

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1847 Session of  
2007

INTRODUCED BY CRUZ, YOUNGBLOOD, PALLONE, HERSHEY, COX, BELFANTI,  
ROAE, READSHAW AND HORNAMAN, SEPTEMBER 27, 2007

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 27, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for sentence for  
3 murder and murder of an unborn child and for the offenses of  
4 murder of unborn child and voluntary manslaughter of unborn  
5 child.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

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

10 § 1102. Sentence for murder and murder of an unborn child.

11 (a) First degree.--

12 [(1)] A person who has been convicted of a murder of the  
13 first degree or of first degree murder of an unborn child  
14 shall be sentenced to death or to a term of life imprisonment  
15 in accordance with 42 Pa.C.S. § 9711 (relating to sentencing  
16 procedure for murder of the first degree).

17 [(2)] The sentence for a person who has been convicted of  
18 first degree murder of an unborn child shall be the same as  
19 the sentence for murder of the first degree, except that the

1 death penalty shall not be imposed. This paragraph shall not  
2 affect the determination of an aggravating circumstance under  
3 42 Pa.C.S. § 9711(d)(17) for the killing of a pregnant  
4 woman.]

5 \* \* \*

6 § 2604. Murder of unborn child.

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

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

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

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

18 (2) The penalty for first degree murder of an unborn  
19 child shall be [imposed in accordance with section 1102(a)(2)  
20 (relating to sentence for murder and murder of an unborn  
21 child)] the same as for murder of the first degree.

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

23 (1) A criminal homicide of an unborn child constitutes  
24 second degree murder of an unborn child when [it]:

25 (i) It is committed while the defendant was engaged  
26 as a principal or an accomplice in the perpetration of a  
27 felony.

28 (ii) A person who commits murder in the second  
29 degree of a pregnant woman thereby causes the death of an  
30 unborn child. An offense under this subparagraph does not

1 require proof that the person engaging in the conduct had  
2 knowledge or should have had knowledge that the victim of  
3 the underlying offense was pregnant or that the defendant  
4 intended to cause the death of the unborn child.

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

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

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

10 (1.1) A person who commits murder in the third degree of  
11 a pregnant woman and thereby causes the death of an unborn  
12 child commits third degree murder of an unborn child. An  
13 offense under this paragraph does not require proof that the  
14 person engaging in the conduct had knowledge or should have  
15 had knowledge that the victim of the underlying offense was  
16 pregnant or that the defendant intended to cause the death of  
17 the unborn child.

18 (2) The penalty for third degree murder of an unborn  
19 child is the same as the penalty for murder of the third  
20 degree.

21 § 2605. Voluntary manslaughter of unborn child.

22 (a) Offense defined.--A person who kills an unborn child  
23 without lawful justification commits voluntary manslaughter of  
24 an unborn child if [at]:

25 (1) At the time of the killing he is acting under a  
26 sudden and intense passion resulting from serious provocation  
27 by:

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

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

4            (2) The person commits voluntary manslaughter of a  
5            pregnant woman and thereby causes the death of an unborn  
6            child. An offense under this paragraph does not require proof  
7            that the person engaging in the conduct had knowledge or  
8            should have had knowledge that the victim of the underlying  
9            offense was pregnant or that the defendant intended to cause  
10           the death of the unborn child.

11           \* \* \*

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