

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 45

Session of  
1997

INTRODUCED BY (PRIME SPONSOR WITHDRAWN), JANUARY 15, 1997

SENATE AMENDMENTS TO HOUSE AMENDMENTS, JUNE 10, 1997

## AN ACT

1 ~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania~~ <—  
2 ~~Consolidated Statutes, providing for crime against the unborn~~  
3 ~~child; and further providing for harassment and stalking.~~  
4 AMENDING TITLE 18 (CRIMES AND OFFENSES) OF THE PENNSYLVANIA <—  
5 CONSOLIDATED STATUTES, FURTHER PROVIDING FOR TERRITORIAL  
6 APPLICABILITY, FOR CLASSES OF OFFENSES, FOR LIMITATION OF  
7 ACTIONS AND FOR SENTENCING FOR MURDER; PROVIDING FOR CRIMES  
8 AGAINST THE UNBORN; AND FURTHER PROVIDING FOR HARASSMENT AND  
9 STALKING.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 ~~Section 1. Title 18 of the Pennsylvania Consolidated~~ <—  
13 ~~Statutes is amended by adding a chapter to read:~~

14 ~~CHAPTER 26~~

15 ~~CRIMES AGAINST THE UNBORN CHILD~~

16 ~~Sec.~~

17 ~~2601. Short title of chapter.~~

18 ~~2602. Definitions.~~

19 ~~2603. Criminal homicide of unborn child.~~

20 ~~2604. Malicious homicide of unborn child.~~

21 ~~2605. Voluntary manslaughter of unborn child.~~

1   ~~2606. Aggravated assault of unborn child.~~

2   ~~2607. Exclusions.~~

3   ~~2608. Construction.~~

4   ~~§ 2601. Short title of chapter.~~

5       ~~This chapter shall be known and may be cited as the Crimes~~  
6   ~~Against the Unborn Child Act.~~

7   ~~§ 2602. Definitions.~~

8       ~~The following words and phrases when used in this chapter~~  
9   ~~shall have the meanings given to them in this section unless the~~  
10   ~~context clearly indicates otherwise:~~

11       ~~"Abortion." As defined in section 3203 (relating to~~  
12   ~~definitions).~~

13       ~~"Intentional killing." As defined in section 2502(d)~~  
14   ~~(relating to murder).~~

15       ~~"Malicious." Having the same quality of malice which is an~~  
16   ~~essential element of murder.~~

17       ~~"Perpetration of a felony." As defined in section 2502(d)~~  
18   ~~(relating to murder).~~

19       ~~"Principal." As defined in section 2502(d) (relating to~~  
20   ~~murder).~~

21       ~~"Serious bodily injury." As defined in section 2301~~  
22   ~~(relating to definitions).~~

23       ~~"Serious provocation." As defined in section 2301 (relating~~  
24   ~~to definitions).~~

25       ~~"Unborn child." As defined in section 3203 (relating to~~  
26   ~~definitions).~~

27   ~~§ 2603. Criminal homicide of unborn child.~~

28       ~~(a) Offense defined. An individual is guilty of criminal~~  
29   ~~homicide of an unborn child if the individual intentionally,~~  
30   ~~knowingly, recklessly or negligently causes the death of an~~

~~unborn child in violation of section 2604 (relating to malicious homicide of unborn child) or 2605 (relating to voluntary manslaughter of unborn child).~~

~~(b) Classification. Criminal homicide of an unborn child shall be classified as the malicious homicide of an unborn child or voluntary manslaughter of an unborn child.~~

~~§ 2604. Malicious homicide of unborn child.~~

~~(a) Malicious homicide of unborn child of the first degree.—~~

~~(1) An individual who kills an unborn child without lawful justification commits the offense of malicious homicide of an unborn child of the first degree if, in performing the acts which cause the death of the unborn child, the individual does any of the following:~~

~~(i) By an intentional killing, kills the pregnant woman, her unborn child or another.~~

~~(ii) Attempts an intentional killing of the pregnant woman or another.~~

~~(2) The penalty for malicious homicide of an unborn child of the first degree shall be the same as for murder of the first degree except that the death penalty shall not be imposed.~~

~~(b) Malicious homicide of unborn child of the second degree.— An individual who kills an unborn child without lawful justification commits the offense of malicious homicide of an unborn child of the second degree if, in performing acts which cause the death of an unborn child, the individual was engaged as a principal or an accomplice in the perpetration of a felony. The penalty for malicious homicide of an unborn child of the second degree shall be the same as for murder of the second~~

1 degree.

