

2011 -- H 5125

LC00057

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO HEALTH AND SAFETY -- FETAL PROTECTION ACT

Introduced By: Representatives Edwards, Brien, Palumbo, Azzinaro, and McLaughlin

Date Introduced: January 25, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 4.13

4 FETAL PROTECTION ACT

5 **23-4.13-1. Short title.** -- This chapter shall be known and may be cited as the "Fetal
6 Protection Act."

7 **23-4.13-2. Definitions.** -- For purposes of this chapter:

8 (1) "Unborn child" means the unborn offspring of a human being conceived, but not yet
9 completely born;

10 (2) "Whoever" does not include the pregnant woman whose unborn child is killed or
11 injured;

12 (3) "Another" means the unborn child or any human being other than the actor;

13 (4) "Without lawful justification" means acting under circumstances in which the use of
14 lethal force is not legally justified.

15 **23-4.13-3. Murder of an unborn child.** -- (a) Whoever, without lawful justification,
16 causes the death of an unborn child is guilty of murder of an unborn child if he or she:

17 (1) Intends to cause the death of or do great bodily harm to another or knows that his or
18 her acts will cause the death or do great bodily harm to another;

19 (2) Knows that his or her acts create a strong probability of death or great bodily harm to

1 another;

2 (3) Attempts or commits a forcible felony; or

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

5 (b) "Forcible felony" means any felonious act that involves a high risk of violence.

6 (c) Penalty. The sentence for murder of an unborn child shall be equal to that for murder
7 pursuant to section 11-23-2. The death penalty shall not be imposed.

8 **23-4.13-4. Voluntary manslaughter of an unborn child. --** (a) Whoever, without lawful
9 justification, causes the death of an unborn child is guilty of voluntary manslaughter of an unborn
10 child if he or she:

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

14 (2) Commits or attempts to commit a misdemeanor offense with such force or violence
15 that the death of or great bodily harm to another was reasonably foreseeable; or

16 (3) Intends to cause the death of an unborn child because the actor is coerced by threats
17 made by someone other than his or her co-conspirator and which cause the actor to reasonably
18 believe that his or her act is the only means of preventing imminent death to the actor or another.

19 (b) Penalty. Voluntary manslaughter of an unborn child is a felony.

20 **23-4.13-5. Involuntary manslaughter of an unborn child. --** (a) Whoever, without
21 lawful justification, causes the death of an unborn child is guilty of involuntary manslaughter of
22 an unborn child if he or she:

23 (1) Creates an unreasonable risk by his or her culpable negligence and consciously takes
24 a chance of causing death or great bodily harm to another;

25 (2) Shoots the mother of the unborn child with a firearm or other dangerous weapon as a
26 result of negligently believing her to be an animal;

27 (3) Sets a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device;
28 or

29 (4) Negligently permits any animal known by the actor to have vicious propensities or to
30 have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's
31 premises, or negligently fails to keep that animal properly confined.

32 (b) Penalty. Involuntary manslaughter of an unborn child is a felony.

33 **23-4.13-6. Battery of an unborn child. --** (a) Whoever, without legal justification,
34 inflicts great or substantial bodily harm upon an unborn child, who is subsequently born alive, by

1 intentionally or knowingly touching a pregnant woman without her consent is guilty of battery of
2 an unborn child.

3 (b) Penalty. Battery of an unborn child resulting in great bodily harm to the unborn child
4 is a felony. Battery of an unborn child resulting in substantial bodily harm to the unborn child is a
5 misdemeanor.

6 (c) As used in this section, "great bodily harm" includes, but is not limited to, permanent
7 disability or disfigurement.

8 (d) As used in this section, "substantial bodily harm" includes, but is not limited to, the
9 birth of the unborn child prior to thirty-seven (37) weeks' gestation if the child weighs two
10 thousand five hundred (2,500) grams or less at the time of birth.

11 (e) "Substantial bodily harm" does not include the inducement of the unborn child's birth
12 when done for bona fide medical purposes.

13 **23-4.13-7. Assault of an unborn child. --** (a) Whoever, without legal justification, does
14 any of the following commits assault of an unborn child:

15 (1) Commits any act with the intent to cause fear in a pregnant woman of immediate
16 bodily harm to herself or with the intent to cause fear in a pregnant woman of the death of her
17 unborn child; or

18 (2) Intentionally inflicts or attempts to inflict bodily harm on an unborn child who is
19 subsequently born alive.

20 (b) Penalty. Assault of an unborn child is a misdemeanor.

21 **23-4.13-8. Exceptions. --** This chapter does not apply to:

22 (1) Acts which cause the death of an unborn child if those acts were committed during a
23 legal abortion to which the pregnant woman consented; and

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

26 **23-4.13-9. Other convictions not barred. --** A prosecution for or conviction under this
27 chapter is not a bar to conviction of or punishment for any other crime committed by the
28 defendant as part of the same conduct.

29 **23-4.13-10. Severability. --** If any provision, word, phrase, or clause of this chapter or
30 the application thereof to any person or circumstance is held invalid, such invalidity shall not
31 affect the provisions, words, phrases, clauses, or applications of this part which can be given
32 effect without the invalid provision, word, phrase, clause, or application and to this end, the
33 provisions, words, phrases, and clauses are declared to be severable.

1 SECTION 2. This act shall take effect upon passage.

=====
LC00057
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- FETAL PROTECTION ACT

- 1 This act would establish the Fetal Protection Act.
- 2 This act would take effect upon passage.

=====
LC00057
=====