

JAN 23 2009

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:

"CHAPTER

5 § -1 Definitions. As used in this chapter:

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" means the female within whose womb
2 the unborn child is maintained.

3 § -2 **Voluntary manslaughter of an unborn child.** A person
4 who causes the death of an unborn child commits the offense of
5 voluntary manslaughter if the person is the unborn child's
6 mother and without lawful justification:

7 (1) Intends to cause the death of or do great bodily harm
8 to the unborn child, or knows that the acts will cause
9 the death of, or do great bodily harm to the unborn
10 child;

11 (2) Attempts or commits a felonious act; or

12 (3) Perpetrates an act eminently dangerous to another and
13 evinces a depraved mind, without regard for human or
14 fetal life.

15 Voluntary manslaughter of an unborn child is a class A
16 felony.

17 § -3 **Involuntary manslaughter of an unborn child.** A
18 person who causes the death of an unborn child commits the
19 offense of involuntary manslaughter if the person is the unborn
20 child's mother and without lawful justification:

21 (1) Intends to cause the death of or great bodily harm to
22 another in an immediate response provoked by such



1 words or acts of another whether or not a person of
2 ordinary self-control under like circumstances would
3 respond in the same manner; or

4 (2) Commits or attempts to commit a misdemeanor or gross
5 misdemeanor offense with such force or violence that
6 the death of or great bodily harm to another was
7 reasonably foreseeable.

8 Voluntary manslaughter of an unborn child is a class B
9 felony.

10 § -4 **Negligent homicide of an unborn child.** A person who
11 causes the death of an unborn child commits the offense of
12 negligent homicide if the person is the unborn child's mother
13 and without lawful justification:

14 (1) Creates an unreasonable risk by culpable negligence
15 and consciously takes a chance of causing death or
16 great bodily harm to the unborn child; or

17 (2) Creates an unreasonable risk by negligently or
18 recklessly engaging in illegal conduct.

19 Negligent homicide of an unborn child is a class C felony.

20 § -5 **Exceptions.** This chapter does not apply to:



1 (1) 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 (2) Acts which are committed pursuant to usual and
5 customary standards of medical practice during
6 diagnostic testing or therapeutic treatment.

7 § -6 **Other convictions not barred.** A prosecution for or
8 conviction under this chapter is not a bar to conviction of or
9 punishment for any other crime committed by the defendant as
10 part of the same conduct."

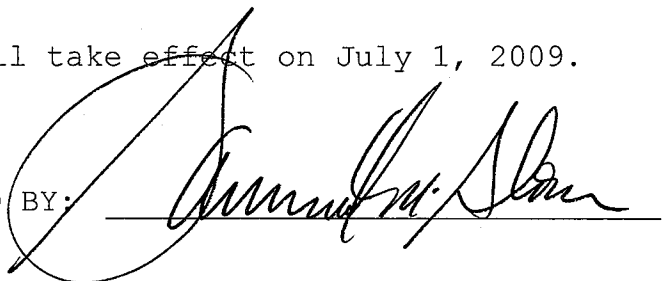
11 SECTION 2. If any provision of this Act, or the
12 application thereof to any person or circumstance is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act which can be given effect without the
15 invalid provision or application, and to this end the provisions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

20 SECTION 4. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:



Report Title:

Penal Code; Crimes Against Unborn Child.

Description:

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

