
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 540 Session of
2015

INTRODUCED BY CRUZ, READSHAW, KINSEY, D. COSTA, BISHOP, MILLARD,
ROZZI, McNEILL, BARRAR, TALLMAN, KIRKLAND, F. KELLER,
MAHONEY, MURT, MOUL AND WATSON, FEBRUARY 23, 2015

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 23, 2015

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, murder
4 of unborn child and murder of law enforcement officer; and,
5 in crimes against unborn child, further providing for the
6 offenses of murder of unborn child and voluntary manslaughter
7 of unborn child.

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

10 Section 1. Section 1102(a) of Title 18 of the Pennsylvania
11 Consolidated Statutes 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)] Except as provided under section 1102.1 (relating
16 to sentence of persons under the age of 18 for murder, murder
17 of an unborn child and murder of a law enforcement officer),
18 a person who has been convicted of a murder of the first
19 degree [or], of murder of a law enforcement officer of the
20 first degree or of murder of an unborn child of the first

1 degree shall be sentenced to death or to a term of life
2 imprisonment in accordance with 42 Pa.C.S. § 9711 (relating
3 to sentencing procedure for murder of the first degree).

4 [(2) The sentence for a person who has been convicted of
5 first degree murder of an unborn child shall be the same as
6 the sentence for murder of the first degree, except that the
7 death penalty shall not be imposed. This paragraph shall not
8 affect the determination of an aggravating circumstance under
9 42 Pa.C.S. § 9711(d) (17) for the killing of a pregnant
10 woman.]

11 * * *

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

14 § 2604. Murder of unborn child.

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

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

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

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

26 (2) The penalty for first degree murder of an unborn
27 child shall be imposed in accordance with section [1102(a)

28 (2)] 1102(a) (relating to sentence for murder and murder of
29 an unborn child).

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

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

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

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

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

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

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

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

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

29 § 2605. Voluntary manslaughter of unborn child.

30 (a) Offense defined.--A person who kills an unborn child

1 without lawful justification commits voluntary manslaughter of
2 an unborn child if [at]:

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

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

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

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

19 * * *

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