2 ~~(c) Malicious homicide of unborn child by aggravated assault~~  
3 ~~on the pregnant woman or another. An individual who kills an~~  
4 ~~unborn child without lawful justification commits the offense of~~  
5 ~~malicious homicide of an unborn child by aggravated assault~~  
6 ~~against the pregnant woman or another if, in performing acts~~  
7 ~~which cause the death of an unborn child, the individual was~~  
8 ~~engaged as a principal or an accomplice in the perpetration of~~  
9 ~~an aggravated assault, as defined in section 2702(a)(1)~~  
10 ~~(relating to aggravated assault) against the pregnant woman or~~  
11 ~~another. The penalty for this offense shall be the same as for~~  
12 ~~malicious homicide of the unborn child of the third degree.~~

13 ~~(d) Malicious homicide of unborn child of the third~~  
14 ~~degree. All other kinds of malicious homicide of an unborn~~  
15 ~~child without lawful justification and all other kinds of murder~~  
16 ~~or attempted murder of the pregnant woman or another which cause~~  
17 ~~the death of the unborn child without lawful justification shall~~  
18 ~~be malicious homicide of an unborn child of the third degree.~~  
19 ~~The penalty for malicious homicide of an unborn child of the~~  
20 ~~third degree is the same as the penalty for murder of the third~~  
21 ~~degree.~~

22 ~~§ 2605. Voluntary manslaughter of unborn child.~~

23 ~~(a) Offense defined. An individual who kills an unborn~~  
24 ~~child without lawful justification commits voluntary~~  
25 ~~manslaughter of an unborn child if, at the time of the killing,~~  
26 ~~the individual is acting under a sudden and intense passion~~  
27 ~~resulting from serious provocation by the pregnant woman or~~  
28 ~~another whom the actor endeavors to kill but the individual~~  
29 ~~negligently or accidentally causes the death of the unborn~~  
30 ~~child. Voluntary manslaughter of an unborn child is a felony of~~

1 ~~the first degree.~~

2 ~~(b) Unreasonable belief killing justifiable. An individual~~  
3 ~~who intentionally or knowingly kills an unborn child commits~~  
4 ~~voluntary manslaughter of an unborn child if, at the time of the~~  
5 ~~killing, the individual believes the circumstances to be such~~  
6 ~~that, if they existed, would justify the killing under Chapter 5~~  
7 ~~(relating to general principles of justification) but the belief~~  
8 ~~is unreasonable.~~

9 ~~§ 2606. Aggravated assault of unborn child.~~

10 ~~(a) Offense defined. An individual who causes serious~~  
11 ~~bodily injury to an unborn child without lawful justification~~  
12 ~~commits the offense of aggravated assault of an unborn child if~~  
13 ~~any of the following apply:~~

14 ~~(1) The individual intentionally, knowingly or~~  
15 ~~recklessly, under circumstances manifesting extreme~~  
16 ~~indifference to the life of the unborn child, the pregnant~~  
17 ~~woman or another, causes serious bodily injury to the unborn~~  
18 ~~child.~~

19 ~~(2) Serious bodily injury to the unborn child results~~  
20 ~~from:~~

21 ~~(i) aggravated assault, as defined in section~~  
22 ~~2702(a)(1) (relating to aggravated assault), by such~~  
23 ~~individual upon the pregnant woman or another;~~

24 ~~(ii) voluntary manslaughter, as defined in section~~  
25 ~~2503 (relating to voluntary manslaughter), by such~~  
26 ~~individual of the pregnant woman or another; or~~

27 ~~(iii) murder, as defined in section 2502 (relating~~  
28 ~~to murder), by such individual of the pregnant woman or~~  
29 ~~another.~~

30 ~~(b) Grading. Aggravated assault of an unborn child is a~~

1 ~~felony of the first degree.~~

2 ~~§ 2607. Exclusions.~~

3 ~~Nothing in this chapter shall do any of the following:~~

4 ~~(1) Apply to acts committed during any abortion or~~  
5 ~~attempted abortion, whether lawful or unlawful, in which the~~  
6 ~~pregnant woman cooperated or consented.~~

