

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 681 Session of 2017

INTRODUCED BY CRUZ, WATSON, KINSEY, BOBACK, GABLER, MILLARD,
COX, D. COSTA, KAVULICH, BARRAR, McNEILL AND READSHAW,
MARCH 3, 2017

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 3, 2017

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in authorized disposition of
3 offenders, further providing for sentence for murder, murder
4 of unborn child and murder of law enforcement officer; and,
5 in crimes against unborn child, further providing for the
6 offenses of murder of unborn child and voluntary manslaughter
7 of unborn child.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 1102(a), 2604 and 2605(a) of Title 18 of
11 the Pennsylvania Consolidated Statutes are amended to read:

12 § 1102. Sentence for murder, murder of unborn child and murder
13 of law enforcement officer.

14 (a) First degree.--

15 [(1)] Except as provided under section 1102.1 (relating
16 to sentence of persons under the age of 18 for murder, murder
17 of an unborn child and murder of a law enforcement officer),
18 a person who has been convicted of a murder of the first
19 degree [or], of murder of a law enforcement officer of the
20 first degree or of murder of an unborn child of the first

1 degree shall be sentenced to death or to a term of life
2 imprisonment in accordance with 42 Pa.C.S. § 9711 (relating
3 to sentencing procedure for murder of the first degree).

4 [(2) The sentence for a person who has been convicted of
5 first degree murder of an unborn child shall be the same as
6 the sentence for murder of the first degree, except that the
7 death penalty shall not be imposed. This paragraph shall not
8 affect the determination of an aggravating circumstance under
9 42 Pa.C.S. § 9711(d) (17) for the killing of a pregnant
10 woman.]

11 * * *

12 § 2604. Murder of unborn child.

13 (a) First degree murder of unborn child.--

14 (1) A criminal homicide of an unborn child constitutes
15 first degree murder of an unborn child when [it]:

16 (i) It is committed by an intentional killing.

17 (ii) A person who commits murder in the first degree
18 of a pregnant woman thereby causes the death of an unborn
19 child. An offense under this subparagraph does not
20 require proof that the person engaging in the conduct had
21 knowledge or should have had knowledge that the victim of
22 the underlying offense was pregnant or that the defendant
23 intended to cause the death of the unborn child.

24 (2) The penalty for first degree murder of an unborn
25 child shall be imposed in accordance with section [1102(a) (2)
26 (relating to sentence for murder and murder of an unborn
27 child)] 1102(a) (relating to sentence for murder, murder of
28 unborn child and murder of law enforcement officer).

29 (b) Second degree murder of unborn child.--

30 (1) A criminal homicide of an unborn child constitutes

1 second degree murder of an unborn child when [it]:

2 (i) It is committed while the defendant was engaged
3 as a principal or an accomplice in the perpetration of a
4 felony.

5 (ii) A person who commits murder in the second
6 degree of a pregnant woman thereby causes the death of an
7 unborn child. An offense under this subparagraph does not
8 require proof that the person engaging in the conduct had
9 knowledge or should have had knowledge that the victim of
10 the underlying offense was pregnant or that the defendant
11 intended to cause the death of the unborn child.

12 (2) The penalty for second degree murder of an unborn
13 child shall be the same as for murder of the second degree.

14 (c) Third degree murder of unborn child.--

15 (1) All other kinds of murder of an unborn child shall
16 be third degree murder of an unborn child.

17 (1.1) A person who commits murder in the third degree of
18 a pregnant woman and thereby causes the death of an unborn
19 child commits third degree murder of an unborn child. An
20 offense under this paragraph does not require proof that the
21 person engaging in the conduct had knowledge or should have
22 had knowledge that the victim of the underlying offense was
23 pregnant or that the defendant intended to cause the death of
24 the unborn child.

25 (2) The penalty for third degree murder of an unborn
26 child is the same as the penalty for murder of the third
27 degree.

28 § 2605. Voluntary manslaughter of unborn child.

29 (a) Offense defined.--A person who kills an unborn child
30 without lawful justification commits voluntary manslaughter of

1 an unborn child if [at]:

2 (1) At the time of the killing he is acting under a
3 sudden and intense passion resulting from serious provocation
4 by:

5 [(1)] (i) the mother of the unborn child whom the
6 actor endeavors to kill, but he negligently or
7 accidentally causes the death of the unborn child; or

8 [(2)] (ii) another whom the actor endeavors to
9 kill, but he negligently or accidentally causes the death
10 of the unborn child.

11 (2) The person commits voluntary manslaughter of a
12 pregnant woman and thereby causes the death of an unborn
13 child. An offense under this paragraph does not require proof
14 that the person engaging in the conduct had knowledge or
15 should have had knowledge that the victim of the underlying
16 offense was pregnant or that the defendant intended to cause
17 the death of the unborn child.

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19 Section 2. This act shall take effect in 60 days.