

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 534 Session of 2009

INTRODUCED BY CRUZ, YOUNGBLOOD, HORNAMAN, ROAE, HARHAI, GRUCELA, MELIO, PAYNE, PALLONE, BELFANTI, TRUE, STERN, BOYD, CUTLER, CREIGHTON, KAUFFMAN, VULAKOVICH, PETRARCA, HICKERNELL AND GABIG, FEBRUARY 19, 2009

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 19, 2009

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in authorized disposition of  
3 offenders, further providing for sentence for murder and  
4 murder of an unborn child; and in crimes against unborn  
5 child, further providing for the offenses of murder of unborn  
6 child and voluntary manslaughter of unborn child.

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

9 Section 1. Section 1102(a) of Title 18 of the Pennsylvania  
10 Consolidated Statutes, amended October 17, 2008 (P.L.1682, No.  
11 131), is amended to read:

12 § 1102. Sentence for murder, murder of unborn child and murder  
13 of law enforcement officer.

14 (a) First degree.--

15 (1) A person who has been convicted of a murder of the  
16 first degree , of murder of a law enforcement officer of the  
17 first degree or of first degree murder of an unborn child  
18 shall be sentenced to death or to a term of life imprisonment  
19 in accordance with 42 Pa.C.S. § 9711 (relating to sentencing

1 procedure for murder of the first degree).

2 [(2) The sentence for a person who has been convicted of  
3 first degree murder of an unborn child shall be the same as  
4 the sentence for murder of the first degree, except that the  
5 death penalty shall not be imposed. This paragraph shall not  
6 affect the determination of an aggravating circumstance under  
7 42 Pa.C.S. § 9711(d)(17) for the killing of a pregnant  
8 woman.]

9 \* \* \*

10 Section 2. Sections 2604 and 2605(a) of Title 18 are amended  
11 to read:

12 § 2604. Murder of unborn child.

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

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

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

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

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

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

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

1           (i) It is committed while the defendant was engaged  
2           as a principal or an accomplice in the perpetration of a  
3           felony.

4           (ii) A person who commits murder in the second  
5           degree of a pregnant woman thereby causes the death of an  
6           unborn child. An offense under this subparagraph does not  
7           require proof that the person engaging in the conduct had  
8           knowledge or should have had knowledge that the victim of  
9           the underlying offense was pregnant or that the defendant  
10          intended to cause the death of the unborn child.

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

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

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

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

24          (2) The penalty for third degree murder of an unborn  
25          child is the same as the penalty for murder of the third  
26          degree.

27   § 2605. Voluntary manslaughter of unborn child.

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

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

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

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

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

17        \* \* \*

18        Section 3. This act shall take effect in 60 days.