7 ~~(2) Apply to the consensual or good faith performance of~~  
8 ~~medical procedures, diagnostic testing or therapeutic~~  
9 ~~treatment.~~

10 ~~(3) Impose criminal liability upon the pregnant woman in~~  
11 ~~regard to crimes against her unborn child.~~

12 ~~§ 2608. Construction.~~

13 ~~The provisions of this chapter shall not be construed to~~  
14 ~~prohibit the prosecution of an offender under any other~~  
15 ~~provision of law.~~

16 ~~Section 2. Section 2709(f) of Title 18 is amended to read:~~

17 ~~§ 2709. Harassment and stalking.~~

18 ~~\* \* \*~~

19 ~~(f) Definitions. As used in this section, the following~~  
20 ~~words and phrases shall have the meanings given to them in this~~  
21 ~~subsection:~~

22 ~~"Course of conduct." A pattern of actions composed of more~~  
23 ~~than one act over a period of time, however short, evidencing a~~  
24 ~~continuity of conduct. Acts indicating a course of conduct which~~  
25 ~~occur in more than one jurisdiction may be used by any other~~  
26 ~~jurisdiction in which an act occurred as evidence of a~~  
27 ~~continuing pattern or course of conduct.~~

28 ~~"Emotional distress." A temporary or permanent state of~~  
29 ~~great physical or mental strain.~~

30 ~~"Family or household member." Spouses or persons who have~~

1 ~~been spouses, persons living as spouses or who lived as spouses,~~  
2 ~~parents and children, other persons related by consanguinity or~~  
3 ~~affinity, current or former sexual or intimate partners or~~  
4 ~~persons who share biological parenthood.~~

5 ~~Section 3. The provisions of this act are severable. If any~~  
6 ~~provision of this act or its application to any person or~~  
7 ~~circumstance is held invalid, the invalidity shall not affect~~  
8 ~~other provisions or applications of this act which can be given~~  
9 ~~effect without the invalid provision or application.~~

10 ~~Section 4. This act shall take effect in 60 days.~~

11 SECTION 1. SECTIONS 102(C), 106(A)(1) AND (B)(1), 108 AND <—  
12 1102 OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE  
13 AMENDED TO READ:

14 § 102. TERRITORIAL APPLICABILITY.

15 \* \* \*

16 (C) HOMICIDE.--WHEN THE OFFENSE IS HOMICIDE OR HOMICIDE OF  
17 AN UNBORN CHILD, EITHER THE DEATH OF THE VICTIM, INCLUDING AN  
18 UNBORN CHILD, OR THE BODILY IMPACT CAUSING DEATH CONSTITUTES A  
19 "RESULT," WITHIN THE MEANING OF PARAGRAPH (A)(1) OF THIS SECTION  
20 AND IF THE BODY OF A HOMICIDE VICTIM, INCLUDING AN UNBORN CHILD,  
21 IS FOUND WITHIN THIS COMMONWEALTH, IT IS PRESUMED THAT SUCH  
22 RESULT OCCURRED WITHIN THIS COMMONWEALTH.

23 \* \* \*

24 § 106. CLASSES OF OFFENSES.

25 (A) GENERAL RULE.--AN OFFENSE DEFINED BY THIS TITLE FOR  
26 WHICH A SENTENCE OF DEATH OR OF IMPRISONMENT IS AUTHORIZED  
27 CONSTITUTES A CRIME. THE CLASSES OF CRIME ARE:

28 (1) MURDER OF THE FIRST DEGREE [OR], OF THE SECOND  
29 DEGREE OR OF THE THIRD DEGREE, FIRST DEGREE MURDER OF AN  
30 UNBORN CHILD, SECOND DEGREE MURDER OF AN UNBORN CHILD OR

1 THIRD DEGREE MURDER OF AN UNBORN CHILD.

2 \* \* \*

3 (B) CLASSIFICATION OF CRIMES.--

4 (1) A CRIME IS A MURDER OF THE FIRST DEGREE [OR] OF THE  
5 SECOND DEGREE OR OF THE THIRD DEGREE IF IT IS SO DESIGNATED  
6 IN THIS TITLE OR IF A PERSON CONVICTED OF CRIMINAL HOMICIDE  
7 MAY BE SENTENCED IN ACCORDANCE WITH THE PROVISIONS OF SECTION  
8 1102 [OF THIS TITLE] (RELATING TO SENTENCE FOR MURDER AND  
9 MURDER OF AN UNBORN CHILD). A CRIME IS FIRST DEGREE MURDER OF  
10 AN UNBORN CHILD, SECOND DEGREE MURDER OF AN UNBORN CHILD OR  
11 THIRD DEGREE MURDER OF AN UNBORN CHILD IF IT IS SO DESIGNATED  
12 IN THIS TITLE OR IF A PERSON CONVICTED OF CRIMINAL HOMICIDE  
13 OF AN UNBORN CHILD MAY BE SENTENCED IN ACCORDANCE WITH THE  
14 PROVISIONS OF SECTION 1102.

