

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

HOUSE BILL 2159

4
5 By: Representatives Stubblefield, Deffenbaugh, Hammer, Harris, Johnston

For An Act To Be Entitled

8 AN ACT TO ESTABLISH THE PREGNANT WOMAN'S PROTECTION
9 ACT; AND FOR OTHER PURPOSES.

Subtitle

12 TO ESTABLISH THE PREGNANT WOMAN'S
14 PROTECTION ACT.

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. DO NOT CODIFY. FINDINGS.

20 The General Assembly finds that:

21 (1) Violence and abuse are often higher during pregnancy than during
22 any other period in a woman's lifetime;

23 (2) Women are more likely to suffer increased abuse as a result of
24 unintended pregnancies;

25 (3) Younger women are at a higher risk for pregnancy-associated
26 homicide;

27 (4) A pregnant woman is more likely to be a victim of homicide than to
28 die of any other cause;

29 (5) Homicide and other violent crimes are the leading cause of death
30 for women of reproductive age;

31 (6) Husbands, ex-husbands, or boyfriends are often the perpetrators of
32 pregnancy-associated homicide or violence;

33 (7) Moreover, when husbands, ex-husbands, or boyfriends are involved,
34 the violence is often directed at the unborn child or intended to end or
35 jeopardize the pregnancy;

36 (8) Violence against a pregnant woman puts the life and bodily



1 integrity of both the pregnant woman and the unborn child at risk;

2 (9) According to the Centers for Disease Control, every year in the
3 United States more than three hundred thousand (300,000) pregnant women
4 experience some kind of violence involving an intimate partner;

5 (10) The Centers for Disease Control define domestic violence during
6 pregnancy as "physical, sexual or psychological/emotional violence or threats
7 of physical or sexual violence that are inflicted on a pregnant woman"; and

8 (11) In a household survey cited in "Battering and Pregnancy"
9 (Midwifery Today 19:1998), it was found that pregnant women are sixty and six
10 tenths percent (60.6%) more likely to be beaten than women who are not
11 pregnant.

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13 SECTION 2. DO NOT CODIFY. Legislative intent.

14 By passing this act, the General Assembly intends to:

15 (1) Ensure that the affirmative right of a pregnant woman to carry her
16 child to term is protected;

17 (2) Ensure that defenses to criminal liability provide for a pregnant
18 woman's right to use physical force to protect her unborn child; and

19 (3) Supplement, but not supersede, the applicability of any other
20 defenses to criminal liability currently provided in the Arkansas Code.

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22 SECTION 3. Arkansas Code Title 5, Chapter 2, Subchapter 6 is amended
23 to add a new section to read as follows:

24 5-2-615. Use of physical force in defense of a pregnant woman.

25 (a) As used in this section:

26 (1) "Embryo" means an individual organism of species homo
27 sapiens from the single cell stage to eight (8) weeks' development;

28 (2) "Pregnant" means the female reproductive condition of having
29 an unborn child in the female's body; and

30 (3) "Unborn child" means the offspring of human beings from
31 conception until birth.

32 (b) A pregnant woman is justified in using physical force or deadly
33 physical force against another person to protect her unborn child if under
34 the circumstances as the pregnant woman reasonably believes them to be, she
35 would be justified under § 5-2-606 or § 5-2-607 in using physical force or
36 deadly physical force to protect herself against the unlawful physical force

1 or unlawful deadly physical force she reasonably believes to be threatening
2 her unborn child.

3 (c) The justification for using physical force or deadly physical
4 force against another person to protect a pregnant woman's unborn child is
5 not available if:

6 (1) The use of the physical force or deadly physical force for
7 protection was used by a person other than the pregnant woman; or

8 (2)(A) The use of the deadly physical force for protection would
9 not be allowed under § 5-2-607(b).

10 (B) However, the pregnant woman is not obligated to
11 retreat or surrender possession of property as described in § 5-2-607(b)
12 unless the pregnant woman knows she can avoid the necessity of using deadly
13 physical force and simultaneously ensure the complete safety of her unborn
14 child; or

15 (3) The use of the physical force or deadly physical force was
16 for protection of an embryo existing outside of the pregnant woman's body,
17 including without limitation a frozen embryo stored at a fertility clinic or
18 elsewhere.

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