

2016 -- S 2218

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL OFFENSES -- FETAL PROTECTION ACT

Introduced By: Senators DiPalma, Ruggerio, Goodwin, McCaffrey, and Lombardi

Date Introduced: January 27, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 11 of the General Laws entitled "CRIMINAL OFFENSES" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 54.1

4 FETAL PROTECTION ACT

5 **11-54.1-1. Short title.** -- This chapter shall be known and may be cited as the "Fetal  
6 Protection Act."

7 **11-54.1-2. Definitions.** -- For purposes of this chapter:

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

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

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

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

15 **11-54.1-3. 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 they:

17 (1) Intend to cause the death of or do great bodily harm to another or knows that their act  
18 will cause the death or do great bodily harm to another;

19 (2) Know that their act creates a strong probability of death or great bodily harm to

1 another:

2 (3) Attempt or commit a forcible felony; or

3 (4) Perpetrate an act eminently dangerous to another and evince a depraved mind, without  
4 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 §11-23-2. The death penalty shall not be imposed.

8 **11-54.1-4. 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 they:

11 (1) Intend 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) Commit or attempt to commit a misdemeanor offense with such force or violence that  
15 the death of or great bodily harm to another was reasonably foreseeable; or

16 (3) Intend to cause the death of an unborn child because the actor is coerced by threats  
17 made by someone other than their co-conspirator and which cause the actor to reasonably believe  
18 that their 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 **11-54.1-5. 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 they:

23 (1) Create an unreasonable risk by their culpable negligence and consciously take a  
24 chance of causing death or great bodily harm to another;

25 (2) Shoot 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) Set a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

28 (4) Negligently permit 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 fail to keep that animal properly confined.

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

32 **11-54.1-6. 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 grams (2,500 g) 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 **11-54.1-7. 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 **11-54.1-8. Exceptions.** -- This chapter 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; and

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

25 **11-54.1-9. Other convictions not barred.** -- A prosecution for or conviction under this  
26 chapter is not a bar to conviction of or punishment for any other crime committed by the  
27 defendant as part of the same conduct.

28 **11-54.1-10. Severability.** -- If any provision, word, phrase, or clause of this chapter or  
29 the application thereof to any person or circumstance is held invalid, such invalidity shall not  
30 affect the provisions, words, phrases, clauses, or applications of this part which can be given  
31 effect without the invalid provision, word, phrase, clause, or application and to this end, the  
32 provisions, words, phrases, and clauses are declared to be severable.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO CRIMINAL OFFENSES -- FETAL PROTECTION ACT

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1           This act would establish the Fetal Protection Act, establishing certain actions to unborn  
2 children as crimes.

3           This act would take effect upon passage.

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