15 \* \* \*

16 § 108. TIME LIMITATIONS.

17 [A] (A) GENERAL RULE.--EXCEPT AS SET FORTH IN SUBSECTION  
18 (B), A PROSECUTION FOR ANY OFFENSE UNDER THIS TITLE MUST BE  
19 COMMENCED WITHIN THE PERIOD, IF ANY, LIMITED BY CHAPTER 55 OF  
20 TITLE 42 (RELATING TO LIMITATION OF TIME).

21 (B) OFFENSES AGAINST UNBORN CHILD.

22 (1) A PROSECUTION FOR CRIMINAL HOMICIDE OF AN UNBORN  
23 CHILD MAY BE COMMENCED AT ANY TIME.

24 (2) A PROSECUTION FOR AN OFFENSE UNDER SECTION 2606  
25 (RELATING TO AGGRAVATED ASSAULT OF UNBORN CHILD) MUST BE  
26 COMMENCED WITHIN FIVE YEARS AFTER IT IS COMMITTED.

27 § 1102. SENTENCE FOR MURDER AND MURDER OF AN UNBORN CHILD.

28 (A) [MURDER OF THE FIRST] FIRST DEGREE.--

29 (1) A PERSON WHO HAS BEEN CONVICTED OF A MURDER OF THE  
30 FIRST DEGREE SHALL BE SENTENCED TO DEATH OR TO A TERM OF LIFE



1 IMPRISONMENT IN ACCORDANCE WITH 42 PA.C.S. § 9711 (RELATING  
2 TO SENTENCING PROCEDURE FOR MURDER OF THE FIRST DEGREE).

3 (2) THE SENTENCE FOR A PERSON WHO HAS BEEN CONVICTED OF  
4 FIRST DEGREE MURDER OF AN UNBORN CHILD SHALL BE THE SAME AS  
5 THE SENTENCE FOR MURDER OF THE FIRST DEGREE, EXCEPT THAT THE  
6 DEATH PENALTY SHALL NOT BE IMPOSED. THIS PARAGRAPH SHALL NOT  
7 AFFECT THE DETERMINATION OF AN AGGRAVATING CIRCUMSTANCE UNDER  
8 42 PA.C.S. § 9711(D)(17) FOR THE KILLING OF A PREGNANT WOMAN.

9 (B) [MURDER OF THE SECOND] SECOND DEGREE.--A PERSON WHO HAS  
10 BEEN CONVICTED OF MURDER OF THE SECOND DEGREE OR OF SECOND  
11 DEGREE MURDER OF AN UNBORN CHILD SHALL BE SENTENCED TO A TERM OF  
12 LIFE IMPRISONMENT.

13 (C) ATTEMPT, SOLICITATION AND CONSPIRACY TO COMMIT MURDER OR  
14 MURDER OF AN UNBORN CHILD.--NOTWITHSTANDING SECTION 1103(1)  
15 (RELATING TO SENTENCE OF IMPRISONMENT FOR FELONY), A PERSON WHO  
16 HAS BEEN CONVICTED OF ATTEMPT, SOLICITATION OR CONSPIRACY TO  
17 COMMIT MURDER OR MURDER OF AN UNBORN CHILD WHERE SERIOUS BODILY  
18 INJURY RESULTS MAY BE SENTENCED TO A TERM OF IMPRISONMENT WHICH  
19 SHALL BE FIXED BY THE COURT AT NOT MORE THAN 40 YEARS. WHERE  
20 SERIOUS BODILY INJURY DOES NOT RESULT, THE PERSON MAY BE  
21 SENTENCED TO A TERM OF IMPRISONMENT WHICH SHALL BE FIXED BY THE  
22 COURT AT NOT MORE THAN 20 YEARS.

