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H.605

Introduced by Representatives Morrissey of Bennington, Acinapura of
Brandon, Adams of Hartland, Ainsworth of Royalton, Atkins of
Winooski, Audette of South Burlington, Baker of West Rutland,
Bissonnette of Winooski, Branagan of Georgia, Brennan of
Colchester, Canfield of Fair Haven, Clark of Vergennes,
Clerkin of Hartford, Consejo of Sheldon, Corcoran of
Bennington, Crawford of Burke, Devereux of Mount Holly,
Dickinson of St. Albans Town, Donaghy of Poultney, Donahue
of Northfield, Fagan of Rutland City, Helm of Castleton, Higley
of Lowell, Howrigan of Fairfield, Hubert of Milton, Johnson of
Canaan, Kilmartin of Newport City, Koch of Barre Town,
Komline of Dorset, Krawczyk of Bennington, Larocque of
Barnet, Lawrence of Lyndon, Lewis of Derby, Marcotte of
Coventry, McAllister of Highgate, McDonald of Berlin,
McFaun of Barre Town, McNeil of Rutland Town, Morley of
Barton, Myers of Essex, O'Donnell of Vernon, Pearce of
Richford, Peaslee of Guildhall, Perley of Enosburg, Reis of
St. Johnsbury, Savage of Swanton, Scheuermann of Stowe,
Shaw of Pittsford, South of St. Johnsbury, Townsend of
Randolph, Turner of Milton, Wheeler of Derby, Winters of

1 Williamstown, Wright of Burlington and Young of St. Albans
2 City

3 Referred to Committee on

4 Date:

5 Subject: Crimes; homicide; DUI; grossly negligent operation of a motor
6 vehicle; fetus as victim

7 Statement of purpose: This bill proposes to establish that a fetus be treated as a
8 victim under state homicide law and for purposes of DUI with death resulting
9 and grossly negligent operation of a motor vehicle with death resulting.

10 An act relating to crimes against an unborn child

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 13 V.S.A. § 2312 is added to read:

13 § 2312. FETUS; TREATMENT AS VICTIM

14 (a) Except as provided in subsection (b) of this section, a prosecution may
15 be maintained for a violation of section 2301 (murder) or 2304 (manslaughter)
16 of this chapter when the victim of the homicide is a fetus.

17 (b) This section shall not apply to acts performed during an abortion or
18 pursuant to usual and customary standards of medical practice during
19 diagnostic testing or therapeutic treatment, or to acts committed by a pregnant
20 woman toward her own unborn child.

1 (c) This section shall not be construed to confer, deny, expand, or contract
2 the legal status or legal rights of a fetus.

3 Sec. 2. 23 V.S.A. § 1091(e) is added to read:

4 (e)(1) A prosecution may be maintained for grossly negligent operation of
5 a motor vehicle with death resulting in violation of subdivision (b)(3) of this
6 section when the victim of the violation is a fetus.

7 (2) This subsection shall not be construed to confer, deny, expand, or
8 contract the legal status or legal rights of a fetus.

9 Sec. 3. 23 V.S.A. § 1210(e) is amended to read:

10 (e)(1) Death resulting. If the death of any person results from a violation of
11 section 1201 of this title, the person convicted of the violation shall be fined
12 not more than \$10,000.00 or imprisoned not less than one year nor more than
13 15 years, or both. The provisions of this subsection do not limit or restrict
14 prosecutions for manslaughter.

15 (2) If the death of more than one person results from a violation of
16 section 1201 of this title, the operator may be convicted of a separate violation
17 of this subdivision for each decedent.

18 (3)(A) A prosecution may be maintained for operating a motor vehicle
19 under the influence of alcohol or drugs with death resulting in violation of this
20 section and section 1201 of this title when the victim of the violation is a fetus.

1 (B) This subsection shall not be construed to confer, deny, expand, or
2 contract the legal status or legal rights of a fetus.

3 Sec. 4. EFFECTIVE DATE

4 This act shall take effect upon passage.