

11 (2) Murder of an unborn child is murder in the second
12 degree.

13 § -3 **Voluntary manslaughter of an unborn child.** (1) A
14 person who causes the death of an unborn child is guilty of
15 voluntary manslaughter of an unborn child if the person, without
16 lawful justification:

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

21 (b) Commits or attempts to commit, a misdemeanor offense
22 with such force or violence, that the death of or



- 1 great bodily harm to another was reasonably
- 2 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 that causes the actor to
- 6 reasonably believe that the act is the only means of
- 7 preventing imminent death to the actor or another; and
- 8 (d) Is not the unborn child's mother.

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

11 **§ -4 Involuntary manslaughter of an unborn child. (1)**

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

- 15 (a) Creates an unreasonable risk by culpable negligence
- 16 and consciously takes a chance of causing death or
- 17 great bodily harm to another;
- 18 (b) Sets a spring gun, pit fall, deadfall, snare, or
- 19 other-like dangerous weapon or device; or
- 20 (c) Negligently permits any animal known by the actor to
- 21 have vicious propensities, or to have caused great or
- 22 substantial bodily harm in the past, to run



1 uncontrolled off the owner's premises, or negligently
2 fails to keep that animal properly confined; and

3 (d) Is not the unborn child's mother.

4 (2) Involuntary manslaughter of an unborn child is a
5 class C felony.

6 **§ -5 Battery of an unborn child.** (1) A person commits
7 the offense of battery of an unborn child if:

8 (a) The person is not the child's mother;

9 (b) The person inflicts great or substantial bodily harm
10 upon the unborn child by intentionally touching a
11 pregnant woman without her consent and without lawful
12 justification; and

13 (c) The unborn child is subsequently born alive.

14 (2) As used in this section:

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

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

22 (3) Battery of an unborn child is a misdemeanor.



1 **§ -6 Assault of an unborn child.** (1) A person commits
2 the offense of assault of an unborn child if the person:

- 3 (a) Is not the unborn child's mother;
- 4 (b) Commits, without lawful justification, any act with
5 the intent to cause fear in a pregnant woman of
6 immediate bodily harm to herself or with the intent to
7 cause fear in a pregnant woman of the death of her
8 unborn child; or
- 9 (c) Intentionally inflicts or attempts to inflict, without
10 lawful justification, bodily harm on an unborn child
11 that is subsequently born alive.

12 (2) Assault of an unborn child is a petty misdemeanor.

13 **§ -7 Exceptions.** This chapter does not apply to:

- 14 (a) Acts which cause the death of an unborn child if those
15 acts were committed during a legal abortion to which
16 the pregnant woman consented; or
- 17 (b) Acts which are committed pursuant to usual and
18 customary standards of medical practice during
19 diagnostic testing or therapeutic treatment.

20 **§ -8 Other convictions not barred.** A prosecution for or
21 conviction under this chapter is not a bar to conviction of or



1 punishment for any other crime committed by the defendant as
2 part of the same conduct."

3 SECTION 2. If any provision of this Act, or the
4 application thereof to any person or circumstance is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act, which can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun, before its effective date.

12 SECTION 4. This Act shall take effect upon its approval.

13

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Report Title:

Penal Code; Crimes Against Unborn Child

Description:

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