23 (D) [MURDER OF THE THIRD] THIRD DEGREE.--NOTWITHSTANDING  
24 SECTION 1103, A PERSON WHO HAS BEEN CONVICTED OF MURDER OF THE  
25 THIRD DEGREE OR OF THIRD DEGREE MURDER OF AN UNBORN CHILD SHALL  
26 BE SENTENCED TO A TERM WHICH SHALL BE FIXED BY THE COURT AT NOT  
27 MORE THAN 40 YEARS.

28 SECTION 2. TITLE 18 IS AMENDED BY ADDING A CHAPTER TO READ:

29 CHAPTER 26

30 CRIMES AGAINST UNBORN CHILD

1 SEC.

2 2601. SHORT TITLE OF CHAPTER.

3 2602. DEFINITIONS.

4 2603. CRIMINAL HOMICIDE OF UNBORN CHILD.

5 2604. MURDER OF UNBORN CHILD.

6 2605. VOLUNTARY MANSLAUGHTER OF UNBORN CHILD.

7 2606. AGGRAVATED ASSAULT OF UNBORN CHILD.

8 2607. CULPABILITY.

9 2608. NONLIABILITY AND DEFENSES.

10 2609. CONSTRUCTION.

11 § 2601. SHORT TITLE OF CHAPTER.

12 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE CRIMES  
13 AGAINST THE UNBORN CHILD ACT.

14 § 2602. DEFINITIONS.

15 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
16 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
17 CONTEXT CLEARLY INDICATES OTHERWISE:

18 "ABORTION." AS DEFINED IN SECTION 3203 (RELATING TO  
19 DEFINITIONS).

20 "INTENTIONAL KILLING." KILLING BY MEANS OF POISON, OR BY  
21 LYING IN WAIT, OR BY ANY OTHER KIND OF WILLFUL, DELIBERATE AND  
22 PREMEDITATED KILLING.

23 "MURDER." AS USED IN THIS CHAPTER, THE TERM INCLUDES THE  
24 SAME ELEMENT OF MALICE WHICH IS REQUIRED TO PROVE MURDER UNDER  
25 CHAPTER 25 (RELATING TO CRIMINAL HOMICIDE).

26 "PERPETRATION OF A FELONY." AS DEFINED IN SECTION 2502(D)  
27 (RELATING TO MURDER).

28 "PRINCIPAL." AS DEFINED IN SECTION 2502(D) (RELATING TO  
29 MURDER).

30 "SERIOUS BODILY INJURY." BODILY INJURY WHICH CREATES A

1 SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES SERIOUS, PERMANENT  
2 DISFIGUREMENT, OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION  
3 OF ANY BODILY MEMBER OR ORGAN.

4 "SERIOUS PROVOCATION." AS DEFINED IN SECTION 2301 (RELATING  
5 TO DEFINITIONS).

6 "UNBORN CHILD." AS DEFINED IN SECTION 3203 (RELATING TO  
7 DEFINITIONS).

8 § 2603. CRIMINAL HOMICIDE OF UNBORN CHILD.

9 (A) OFFENSE DEFINED.--AN INDIVIDUAL COMMITS CRIMINAL  
10 HOMICIDE OF AN UNBORN CHILD IF THE INDIVIDUAL INTENTIONALLY,  
11 KNOWINGLY, RECKLESSLY OR NEGLIGENTLY CAUSES THE DEATH OF AN  
12 UNBORN CHILD IN VIOLATION OF SECTION 2604 (RELATING TO MURDER OF  
13 UNBORN CHILD) OR 2605 (RELATING TO VOLUNTARY MANSLAUGHTER OF  
14 UNBORN CHILD).

15 (B) CLASSIFICATION.--CRIMINAL HOMICIDE OF AN UNBORN CHILD  
16 SHALL BE CLASSIFIED AS MURDER OF AN UNBORN CHILD OR VOLUNTARY  
17 MANSLAUGHTER OF AN UNBORN CHILD.

18 § 2604. MURDER OF UNBORN CHILD.

19 (A) FIRST-DEGREE MURDER OF UNBORN CHILD.--

20 (1) A CRIMINAL HOMICIDE OF AN UNBORN CHILD CONSTITUTES  
21 FIRST-DEGREE MURDER OF AN UNBORN CHILD WHEN IT IS COMMITTED  
22 BY AN INTENTIONAL KILLING.

