

2010 -- H 7286

LC00841

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO HEALTH AND SAFETY -- UNBORN VICTIMS OF VIOLENCE ACT

Introduced By: Representatives Brien, Corvese, Savage, Azzinaro, and MacBeth

Date Introduced: January 28, 2010

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 UNBORN VICTIMS OF VIOLENCE ACT

5 **23-4.13-1. Short title.** – This chapter shall be known and may be cited as the "Unborn
6 Victims of Violence Act".

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

8 (1) "Unborn child" means a child in utero, and the term "child in utero" means a member
9 of the species of homo sapiens, at any stage of development, carried in the womb.

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

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

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

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

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

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

6 (b) 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 causes 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 devise; or

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

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

32 **23-4.13-6. Battery of an unborn child.** – (a) Whoever, without legal justification,
33 inflicts great or substantial bodily harm upon an unborn child, who is subsequently born alive, by
34 intentionally or knowingly touching a pregnant woman without her consent is guilty of battery of

1 an unborn child.

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

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

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

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

12 **23-4.13-7. Assault of an unborn child.** – (a) Whoever, without legal justification, does
13 any of the following, commits assault of an unborn child:

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

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

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

20 **23-4.13-8. Exceptions.** – This act does not apply to:

21 (1) Acts which cause the death of an unborn child if those acts were committed during a
22 legal abortion to which the pregnant woman consented, or a person authorized by law to act on
23 her behalf, consented or for which such consent is implied by law.

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

26 (3) Acts committed by a pregnant woman with respect to her own unborn child.

27 (4) Acts involving the use of force in lawful self-defense or lawful defense of another.

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

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

1 [provisions, words, phrases and clauses are declared to be severable.](#)

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- UNBORN VICTIMS OF VIOLENCE ACT

- 1 This act would define and impose penalties for violence to an unborn child.
- 2 This act would take effect upon passage.

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