23 (2) THE PENALTY FOR FIRST-DEGREE MURDER OF AN UNBORN  
24 CHILD SHALL BE IMPOSED IN ACCORDANCE WITH SECTION 1102(A)(2)  
25 (RELATING TO SENTENCE FOR MURDER AND MURDER OF AN UNBORN  
26 CHILD).

27 (B) SECOND-DEGREE MURDER OF UNBORN CHILD.--

28 (1) A CRIMINAL HOMICIDE OF AN UNBORN CHILD CONSTITUTES  
29 SECOND-DEGREE MURDER OF AN UNBORN CHILD WHEN IT IS COMMITTED  
30 WHILE THE DEFENDANT WAS ENGAGED AS A PRINCIPAL OR AN

1 ACCOMPLICE IN THE PERPETRATION OF A FELONY.

2 (2) THE PENALTY FOR SECOND-DEGREE MURDER OF AN UNBORN  
3 CHILD SHALL BE THE SAME AS FOR MURDER OF THE SECOND DEGREE.

4 (C) THIRD-DEGREE MURDER OF UNBORN CHILD.--

5 (1) ALL OTHER KINDS OF MURDER OF AN UNBORN CHILD SHALL  
6 BE THIRD-DEGREE MURDER OF AN UNBORN CHILD.

7 (2) THE PENALTY FOR THIRD-DEGREE MURDER OF AN UNBORN  
8 CHILD IS THE SAME AS THE PENALTY FOR MURDER OF THE THIRD  
9 DEGREE.

10 § 2605. VOLUNTARY MANSLAUGHTER OF UNBORN CHILD.

11 (A) OFFENSE DEFINED.--A PERSON WHO KILLS AN UNBORN CHILD  
12 WITHOUT LAWFUL JUSTIFICATION COMMITS VOLUNTARY MANSLAUGHTER OF  
13 AN UNBORN CHILD IF, AT THE TIME OF THE KILLING, HE IS ACTING  
14 UNDER A SUDDEN AND INTENSE PASSION RESULTING FROM SERIOUS  
15 PROVOCATION BY:

16 (1) THE MOTHER OF THE UNBORN CHILD WHOM THE ACTOR  
17 ENDEAVORS TO KILL, BUT HE NEGLIGENTLY OR ACCIDENTALLY CAUSES  
18 THE DEATH OF THE UNBORN CHILD; OR

19 (2) ANOTHER WHOM THE ACTOR ENDEAVORS TO KILL, BUT HE  
20 NEGLIGENTLY OR ACCIDENTALLY CAUSES THE DEATH OF THE UNBORN  
21 CHILD.

22 (B) UNREASONABLE BELIEF KILLING JUSTIFIABLE.--A PERSON WHO  
23 INTENTIONALLY OR KNOWINGLY KILLS AN UNBORN CHILD COMMITS  
24 VOLUNTARY MANSLAUGHTER OF AN UNBORN CHILD IF, AT THE TIME OF THE  
25 KILLING, HE BELIEVES THE CIRCUMSTANCES TO BE SUCH THAT, IF THEY  
26 EXISTED, WOULD JUSTIFY THE KILLING UNDER CHAPTER 5 (RELATING TO  
27 GENERAL PRINCIPLES OF JUSTIFICATION) BUT HIS BELIEF IS  
28 UNREASONABLE.

29 (C) PENALTY.--THE PENALTY FOR VOLUNTARY MANSLAUGHTER OF AN  
30 UNBORN CHILD SHALL BE THE SAME AS THE PENALTY FOR VOLUNTARY

1 MANSLAUGHTER.

2 § 2606. AGGRAVATED ASSAULT OF UNBORN CHILD.

3 (A) OFFENSE.--A PERSON COMMITS AGGRAVATED ASSAULT OF AN  
4 UNBORN CHILD IF HE ATTEMPTS TO CAUSE SERIOUS BODILY INJURY TO  
5 THE UNBORN CHILD OR CAUSES SUCH INJURY INTENTIONALLY, KNOWINGLY  
6 OR RECKLESSLY UNDER CIRCUMSTANCES MANIFESTING EXTREME  
7 INDIFFERENCE TO THE LIFE OF THE UNBORN CHILD.

8 (B) GRADING.--AGGRAVATED ASSAULT OF AN UNBORN CHILD IS A  
9 FELONY OF THE FIRST DEGREE.

10 § 2607. CULPABILITY.

11 IN ANY CRIMINAL PROSECUTION PURSUANT TO THIS CHAPTER, THE  
12 PROVISIONS OF CHAPTER 3 (RELATING TO CULPABILITY) SHALL APPLY  
13 EXCEPT THAT:

14 (1) THE TERM "DIFFERENT PERSON" AS USED IN SECTION  
15 303(B) AND (C) (RELATING TO CAUSAL RELATIONSHIP BETWEEN  
16 CONDUCT AND RESULT) SHALL ALSO INCLUDE AN UNBORN CHILD.

17 (2) THE TERM "VICTIM" AS USED IN SECTION 311 (RELATING  
18 TO CONSENT) SHALL NOT INCLUDE THE MOTHER OF THE UNBORN CHILD.

19 § 2608. NONLIABILITY AND DEFENSES.

20 (A) NONLIABILITY.--NOTHING IN THIS CHAPTER SHALL IMPOSE  
21 CRIMINAL LIABILITY:

22 (1) FOR ACTS COMMITTED DURING ANY ABORTION OR ATTEMPTED  
23 ABORTION, WHETHER LAWFUL OR UNLAWFUL, IN WHICH THE PREGNANT  
24 WOMAN COOPERATED OR CONSENTED.

25 (2) FOR THE CONSENSUAL OR GOOD FAITH PERFORMANCE OF  
26 MEDICAL PRACTICE, INCLUDING MEDICAL PROCEDURES, DIAGNOSTIC  
27 TESTING OR THERAPEUTIC TREATMENT, THE USE OF AN INTRAUTERINE  
28 DEVICE OR BIRTH CONTROL PILL TO INHIBIT OR PREVENT OVULATION,  
29 FERTILIZATION OR THE IMPLANTATION OF A FERTILIZED OVUM WITHIN  
30 THE UTERUS.

(3) UPON THE PREGNANT WOMAN IN REGARD TO CRIMES AGAINST  
HER UNBORN CHILD.

(B) DEFENSES.--IN ANY PROSECUTION PURSUANT TO THIS CHAPTER,  
IT SHALL BE A DEFENSE THAT:

(1) THE USE OF FORCE THAT CAUSED DEATH OR SERIOUS BODILY  
INJURY TO THE UNBORN CHILD WOULD HAVE BEEN JUSTIFIED,  
PURSUANT TO CHAPTER 5 (RELATING TO GENERAL PRINCIPLES OF  
JUSTIFICATION), IF IT CAUSED DEATH OR SERIOUS BODILY INJURY  
TO THE MOTHER.

(2) DEATH OR SERIOUS BODILY INJURY TO THE UNBORN CHILD  
WAS CAUSED BY THE USE OF FORCE WHICH WOULD HAVE BEEN  
JUSTIFIED, PURSUANT TO CHAPTER 5, IF THE SAME LEVEL OF FORCE  
WAS USED UPON OR TOWARD THE MOTHER.

§ 2609. CONSTRUCTION.

THE PROVISIONS OF THIS CHAPTER SHALL NOT BE CONSTRUED TO  
PROHIBIT THE PROSECUTION OF AN OFFENDER UNDER ANY OTHER  
PROVISION OF LAW.

SECTION 3. SECTION 2709 OF TITLE 18 IS AMENDED BY ADDING A  
SUBSECTION TO READ:

§ 2709. HARASSMENT AND STALKING.

\* \* \*

(E.1) COURSE OF CONDUCT.--ACTS INDICATING A COURSE OF  
CONDUCT WHICH OCCUR IN MORE THAN ONE JURISDICTION MAY BE USED BY  
ANY OTHER JURISDICTION IN WHICH AN ACT OCCURRED AS EVIDENCE OF A  
CONTINUING PATTERN OF CONDUCT OR A COURSE OF CONDUCT.

\* \* \*

SECTION 4. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY  
PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR  
CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT  
OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN

1 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

2 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

3 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT  
4 IMMEDIATELY:

5 (I) SECTION 4 OF THIS ACT.

6 (II) THIS SECTION.

7 (2) THE ADDITION OF 18 PA.C.S. § 2709(E.1) SHALL TAKE  
8 EFFECT IN 60 DAYS.

9 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 180  
10 DAYS.